SB 572 [CCS#2 HCS SS SCS SB 572]

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

Modifies various provisions regarding municipalities located in St. Louis County, nuisance abatement ordinances, disincorporation procedures for various cities, and municipal courts

AN ACT to repeal sections 67.287, 67.398, 67.451, 79.490, 80.570, 479.020, 479.350, 479.353, 479.359, 479.360, and 479.368, RSMo, and to enact in lieu thereof twenty-four new sections relating to local government, with penalty provisions.

SECTION

A. Enacting clause.
67.287. Minimum standards for municipalities in St. Louis County — definitions — failure to meet minimum standards, remedy, ballot language.
67.398. Debris on property, ordinance may require abatement — abatement for vacant building in Kansas City — notice to owner — effect of failure to remove nuisance, penalties.
67.451. Ordinance enforcement, unrecovered costs included in certain fees, or real estate tax bills.
71.980. Financially insolvent municipalities, state not liable for debt.
77.700. Disincorporation procedure, election, ballot language.
77.703. Contractual rights not invalidated by dissolution.
77.706. Trustee to be appointed — oath — bond.
77.709. Powers of trustee.
77.712. Employment of counsel, report to county governing body — compensation of trustee.
77.715. Moneys to be paid over to county treasurer, when — all records to be delivered to county clerk.
79.490. Fourth class city disincorporated, how — election, notice.
80.570. Disincorporation procedure.
82.133. Disincorporation of charter or home rule cities — election, ballot language.
82.136. Contractual rights not invalidated by dissolution.
82.139. Dissolution — trustee appointed — oath — bond.
82.142. Dissolution — powers of trustee.
82.145. Dissolution — employment of counsel, when — compensation of trustee.
82.148. Dissolution — moneys to be paid over to county treasurer — records to be delivered to county clerk.
479.020. Municipal judges, selection, tenure, jurisdiction, qualifications, course of instruction.
479.350. Definitions.
479.353. Conditions.
479.359. Political subdivisions to annually calculate percentage of revenue from municipal ordinance violations and minor traffic violations — limitation on percentage — addendum to report, contents.
479.360. Certification of substantial compliance, filed with state auditor — procedures adopted and certified.
479.368. Failure to timely file, loss of local sales tax revenue and certain county sales tax revenue — election required, when.

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

SECTION A. ENACTING CLAUSE. — Sections 67.287, 67.398, 67.451, 79.490, 80.570, 479.020, 479.350, 479.353, 479.359, 479.360, and 479.368, RSMo, are repealed and twenty-four new sections enacted in lieu thereof, to be known as sections 67.287, 67.398, 67.451, 71.980, 77.700, 77.703, 77.706, 77.709, 77.712, 77.715, 79.490, 80.570, 82.133, 82.136, 82.139, 82.142, 82.145, 82.148, 479.020, 479.350, 479.353, 479.359, 479.360, and 479.368, 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 August 28, 2015, 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) **If a municipality has a police department or contracts with another police department for public safety services,** 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**. The provisions of this subdivision shall not require the municipality to adopt an updated construction code**; 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.

67.398. DEBRIS ON PROPERTY, ORDINANCE MAY REQUIRE ABATEMENT — ABATEMENT FOR VACANT BUILDING IN KANSAS CITY — NOTICE TO OWNER — EFFECT OF FAILURE TO REMOVE NUISANCE, PENALTIES. — 1. The governing body of any city or village, or any county having a charter form of government, or any county of the first classification that contains part of a city with a population of at least three hundred thousand inhabitants, may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of a nuisance including, but not limited to, debris of any kind, weed cuttings, cut, fallen, or hazardous trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material or condition which is unhealthy or unsafe and declared to be a public nuisance.

2. The governing body of any home rule city with more than four hundred thousand inhabitants and located in more than one county may enact ordinances for the abatement of a condition of any lot or land that has vacant buildings or structures open to entry.

3. **[**Any ordinance authorized by this section may provide that if the owner fails to begin removing or abating the nuisance within a specific time which shall not be less than seven days of receiving notice that the nuisance has been ordered removed or abated, or upon**]** **Any**

ordinance authorized by this section shall provide for service to the owner of the property and, if the property is not owner-occupied, to any occupant of the property of a written notice specifically describing each condition of the lot or land declared to be a public nuisance, and which notice shall identify what action will remedy the public nuisance. Unless a condition presents an immediate, specifically identified risk to the public health or safety, the notice shall provide a reasonable time, not less than ten days, in which to abate or commence removal of each condition identified in the notice. Written notice may be given by personal service or by first-class mail to both the occupant of the property at the property address and the owner at the last known address of the owner, if not the same. Upon a failure **of the owner** to pursue the removal or abatement of such nuisance without unnecessary delay, the building commissioner or designated officer may cause the condition which constitutes the nuisance to be removed or abated. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal or abatement **and the proof of notice to the owner of the property** shall be certified to the city clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property **from the date the tax bill is delinquent** until paid.

67.451. ORDINANCE ENFORCEMENT, UNRECOVERED COSTS INCLUDED IN CERTAIN FEES, OR REAL ESTATE TAX BILLS. — Any city in which voters have approved fees to recover costs associated with enforcement of municipal housing, property maintenance, or **property** nuisance ordinances may **[**issue a special tax bill against**]** **include any unrecovered costs or fines relating to the real property in the annual real estate tax bill for** the property where such ordinance violations existed. **Notwithstanding the last sentence of subsection 5 of section 479.011,** the officer in charge of finance shall cause the amount of unrecovered costs **or unpaid fines which are delinquent for more than a year** to be **[**included in a special tax bill or**]** added to the annual real estate tax bill for the property **if such property is still owned by the person incurring the costs or fines [**at the collecting official's option,**]** and the costs **and fines** shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the **[**cost is**]** **costs and fines are** not paid **by December 31 of the year in which the costs and fines are included in the tax bill**, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by laws governing delinquent and back taxes. The tax bill shall be deemed a personal debt against the owner from the date of issuance, and shall also be a lien on the property **from the date the tax bill becomes delinquent** until paid. Notwithstanding any provision of the city's charter to the contrary, the city may provide, by ordinance, that the city may discharge **all or any portion of the unrecovered costs or fines added pursuant to this section to** the **[**special**]** tax bill upon a determination by the city that a public benefit will be gained by such discharge, and such discharge shall include any costs of tax collection, accrued interest, or attorney fees related to the **[**special**]** tax bill.

71.980. FINANCIALLY INSOLVENT MUNICIPALITIES, STATE NOT LIABLE FOR DEBT. — Notwithstanding any provision to the contrary, the state shall not be held liable for the debts of a municipality that is financially insolvent. For purposes of this section, a municipality is financially insolvent if it is not paying its debts as they become due, unless such debts are the subject of a bona fide dispute, or is unable to pay its debts as they become due.

77.700. DISINCORPORATION PROCEDURE, ELECTION, BALLOT LANGUAGE. — 1. The county governing body of any county in which a city of the third classification is located shall disincorporate the city as provided in sections 77.700 to 77.715.

2. The county governing body shall order an election upon the question of disincorporation of a city of the third classification upon petition of twenty-five percent of the voters of the city.

3. The county governing body shall give notice of the election by publication in a newspaper of general circulation published in the city or, if there is no such newspaper in the city, then in the newspaper in the county published nearest the city. The notice shall contain a copy of the petition and the names of the petitioners. No election on the question of disincorporation shall be held until the notice has been published for four weeks successively.

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

Shall the city of . . . . . be dissolved?

5. Upon the affirmative vote of a majority of those persons voting on the question, the county governing body shall disincorporate the city.

77.703. CONTRACTUAL RIGHTS NOT INVALIDATED BY DISSOLUTION. — No dissolution of the corporation shall invalidate or affect any right accruing to the corporation or to any person or invalidate or affect any contract entered into or imposed on the corporation.

77.706. TRUSTEE TO BE APPOINTED — OATH — BOND. — Whenever the county governing body shall dissolve any city of the third classification, the county governing body shall appoint some competent person to act as trustee for the corporation so dissolved, and such trustee, before entering upon the discharge of his or her duties, shall take and subscribe an oath that he or she will faithfully discharge the duties of his or her office and shall give bond with sufficient security, to be approved by the governing body, to the use of such disincorporated city, conditioned for the faithful discharge of his or her duty.

77.709. POWERS OF TRUSTEE. — The trustee shall have power to prosecute and defend to final judgment all suits instituted by or against the corporation, collect all moneys due the same, liquidate all lawful demands against the same, and for that purpose shall sell any property belonging to the corporation, or so much thereof as may be necessary, and generally to do all acts requisite to bring to a speedy close all the affairs of the corporation.

77.712. EMPLOYMENT OF COUNSEL, REPORT TO COUNTY GOVERNING BODY — COMPENSATION OF TRUSTEE. — The trustee shall employ counsel whenever necessary in the discharge of his or her duties and shall make a report of the proceedings to the county governing body at each regular term thereof, and the trustee shall receive for his or her services such compensation as the governing body shall think reasonable.

77.715. MONEYS TO BE PAID OVER TO COUNTY TREASURER, WHEN — ALL RECORDS TO BE DELIVERED TO COUNTY CLERK. — When the trustee shall have closed the affairs of the corporation and shall have paid all debts due by the corporation, he or she shall pay over to the county treasurer all money remaining in his or her hands, take receipt therefor, and deliver to the clerk of the county governing body all books, papers, records, and deeds belonging to the dissolved corporation.

79.490. FOURTH CLASS CITY DISINCORPORATED, HOW — ELECTION, NOTICE. — 1. The county governing body of any county in which a city of the fourth class is located shall disincorporate such city as provided in this section.

2. The county governing body shall order an election upon the question of disincorporation of a fourth class city upon petition of **[**one-half**]** **twenty-five percent** of the voters of the city.

3. The county governing body shall give notice of the election by publication in a newspaper of general circulation published in the city or, if there is no such newspaper in the city, then in the newspaper in the county published nearest the city. The notice shall contain a copy of the petition and the names of the petitioners. No election on the question of disincorporation shall be held until the notice has been published for four weeks successively.

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

Shall the city of . . . . . be dissolved?

5. Upon the affirmative vote of **[**sixty percent**]** **a majority** of those persons voting on the question, the county governing body shall disincorporate the city.

80.570. DISINCORPORATION PROCEDURE. — 1. The county governing body of each county shall have power to disincorporate any town or village which they may have incorporated as provided in this section.

2. The county governing body shall order an election upon the question of disincorporation of a town or village upon petition of **[**one-half**]** **twenty-five percent** of the voters of the town or village.

3. The county governing body shall give notice of the election by publication in a newspaper of general circulation published in the town or village or, if there is no such newspaper in the town or village, then in the newspaper in the county published nearest the town or village. The notice shall contain a copy of the petition and the names of the petitioners. No election on the question of disincorporation shall be held until the notice has been published for eight weeks successively.

4. The question shall be submitted in substantially the following form as the case may be:

Shall the town of . . . . . be dissolved?; or

Shall the village of . . . . . be dissolved?

5. Upon the affirmative vote of **[**sixty percent**]** **a majority** of those persons voting on the question, the county governing body shall disincorporate the town or village.

6. Any county governing body may, in its discretion, on the application of any person or persons owning a tract of land containing five acres or more in a town or village, used only for agricultural purposes, to diminish the limits of such town or village by excluding any such tract of land from said corporate limits; provided, that such application shall be accompanied by a petition asking such change and signed by a majority of the voters in such town or village. And thereafter such tract of land so excluded shall not be deemed or held to be any part of such town or village.

82.133. DISINCORPORATION OF CHARTER OR HOME RULE CITIES — ELECTION, BALLOT LANGUAGE. — 1. The county governing body of any county in which a constitutional charter or home rule city is located shall disincorporate the city as provided in sections 82.133 to 82.145.

2. The county governing body shall order an election upon the question of disincorporation of a constitutional charter or home rule city upon petition of twenty-five percent of the voters of the city.

3. The county governing body shall give notice of the election by publication in a newspaper of general circulation published in the city or, if there is no such newspaper in the city, then in the newspaper in the county published nearest the city. The notice shall contain a copy of the petition and the names of the petitioners. No election on the question of disincorporation shall be held until the notice has been published for four weeks successively.

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

Shall the city of . . . . . be dissolved?

5. Upon the affirmative vote of a majority of those persons voting on the question, the county governing body shall disincorporate the city.

82.136. CONTRACTUAL RIGHTS NOT INVALIDATED BY DISSOLUTION. — No dissolution of the corporation shall invalidate or affect any right accruing to the corporation or to any person, or invalidate or affect any contract entered into or imposed on the corporation.

82.139. DISSOLUTION — TRUSTEE APPOINTED — OATH — BOND. — Whenever the county governing body shall dissolve any constitutional charter or home rule city, the county governing body shall appoint some competent person to act as trustee for the corporation so dissolved, and the trustee, before entering upon the discharge of his or her duties, shall take and subscribe an oath that he or she will faithfully discharge the duties of the office and shall give bond with sufficient security, to be approved by the governing body, to the use of the disincorporated city, conditioned for the faithful discharge of the trustee's duty.

82.142. DISSOLUTION — POWERS OF TRUSTEE. — The trustee shall have power to prosecute and defend to final judgment all suits instituted by or against the corporation, collect all moneys due the same, liquidate all lawful demands against the same, and for that purpose shall sell any property belonging to the corporation, or so much thereof as may be necessary, and generally to do all acts requisite to bring to a speedy close all the affairs of the corporation.

82.145. DISSOLUTION — EMPLOYMENT OF COUNSEL, WHEN — COMPENSATION OF TRUSTEE. — The trustee shall employ counsel whenever necessary in the discharge of his or her duties and shall make a report of the proceedings to the county governing body at each regular term thereof, and the trustee shall receive for his or her services such compensation as the governing body shall think reasonable.

82.148. DISSOLUTION — MONEYS TO BE PAID OVER TO COUNTY TREASURER — RECORDS TO BE DELIVERED TO COUNTY CLERK. — When the trustee shall have closed the affairs of the corporation, and shall have paid all debts due by the corporation, he or she shall pay over to the county treasurer all moneys remaining in his or her hands, take receipt therefor, and deliver to the clerk of the county governing body all books, papers, records, and deeds belonging to the dissolved corporation.

479.020. MUNICIPAL JUDGES, SELECTION, TENURE, JURISDICTION, QUALIFICATIONS, COURSE OF INSTRUCTION. — 1. Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges consistent with the provisions of this chapter who shall have original jurisdiction to hear and determine all violations against the ordinances of the municipality. The method of selection of municipal judges shall be provided by charter or ordinance. Each municipal judge shall be selected for a term of not less than two years as provided by charter or ordinance.

2. Except where prohibited by charter or ordinance, the municipal judge may be a part-time judge and may serve as municipal judge in more than one municipality.

3. No person shall serve as a municipal judge of any municipality with a population of seven thousand five hundred or more or of any municipality in a county of the first class with a charter form of government unless the person is licensed to practice law in this state unless, prior to January 2, 1979, such person has served as municipal judge of that same municipality for at least two years.

4. Notwithstanding any other statute, a municipal judge need not be a resident of the municipality or of the circuit in which the municipal judge serves except where ordinance or charter provides otherwise. Municipal judges shall be residents of Missouri.

5. Judges selected under the provisions of this section shall be municipal judges of the circuit court and shall be divisions of the circuit court of the circuit in which the municipality, or major geographical portion thereof, is located. The judges of these municipal divisions shall be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme court. The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of the municipal divisions within the circuit.

6. No municipal judge shall hold any other office in the municipality which the municipal judge serves as judge. The compensation of any municipal judge and other court personnel shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected.

7. Municipal judges shall be at least twenty-one years of age. No person shall serve as municipal judge after that person has reached that person's seventy-fifth birthday.

8. Within six months after selection for the position, each municipal judge who is not licensed to practice law in this state shall satisfactorily complete the course of instruction for municipal judges prescribed by the supreme court. The state courts administrator shall certify to the supreme court the names of those judges who satisfactorily complete the prescribed course. If a municipal judge fails to complete satisfactorily the prescribed course within six months after the municipal judge's selection as municipal judge, the municipal judge's office shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal judge, nor shall any compensation thereafter be paid to such person for serving as municipal judge.

9. No municipal judge shall serve as a municipal judge in more than five municipalities at one time.

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 **and any certified costs, not including fines added to the annual real estate tax bill or a special tax bill under section 67.398, 67.402, or 67.451**;

(3) "Minor traffic violation", a municipal or county **traffic** 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 **no points are assessed by the department of revenue or** the department of revenue is authorized to assess **[**no more than**]** **one to** four points to a person's driving record upon conviction. **Minor traffic violation shall include amended charges for any minor traffic violation.** 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**;**

(4) "Municipal ordinance violation", a municipal or county ordinance violation prosecuted for which penalties are authorized by statute under sections 64.160, 64.200,

64.295, 64.487, 64.690, 64.895, 67.398, 71.285, 89.120, and 89.490. Municipal ordinance violation shall include amended charges for municipal ordinance violations.

479.353. CONDITIONS. — Notwithstanding any provisions to the contrary, the following conditions shall apply to minor traffic violations **and municipal ordinance violations**:

(1) The court shall not assess a fine, if combined with the amount of court costs, totaling in excess of **[**three**]:**

(a) Two hundred **twenty-five** dollars **for minor traffic violations; and**

(b) For municipal ordinance violations committed within a twelve month period beginning with the first violation: two hundred dollars for the first municipal ordinance violation, two hundred seventy-five dollars for the second municipal ordinance violation, three hundred fifty dollars for the third municipal ordinance violation, and four hundred fifty dollars for the fourth and any subsequent municipal ordinance violations;

(2) The court shall not sentence a person to confinement, except the court may sentence a person to confinement for **[**violations**] any violation** involving alcohol or controlled substances, violations endangering the health or welfare of others, **[**and**] or** 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 **or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the court**;

(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 defendant is found to be indigent under subdivision (4) of this section or if** the case is dismissed.

479.359. POLITICAL SUBDIVISIONS TO ANNUALLY CALCULATE PERCENTAGE OF REVENUE FROM MUNICIPAL ORDINANCE VIOLATIONS AND 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 **municipal ordinance violations and** minor traffic violations, including amended charges for any **municipal ordinance violations and** 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 **under section 105.145** by the county, city, town, or village **[**under section 105.145**] that has chosen to have a municipal court division** 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 **municipal ordinance violations and** minor traffic violations occurring within the county, city, town, or village, including amended charges from any **municipal ordinance violations and** minor traffic violations;

(3) The percent of annual general operating revenue from fines, bond forfeitures, and court costs for **municipal ordinance violations and** minor traffic violations occurring within the county, city, town, or village, including amended charges from any charged **municipal ordinance violations and** 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 **unless found to be in contempt after strict compliance by the court with the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule**;

(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**];**

(9) The municipal court makes use of community service alternatives **for which no associated costs are charged to the defendant**; and

[(9)**]** **(10)** 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.

479.368. FAILURE TO TIMELY FILE, LOSS OF LOCAL SALES TAX REVENUE AND CERTAIN COUNTY SALES TAX REVENUE — ELECTION REQUIRED, WHEN. — 1. (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.

(2) 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.

(3) 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. (1) 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 **sections** 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.

(2) 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.

(3) 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 **municipal ordinance violations and** 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**] a majority** of those persons voting on the question, the county governing body shall disincorporate the city, town, or village.

Approved June 17, 2016

SB 578 [CCS HCS SCS SB 578]

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

Allows certain circuits to appoint an additional court marshal, authorizes an additional judge in certain circuits, excludes firearms from bankruptcy, and establishes the Missouri Commercial Receivership Act

AN ACT to repeal sections 476.083, 478.430, 478.433, 478.705, 513.430, 515.240, 515.250, and 515.260, RSMo, and to enact in lieu thereof thirty-eight new sections relating to judicial proceedings.

SECTION

A. Enacting clause.
476.083. Circuit court marshal may be appointed in certain circuits, powers and duties, salary, qualifications.
478.330. Additional circuit judges authorized, when.
478.705. Circuit No. 26, number of judges, divisions — when judges elected.
513.430. Property exempt from attachment — construction of section.
515.500. Citation of law.
515.505. Definitions.

515.510. Court authorized to appoint receiver, when, procedure.
515.515. General and limited receivers.
515.520. Notice of appointment, content.
515.525. Replacement of receiver, when.
515.530. Bond requirements.
515.535. Receiver to have powers and priority of creditor.
515.540. Court to have exclusive authority, when.
515.545. Powers, authority, and duties of receivers.
515.550. Estate property, turnover of upon demand — court action to compel.
515.555. Debtor duties and requirements.
515.560. Debtor to file schedules, when.
515.565. Appraisal not required without court order.
515.570. General receiver to file monthly report, contents.
515.575. Appointment of general receiver to operate as a stay, when — expiration of stay — no stay, when.
515.580. Utility service, notice required by public utility to discontinue — violations, remedies.
515.585. Contracts and leases, receiver may assume or reject — action to compel rejection — consent to assume required, when.
515.590. Unsecured credit or debt, receiver may obtain, when.
515.595. Right to sue and be sued — action adjunct to receivership action — venue — judgment not a lien on property, when.
515.600. Immunity from liability, when.
515.605. Employment of professionals.
515.610. Creditors bound by acts of receiver — right to notice and may appear in receivership — notice requirements.
515.615. Claims administration process.
515.620. Objection to a claim, procedure.
515.625. Distribution of claims.
515.630. Secured claims permitted against estate property.
515.635. Noncontingent liquidated claims, interest allowed, rate.
515.640. Burdensome property, abandonment of, when.
515.645. Use, sale, or lease of estate property by receiver.
515.650. Receiver may be appointed as a receiver by out-of-state court, when.
515.655. Removal or replacement of receiver, procedure.
515.660. Discharge of receiver.
515.665. Orders subject to appeal.
478.430. Circuit judge in St. Louis City may appoint janitor-messenger.
478.433. Compensation of janitor-messenger.
515.240. Appointment of receiver.
515.250. Bond of receiver — powers.
515.260. Compensation of receiver.

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

SECTION A. ENACTING CLAUSE. — Sections 476.083, 478.430, 478.433, 478.705, 513.430, 515.240, 515.250, and 515.260, RSMo, are repealed and thirty-eight new sections enacted in lieu thereof, to be known as sections 476.083, 478.330, 478.705, 513.430, 515.500, 515.505, 515.510, 515.515, 515.520, 515.525, 515.530, 515.535, 515.540, 515.545, 515.550, 515.555, 515.560, 515.565, 515.570, 515.575, 515.580, 515.585, 515.590, 515.595, 515.600, 515.605, 515.610, 515.615, 515.620, 515.625, 515.630, 515.635, 515.640, 515.645, 515.650, 515.655, 515.660, and 515.665, to read as follows:

476.083. CIRCUIT COURT MARSHAL MAY BE APPOINTED IN CERTAIN CIRCUITS, POWERS AND DUTIES, SALARY, QUALIFICATIONS. — 1. In addition to any appointments made pursuant to section 485.010, the presiding judge of each circuit containing one or more facilities operated by the department of corrections with an average total inmate population in all such facilities in the circuit over the previous two years of more than two thousand five hundred inmates **or containing, as of January 1, 2016, a diagnostic and reception center operated by the department of corrections and a mental health facility operated by the department of mental health which houses persons found not guilty of a crime by reason of mental disease or defect under chapter 552 and provides sex offender rehabilitation and treatment services (SORTS)** may appoint a circuit court marshal to aid the presiding judge in

the administration of the judicial business of the circuit by overseeing the physical security of the courthouse, serving court-generated papers and orders, and assisting the judges of the circuit as the presiding judge determines appropriate. Such circuit court marshal appointed pursuant to the provisions of this section shall serve at the pleasure of the presiding judge. The circuit court marshal authorized by this section is in addition to staff support from the circuit clerks, deputy circuit clerks, division clerks, municipal clerks, and any other staff personnel which may otherwise be provided by law.

2. The salary of a circuit court marshal shall be established by the presiding judge of the circuit within funds made available for that purpose, but such salary shall not exceed ninety percent of the salary of the highest paid sheriff serving a county wholly or partially within that circuit. Personnel authorized by this section shall be paid from state funds or federal grant moneys which are available for that purpose and not from county funds.

3. Any person appointed as a circuit court marshal pursuant to this section shall have at least five years' prior experience as a law enforcement officer. In addition, any such person shall within one year after appointment, or as soon as practicable, attend a court security school or training program operated by the United States Marshal Service. In addition to all other powers and duties prescribed in this section, a circuit court marshal may:

(1) Serve process;

(2) Wear a concealable firearm; and

(3) Make an arrest based upon local court rules and state law, and as directed by the presiding judge of the circuit**.**

478.330. ADDITIONAL CIRCUIT JUDGES AUTHORIZED, WHEN. — 1. When an annual judicial performance report submitted pursuant to section 477.405 indicates for three consecutive calendar years the need for two or more full-time judicial positions in any judicial circuit there shall be one additional circuit judge position authorized in such circuit, subject to appropriations made for that purpose.

2. Except in circuits where circuit judges are selected under the provisions of article V of sections 25(a) to 25(g) of the Missouri Constitution, the election of circuit judges authorized by this section shall be conducted in accordance with chapter 115.

478.705. CIRCUIT NO. 26, NUMBER OF JUDGES, DIVISIONS — WHEN JUDGES ELECTED. — 1. There shall be **[**two**]** **three** circuit judges in the twenty-sixth judicial circuit consisting of the counties of Camden, Laclede, Miller, Moniteau and Morgan. These judges shall sit in divisions numbered one **[**and**],** two**, and three**.

2. The circuit judge in division two shall be elected in 1980. The circuit judge in division one shall be elected in 1982. **The governor shall appoint a judge for division three and notwithstanding the provisions of section 105.030, that judge shall serve until January 1, 2021. A judge for division three shall be elected in 2020**.

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 unmatured 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 unmatured 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**;**

(12) **Firearms, firearm accessories, and ammunition, not to exceed one thousand five hundred dollars in value in the aggregate**.

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.

515.500. CITATION OF LAW. — Sections 515.500 to 515.665 may be cited as the "Missouri Commercial Receivership Act".

515.505. DEFINITIONS. — As used in sections 515.500 to 515.665, the following terms shall mean:

(1) "Affiliate":

(a) A person that directly or indirectly owns, controls, or holds with power to vote twenty percent or more of the outstanding voting interests of a debtor, other than:

a. An entity that holds such securities in a fiduciary or agency capacity without sole discretionary power to vote such interests; or

b. Solely to secure a debt, if such entity has not in fact exercised such power to vote;

(b) A person whose business is operated under a lease or operating agreement by a debtor, or a person substantially all of whose property is operated under an operating agreement with a debtor; or

(c) A person that directly or indirectly operates the business or substantially all of the property of the debtor under a lease or operating agreement or similar arrangement;

(2) "Claim", a right to payment whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured, or a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured;

(3) "Court", a circuit court of the state of Missouri before which an application to appoint a receiver under sections 515.500 to 515.665 has been made or granted, or before which a receivership action under sections 515.500 to 515.665 is pending;

(4) "Creditor", a person that has a claim against the debtor that arose at the time of or before the appointment of a receiver pursuant to sections 515.500 to 515.665;

(5) "Debt", liability on a claim;

(6) "Debtor", a person as to which a receiver is sought to be appointed or a court appoints pursuant to sections 515.500 to 515.665, a person who owns property as to which a receiver is sought to be appointed or a court appoints a receiver pursuant to sections 515.500 to 515.665, a person as to which a receiver has been appointed by a court in a foreign jurisdiction, or a person who owns property as to which a receiver has been appointed by a court in a foreign jurisdiction;

(7) "Entity", a person other than a natural person;

(8) "Estate property", property as to which a court appoints a receiver pursuant to sections 515.500 to 515.665;

(9) "Executory contract", a contract, including a lease, where the obligations of the debtor and the counter party or counter parties to the contract are unperformed to the extent that the failure of either party to complete performance of its obligations would constitute a material breach of the contract, thereby excusing the other party's performance of its obligations under the contract;

(10) "Foreign jurisdiction", any state or federal jurisdiction other than that of this state;

(11) "Insolvent", a financial status or condition such that the sum of the person's debts is greater than the value of such person's property, at fair valuation;

(12) "Lien", a charge against property or an interest in property to secure payment of a debt or performance of an obligation whether created voluntarily or by operation of law;

(13) "Notice and a hearing", such notice as is appropriate and an opportunity for hearing if one is requested. Absent request for hearing by an appropriate person or party in interest, the term notice and a hearing does not indicate a requirement for an actual hearing unless the court so orders;

(14) "Party", a person who is a party to the action, becomes a party to the action, or shall be joined or shall be allowed to intervene in the action pursuant to the rules of the Missouri supreme court, including, without limitation, any person needed for just adjudication of the action;

(15) "Party in interest", the debtor, any party, the receiver, any person with an ownership interest in or lien against estate property or property sought to become estate property, any person that, with respect to particular matters presented in the receivership, has an interest that will be affected, and, in a general receivership, any creditor of the debtor;

(16) "Person", includes natural persons, partnerships, limited liability companies, corporations, and other entities recognized under the laws of this state;

(17) "Property", any right, title, and interest, of the debtor, whether legal or equitable, tangible or intangible, in real and personal property, regardless of the manner by which such rights were or are acquired, but does not include property of an individual person exempt from execution under the laws of this state; provided however, that estate property includes any nonexempt interest in property that is partially exempt. Property includes, but is not limited to, any proceeds, products, offspring, rents, or profits of or from property. Property does not include any power that a debtor may exercise solely for the benefit of another person or property impressed with a trust except to the extent that the debtor has a residual interest;

(18) "Receiver", a receiver appointed by a court pursuant to sections 515.500 to 515.665;

(19) "Receivership", the estate created pursuant to the court's order or orders appointing a receiver pursuant to sections 515.500 to 515.665, including all estate property

and the interests, rights, powers, and duties of the receiver and all parties in interest relating to estate property;

(20) "Receivership action", the action as to which a receiver is sought to be appointed or a court appoints a receiver pursuant to sections 515.500 to 515.665;

(21) "Secured creditor", a creditor that has a security interest or other lien on estate property.

515.510. COURT AUTHORIZED TO APPOINT RECEIVER, WHEN, PROCEDURE. — 1. To the extent the appointment of a receiver is not otherwise provided for pursuant to sections 49.555, 82.1026, 91.730, 198.099, 257.450, 276.501, 287.360, 287.875, 351.498, 351.1189, 354.357, 354.480, 355.736, 369.354, 370.154, 375.650, 375.954, 375.1166, 375.1176, 379.1336, 379.1418, 382.409, 393.145, 407.100, 425.030, 441.510, 443.893, 513.105, 513.110, 521.310, 537.500, 630.763, or any other statute providing for the appointment of a receiver or administration of a receivership estate in specific circumstances, the court or any judge thereof in vacation, shall have the power to appoint a receiver, whenever such appointment shall be deemed necessary, whose duty it shall be to keep and preserve any money or other thing deposited in court, or that may be subject of a tender, and to keep and preserve all property and protect any business or business interest entrusted to the receiver pending any legal or equitable action concerning the same, subject to the order of the court, including in the following instances:

(1) In an action brought to dissolve an entity the court may appoint a receiver with the powers of a custodian to manage the business affairs of the entity and to wind up and liquidate the entity;

(2) In an action in which the person seeking appointment of a receiver has a lien on or interest in property or its revenue-producing potential, and either:

(a) The appointment of a receiver with respect to the property or its revenue-producing potential is necessary to keep and preserve the property or its revenue-producing potential or to protect any business or business interest concerning the property or its revenue-producing potential; or

(b) The appointment of a receiver with respect to the property or its revenue-producing potential is provided for by a valid and enforceable contract or contract provision; or

(c) The appointment of a receiver is necessary to effectuate or enforce an assignment of rents or other revenues from the property;

(3) After judgment, in order to give effect to the judgment, provided that the party seeking the appointment demonstrates it has no other adequate remedy to enforce the judgment;

(4) To dispose of property according to provisions of a judgment dealing with its disposition;

(5) To the extent that property is not exempt from execution, at the instance of a judgment creditor either before or after the issuance of any execution, to preserve or protect it, or prevent its transfer;

(6) If and to the extent that property is subject to execution to satisfy a judgment, to preserve the property during the pendency of an appeal, or when an execution has been returned unsatisfied, or when an order requiring a judgment debtor to appear for proceedings supplemental to judgment has been issued and the judgment debtor fails to submit to examination as ordered;

(7) Upon attachment of real or personal property when the property attached is of a perishable nature or is otherwise in danger of waste, impairment, or destruction or where a debtor has absconded with, secreted, or abandoned the property, and it is necessary to collect, conserve, manage, control, or protect it, or to dispose of it promptly, or when the court determines that the nature of the property or the exigency of the case otherwise provides cause for the appointment of a receiver;

(8) In an action by a transferor of real or personal property to avoid or rescind the transfer on the basis of fraud, or in an action to subject property or a fund to the payment of a debt;

(9) In an action against any entity if that person is insolvent or is not generally paying the entity's debts as those debts become due unless they are the subject of bona fide dispute;

(10) In an action where a mortgagee has posted and the court has approved a redemption bond as provided pursuant to section 443.440;

(11) If a general assignment for the benefit of creditors has been made;

(12) Pursuant to the terms of a valid and enforceable contract or contract provision providing for the appointment of a receiver, other than pursuant to a contract or contract provision providing for the appointment of a receiver with respect to the primary residence of a debtor who is a natural person;

(13) To enforce a valid and enforceable contractual assignment of rents or other revenue from the property; and

(14) To prevent irreparable injury to the person or persons requesting the appointment of a receiver with respect to the debtor's property.

2. A court of this state shall appoint as receiver of property located in this state a person appointed in a foreign jurisdiction as receiver with respect to the property specifically or with respect to the debtor's property generally, upon the application of the receiver appointed in the foreign jurisdiction or of any party to that foreign action, and following the appointment shall give effect to orders, judgments, and decrees of the court in the foreign jurisdiction affecting the property in this state held by a receiver appointed in the foreign jurisdiction, unless the court determines that to do so would be manifestly unjust or manifestly inequitable. The venue of such an action may be any county in which the debtor resides or maintains any office, or any county in which any property over which a receiver is to be appointed is located at the time the action is commenced.

3. At least seven days' notice of any application for the appointment of a receiver shall be given to the debtor and to all other parties to the action in which the request for appointment of a receiver is sought, and to all other parties in interest as the court may require. If any execution by a judgment creditor or any application by a judgment creditor for the appointment of a receiver with respect to property over which the appointment of a receiver is sought is pending in any other action at the time the application is made, then notice of the application for the receiver's appointment also shall be given to the judgment creditor in the other action. The court may shorten or expand the period for notice of an application for the appointment of a receiver upon good cause shown.

4. The order appointing a receiver shall reasonably describe the property over which the receiver is to take charge, by category, individual items, or both if the receiver is to take charge of less than substantially all of the debtor's property. If the order appointing a receiver does not expressly limit the receiver's authority to designated property or categories of property of the owner, the receiver shall be deemed a general receiver with authority to take charge over all of the debtor's property, wherever located.

5. The court may condition the appointment of a receiver upon the giving of security by the person seeking the appointment of a receiver, in such amount as the court may specify, for the payment of costs and damages incurred or suffered by any person should it later be determined that the appointment of the receiver was wrongfully obtained.

6. The appointment of a receiver is not required to be relief ancillary or in addition to any other claim, and may be sought as an independent claim and remedy.

7. Sections 515.500 to 515.665 shall not apply to persons or entities who are, or who should be, regulated as public utilities by the public service commission.

515.515. GENERAL AND LIMITED RECEIVERS. — A receiver shall be either a general receiver or a limited receiver. A receiver shall be a general receiver if the receiver is appointed to take possession and control of all or substantially all of a debtor's property and provided the power to liquidate such property. A receiver shall be a limited receiver if the receiver is appointed to take possession and control of only limited or specific property of a debtor, whether to preserve or to liquidate such property. A receiver appointed at the request of a person having a lien on or interest in specific property that constitutes all or substantially all of a debtor's property may be either a general receiver or a limited receiver. The court shall specify in the order appointing a receiver whether the receiver is appointed as a general receiver or as a limited receiver. The court by order, upon notice and a hearing, may convert either a general receiver into a limited receiver or a limited receiver into a general receiver for good cause shown. In the absence of a clear designation by the court of the type of receiver appointed, whether limited or general, the receiver shall be presumed to be a general receiver and shall have the rights, powers, and duties attendant thereto.

515.520. NOTICE OF APPOINTMENT, CONTENT. — 1. Upon entry of an order appointing a receiver or upon conversion of a limited receiver to a general receiver pursuant to section 515.515 and within ten business days thereof, or within such additional time as the court may allow, the receiver shall give notice of the appointment or conversion to all parties in interest, including the secretary of state for the state of Missouri, and state and federal taxing authorities. Such notice shall be made by first class mail and proof of service thereof shall be filed with the court. The content of such notice shall include:

(1) The caption reflecting the action in which the receiver is appointed;

(2) The date the action was filed;

(3) The date the receiver was appointed;

(4) The name, address, and contact information of the appointed receiver;

(5) Whether the receiver is a limited or general receiver;

(6) A description of the estate property;

(7) The debtor's name and address and the name and address of the attorney for the debtor, if any;

(8) The court address at which pleadings, motions, or other papers may be filed;

(9) Such additional information as the court directs; and

(10) A copy of the court's order appointing the receiver.

2. A general receiver shall also give notice of the receivership by publication in a newspaper of general circulation published in the county or counties in which estate property is known to be located once a week for three consecutive weeks. The first notice shall be published within thirty days after the date of appointment of the receiver. The notice of the receivership shall include the date of appointment of the receiver, the name of the court and the action number, the last day on which claims may be filed, if established by the court, and the name and address of the debtor, the receiver, and the receiver's attorney, if any. For purposes of this section, all intangible property included as estate property is deemed to be located in the county in which the debtor, if a natural person, resides, or in which the debtor, if an entity, maintains its principal administrative offices.

3. The debtor shall cooperate with all reasonable requests for information from the receiver for purposes of assisting the receiver in providing notice pursuant to subsection 1 of this section. In the court's discretion, the failure of such debtor to cooperate with any reasonable request for information may be punished as a contempt of court.

515.525. REPLACEMENT OF RECEIVER, WHEN. — Except as provided in sections 515.500 to 515.665 or otherwise by statute, any person, whether or not a resident of this

state, may serve as a receiver. A person may not be appointed as a receiver, and shall be replaced as receiver if already appointed, if it should appear to the court that the person:

(1) Has been found guilty of a felony or other crime involving moral turpitude or is controlled by a person who has been convicted of a felony or other crime involving moral turpitude;

(2) Is a party to the action, or is a parent, grandparent, grandchild, sibling, partner, director, officer, agent, attorney, employee, secured or unsecured creditor or lienor of, or holder of any equity interest in, or controls or is controlled by, the debtor, or who is the agent, affiliate, or attorney of any disqualified person;

(3) Has an interest materially adverse to the interest of persons to be affected by the receivership generally; or

(4) Is a sheriff of any county.

515.530. BOND REQUIREMENTS. — Except as otherwise provided for by statute or court rule, before entering upon duties of receiver, a receiver shall execute a bond with one or more sureties approved by the court, in the amount the court specifies, conditioned that the receiver will faithfully discharge the duties of receiver in accordance with orders of the court and state law. Unless otherwise ordered by the court, the receiver's bond runs in favor of all persons having an interest in the receivership proceeding or property held by the receiver and in favor of state agencies.

515.535. RECEIVER TO HAVE POWERS AND PRIORITY OF CREDITOR. — As of the time of appointment, and subject to the provisions of subdivision (3) of subsection 3 of section 515.575, the receiver shall have the powers and priority as if it were a creditor that obtained a judicial lien at the time of appointment on all of the debtor's property that is subject to the receivership, subject to satisfaction of recording requirements as to real property pursuant to paragraph (c) of subsection 2 of section 515.545.

515.540. COURT TO HAVE EXCLUSIVE AUTHORITY, WHEN. — 1. Except as otherwise provided for by sections 515.500 to 515.665, the court in all cases has exclusive authority over the receiver, and the exclusive possession and right of control with respect to all real property and all tangible and intangible personal property with respect to which the receiver is appointed, wherever located, and the exclusive authority to determine all controversies relating to the collection, preservation, application, and distribution of all property, and all claims against the receiver arising out of the exercise of the receiver's powers or the performance of the receiver's duties. However, the court does not have exclusive authority over actions in which a state agency is a party and in which jurisdiction or venue is vested elsewhere.

2. For good cause shown, the court has power to shorten or expand the time frames specified in sections 515.500 to 515.665.

515.545. POWERS, AUTHORITY, AND DUTIES OF RECEIVERS. — 1. A receiver has the following powers and authority:

(1) To incur or pay expenses incidental to the receiver's preservation and use of estate property, and otherwise in the performance of the receiver's duties, including the power to pay obligations incurred prior to the receiver's appointment if and to the extent that payment is determined by the receiver to be prudent in order to preserve the value of estate property and the funds used for this purpose are not subject to any lien or right of setoff in favor of a creditor who has not consented to the payment and whose interest is not otherwise adequately protected;

(2) If the appointment applies to all or substantially all of the property of an operating business or any revenue-producing property of the debtor, to do all the things which the owner of the business or property may do in the exercise of ordinary business

judgment, or in the ordinary course of the operation of the business as a going concern or use of the property including, but not limited to, the purchase and sale of goods or services in the ordinary course of such business, and the incurring and payment of expenses of the business or property in the ordinary course;

(3) To assert any rights, claims, or choses in action of the debtor, if and to the extent that the rights, claims, or choses in action are themselves property within the scope of the appointment or relate to any estate property, to maintain in the receiver's name or in the name of the debtor any action to enforce any right, claim, or chose in action, and to intervene in actions in which the debtor is a party for the purpose of exercising the powers under this subsection;

(4) To intervene in any action in which a claim is asserted against the debtor, for the purpose of prosecuting or defending the claim and requesting the transfer of venue of the action to the court appointing the receiver. However, the court shall not transfer actions in which a state agency is a party and as to which a statute expressly vests jurisdiction or venue elsewhere. This power is exercisable with court approval by a limited receiver, and with or without court approval by a general receiver;

(5) To assert rights, claims, or choses in action of the receiver arising out of transactions in which the receiver is a participant;

(6) To pursue in the name of the receiver any claim under sections 428.005 to 428.059 assertable by any creditor of the debtor, if pursuit of the claim is determined by the receiver to be appropriate in the exercise of the receiver's business judgment;

(7) To seek and obtain advice or instruction from the court with respect to any course of action with respect to which the receiver is uncertain in the exercise of the receiver's powers or the discharge of the receiver's duties;

(8) To obtain appraisals with respect to estate property;

(9) To compel by subpoena any person to submit to an examination under oath, in the manner of a deposition in accordance with rule 57.03 of the Missouri rules of civil procedure, with respect to estate property or any other matter that may affect the administration of the receivership;

(10) To use, sell, or lease property other than in the ordinary course of business pursuant to section 515.645, and to execute in the debtor's stead such documents, conveyances, and borrower consents as may be required in connection therewith; and

(11) All other powers as may be conferred upon the receiver specifically by sections 515.500 to 515.665, by statute, court rule, or by the court.

2. A receiver has the following duties:

(1) The duty to notify all federal and state taxing and applicable regulatory agencies of the receiver's appointment in accordance with any applicable laws imposing this duty, including but not limited to, 26 U.S.C. Section 6036;

(2) The duty to comply with state law;

(3) If a receiver is appointed with respect to any real property, the duty to record as soon as practicable within the land records in any county in which such real property may be situated a notice of lis pendens as provided in section 527.260, together with a certified copy of the order of appointment, together with a legal description of the real property if one is not included in that order; and

(4) Other duties as may be required specifically by sections 515.500 to 515.665, by statute, court rule, or by the court.

3. The various powers, authorities, and duties of a receiver provided by sections 515.500 to 515.665 may be expanded, modified, or limited by order of the court.

515.550. ESTATE PROPERTY, TURNOVER OF UPON DEMAND — COURT ACTION TO COMPEL. — 1. Upon demand by a receiver, any person, including the debtor, shall turn over any estate property that is within the possession or control of that person unless

otherwise ordered by the court for good cause shown. A receiver by motion may seek to compel turnover of estate property as against any person over which the court first establishes jurisdiction, unless there exists a bona fide dispute with respect to the existence or nature of the receiver's possessory interest in the estate property, in which case turnover shall be sought by means of a legal action. In the absence of a bona fide dispute with respect to the receiver's right to possession of estate property, the failure to relinquish possession and control to the receiver shall be punishable as a contempt of the court.

2. Should the court after notice and a hearing pursuant to subsection 1 of this section order the turnover of property to the receiver, the party against which such order is made shall have the right to deliver a bond executed by such party as principal together with one or more sufficient sureties providing that the principal and each such surety shall each be bound to the receiver in double the amount of the value of the property to be turned over, should the property not be turned over to the receiver when such order becomes final. Absent such bond, the property ordered to be turned over to the receiver shall be immediately turned over to the receiver within ten days of the entry of such order.

515.555. DEBTOR DUTIES AND REQUIREMENTS. — 1. In addition to other duties and requirements set forth in sections 515.500 to 515.665 and as ordered by the court, the debtor shall:

(1) Within fourteen days of the appointment of a general receiver, make available for inspection by the receiver during normal business hours all information and data required to be filed with the court pursuant to section 515.560, in the form and manner the same are maintained in the ordinary course of the debtor's business;

(2) Assist and cooperate fully with the receiver in the administration of the estate and the discharge of the receiver's duties, and comply with all orders of the court;

(3) Supply to the receiver information necessary to enable the receiver to complete any schedules or reports that the receiver may be required to file with the court, and otherwise assist the receiver in the completion of the schedules;

(4) Upon the receiver's appointment, deliver into the receiver's possession all the property of the receivership estate in the person's possession, custody, or control, including, but not limited to, all accounts, books, papers, records, and other documents; and

(5) Following the receiver's appointment, submit to examination by the receiver, or by any other person upon order of the court, under oath, concerning the acts, conduct, property, liabilities, and financial condition of that person or any matter relating to the receiver's administration of the estate.

2. When the debtor is an entity, each of the officers, directors, managers, members, partners, or other individuals exercising or having the power to exercise control over the affairs of the entity are subject to the requirements of this section.

515.560. DEBTOR TO FILE SCHEDULES, WHEN. — 1. Within thirty days after the date of appointment of a general receiver, the debtor shall file with the court and submit to the receiver the following schedules:

(1) A true list of all of the known creditors and applicable regulatory and taxing agencies of the debtor, including the mailing addresses for each, the amount and nature of their claims, and whether their claims are disputed; and

(2) A true list of all estate property, including the estimated liquidation value and location of the property and, if real property, a legal description thereof, as of the date of appointment of the receiver.

2. The Missouri supreme court may from time to time prescribe by court rule the schedules to be filed in receiverships as the supreme court shall deem appropriate to the effective administrations of sections 515.500 to 515.665.

515.565. APPRAISAL NOT REQUIRED WITHOUT COURT ORDER. — 1. A receiver shall not be obligated to obtain any appraisal or other independent valuation of property in the receiver's possession unless ordered by the court to do so.

2. A court may order the receiver to file such additional schedules, reports of assets, liabilities, claims, or inventories as necessary and proper.

3. Whenever a list or schedule required pursuant to this section is not prepared and filed as required by the debtor, the court may order the receiver, a petitioning creditor, or such other person as the court in its discretion deems appropriate to prepare and file such list or schedule within a time fixed by the court. The court may approve reimbursement of the cost incurred in complying with such order as an administrative expense.

515.570. GENERAL RECEIVER TO FILE MONTHLY REPORT, CONTENTS. — 1. A general receiver shall file with the court a monthly report of the receiver's operations and financial affairs unless otherwise ordered by the court. Except as otherwise ordered by the court, each report of a general receiver shall be due by the last day of the subsequent month and shall include the following:

(1) A balance sheet;

(2) A statement of income and expenses;

(3) A statement of cash receipts and disbursements;

(4) A statement of accrued accounts receivable of the receiver;

(5) A statement disclosing amounts considered to be uncollectable;

(6) A statement of accounts payable of the receiver, including professional fees. Such statement shall list the name of each creditor and the amounts owing and remaining unpaid over thirty days; and

(7) A tax disclosure statement, which shall list post filing taxes due or tax deposits required, the name of the taxing agency, the amount due, the date due, and an explanation for any failure to make payments or deposits.

2. A limited receiver shall file with the court all such reports as the court may require.

515.575. APPOINTMENT OF GENERAL RECEIVER TO OPERATE AS A STAY, WHEN — EXPIRATION OF STAY — NO STAY, WHEN. — 1. Except as otherwise ordered by the court, the entry of an order appointing a general receiver shall operate as a stay, applicable to all persons, of:

(1) The commencement or continuation, including the issuance, employment, or service of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the entry of the order of appointment, or to recover a claim against the debtor that arose before the entry of the order of appointment;

(2) The enforcement against the debtor or any estate property of a judgment obtained before the order of appointment;

(3) Any act to obtain possession of estate property from the receiver, or to interfere with, or exercise control over, estate property;

(4) Any act to create, perfect, or enforce any lien or claim against estate property except by exercise of a right of setoff, to the extent that the lien secures a claim against the debtor that arose before the entry of the order of appointment; or

(5) Any act to collect, assess, or recover a claim against the debtor that arose before the entry of the order of appointment.

2. The stay shall automatically expire as to the acts specified in subdivisions (1), (2), and (3) of subsection 1 of this section sixty days after the entry of the order of appointment unless before the expiration of the sixty-day period the debtor or receiver, for good cause

shown, obtains an order of the court extending the stay, after notice and a hearing. A person whose action or proceeding is stayed by motion to the court may seek relief from the stay for good cause shown. Any judgment obtained against the debtor or estate property following the entry of the order of appointment is not a lien against estate property unless the receivership is terminated prior to a conveyance of the property against which the judgment would otherwise constitute a lien.

3. The entry of an order appointing a receiver does not operate as a stay of:

(1) The commencement or continuation of a criminal proceeding against the debtor;

(2) The commencement or continuation of an action or proceeding to establish paternity, or to establish or modify an order for alimony, maintenance, or support, or to collect alimony, maintenance, or support under any order of a court;

(3) Any act to perfect or to maintain or continue the perfection of an interest in estate property pursuant to any generally applicable Missouri law that permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection. Such right to perfect an interest in estate property includes any act to perfect an interest in purchase money collateral pursuant to sections 400.9-301 to 400.9-339, perfection of a lien that may be placed against real property under the provisions of chapter 429, or the assertion of a right to continue in possession of any estate property that is in the possession of a person entitled to retain possession of such property pending payment for work performed with respect to such property. If perfection of an interest would otherwise require seizure of the property involved or the commencement of an action, the perfection shall instead be accomplished by filing, and by serving upon the receiver, or receiver's counsel, if any, notice of the interest within the time fixed by law for seizure or commencement;

(4) The commencement or continuation of an action or proceeding by a governmental unit to enforce its police or regulatory power;

(5) The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce its police or regulatory power, or with respect to any licensure of the debtor;

(6) The exercise of a right of setoff, including but not limited to, any right of a commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency to set off a claim for a margin payment or settlement payment arising out of a commodity contract, forward contract, or securities contract against cash, securities, or other property held or due from the commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency to margin, guarantee, secure, or settle the commodity contract, forward contract, or securities contract, and any right of a swap participant to set off a claim for a payment due to the swap participant under or in connection with a swap agreement against any payment due from the swap participant under or in connection with the swap agreement or against cash, securities, or other property of the debtor held by or due from the swap participant to guarantee, secure, or settle the swap agreement;

(7) The establishment by a governmental unit of any tax liability and any appeal thereof; or

(8) Any action pending in a court other than that in which the receiver is appointed until transcription of the order appointing the receiver or extending the stay is made to the other court in which an action against the debtor is pending.

4. For the purposes of subdivision (8) of subsection 3 of this section, the receiver or any party in interest is authorized to cause to be transcripted any order appointing a receiver or extending the stay to any and all courts in which any action against a debtor is pending in this state. A court that receives a transcript of an order of receivership or extension of stay may on its own order sua sponte transfer the matter before the court to the court issuing an order of receivership.

515.580. UTILITY SERVICE, NOTICE REQUIRED BY PUBLIC UTILITY TO DISCONTINUE — VIOLATIONS, REMEDIES. — 1. A public utility, as defined in section 386.020, providing service to estate property may not alter, refuse, or discontinue service to the property without first giving the receiver fifteen days' notice, or such other notice as may be required by the rules of the public service commission for a customer of that class, of any default or intention to alter, refuse, or discontinue service to estate property. This section does not prohibit the court, upon motion by the receiver, to prohibit the alteration or cessation of utility service if the receiver can furnish adequate assurance of payment in the form of deposit or other security for service to be provided after entry of the order appointing the receiver.

2. Any public utility regulated by the public service commission which violates this section shall be subject to appropriate remedial measures by the commission upon receiving notice that the utility has violated the provisions of this section.

3. When a utility service provider not regulated by the public service commission violates this section, upon direction of the court, an action may be brought by the receiver against the utility to enforce compliance with the provisions of this section.

515.585. CONTRACTS AND LEASES, RECEIVER MAY ASSUME OR REJECT — ACTION TO COMPEL REJECTION — CONSENT TO ASSUME REQUIRED, WHEN. — 1. A receiver may assume or reject any executory contract or unexpired lease of the debtor upon order of the court following notice and a hearing, which shall include notice to persons party to the executory contract or unexpired lease to be assumed or rejected. The court may condition assumption or rejection of any executory contract or unexpired lease on the terms and conditions the court believes are just and proper under the particular circumstances of the action. Such terms and conditions may include a requirement that the receiver cures or provides adequate assurance that the receiver will promptly cure any default. A general receiver's performance of an executory contract or unexpired lease prior to the court's authorization of its assumption or rejection shall not constitute an assumption of the executory contract or unexpired lease, or an agreement by the receiver to assume it, nor otherwise preclude the receiver thereafter from seeking the court's authority to reject it.

2. Any person party to an executory contract or unexpired lease may by motion seek to compel the rejection thereof at any time, such rejection the court shall order in its discretion, and as the interests of justice may require. In determining a motion to compel the rejection of an executory contract or unexpired lease, the court may consider, among other factors:

(1) Whether rejection is in the best interests of the receivership estate and the interests of creditors;

(2) The extent to which the executory contract or unexpired lease burdens the receivership estate financially;

(3) Whether the debtor is performing or is in breach of the executory contract or unexpired lease;

(4) If the debtor is in breach of a financial provision of the executory contract or unexpired lease, the debtor's ability to cure such breach within a reasonable time; and

(5) Harm suffered by the non-debtor person party to the executory contract or unexpired lease that results or may result from refusing the rejection thereof.

3. Any obligation or liability incurred by a general receiver on account of the receiver's assumption of an executory contract or unexpired lease shall be treated as an expense of the receivership. A receiver's rejection of an executory contract or unexpired lease shall be treated as a breach of the contract or lease occurring immediately prior to the receiver's appointment; and the receiver's right to possess or use property pursuant to any executory contract or unexpired lease shall terminate upon rejection of such contract or lease. A non-debtor party to an executory contract or unexpired lease that is

rejected by a receiver may take such steps as may be necessary under applicable law to terminate or cancel such contract or lease. The claim of a non-debtor party to an executory contract or unexpired lease resulting from a receiver's rejection of it shall be served upon the receiver within thirty days following the date the receiver gives notice of such rejection to such person, which notice shall indicate the right to file a claim within the thirty day period.

4. A receiver's power under this section to assume an executory contract or unexpired lease shall not be affected by any provision in such contract or lease that would effect or permit a forfeiture, modification, or termination of it on account of either the receiver's appointment, the financial condition of the debtor, or an assignment for the benefit of creditors by the debtor.

5. A receiver may not assume an executory contract or unexpired lease of debtor without the consent of the other person party to such contract or lease if:

(1) Applicable law would excuse a person, other than the debtor, from accepting performance from or rendering performance to anyone other than the debtor even in the absence of any provisions in the contract or lease expressly restricting or prohibiting an assignment of the person's rights or the performance of the debtor's duties;

(2) The contract or lease is a contract to make a loan or extend credit or financial accommodations to or for the benefit of the debtor, or to issue a security of the debtor; or

(3) The executory contract or lease expires by its own terms, or under applicable law prior to the receiver's assumption thereof.

6. A receiver may not assign an executory contract or unexpired lease without assuming it, absent the consent of the other parties to the contract or lease.

7. If the receiver rejects an executory contract or unexpired lease for:

(1) The sale of real property under which the debtor is the seller and the purchaser is in possession of the real property;

(2) The sale of a real property timeshare interest under which the debtor is the seller;

(3) The license of intellectual property rights under which the debtor is the licensor; or

(4) The lease of real property in which the debtor is the lessor; then the purchaser, licensee, or lessee may treat the rejection as a termination of the contract, license agreement, or lease, or alternatively, the purchaser, licensee, or lessee may remain in possession in which circumstance the purchaser, licensee, or lessee shall continue to perform all obligations arising thereunder as and when they may fall due, but may offset against any payments any damages occurring on account of the rejection after it occurs. The purchaser of real property in such a circumstance is entitled to receive from the receiver any deed or any other instrument of conveyance which the debtor is obligated to deliver under the executory contract when the purchaser becomes entitled to receive it, and the deed or instrument has the same force and effect as if given by the person. A purchaser, licensee, or lessee who elects to remain in possession under the terms of this subsection has no rights against the receiver on account of any damages arising from the receiver's rejection except as expressly provided for by this subsection. A purchaser of real property who elects to treat rejection of an executory contract as a termination has a lien against the interest in that real property of the debtor for the recovery of any portion of the purchase price that the purchaser has paid.

8. Any contract with the state shall be deemed rejected if not assumed within sixty days of appointment of a general receiver unless the receiver and state agency agree to its assumption.

9. Nothing in sections 515.500 to 515.665 affects the enforceability of anti-assignment prohibitions provided under contract or applicable law.

515.590. UNSECURED CREDIT OR DEBT, RECEIVER MAY OBTAIN, WHEN. — 1. If a receiver is authorized to operate the business of a debtor or manage a debtor's property,

the receiver may obtain unsecured credit and incur unsecured debt in the ordinary course of business as an administrative expense of the receiver without order of the court.

2. The court after notice and a hearing may authorize a receiver to obtain credit or incur debt other than in the ordinary course of business. The court may allow the receiver to mortgage, pledge, hypothecate, or otherwise encumber estate property as security for repayment of any debt that the receiver may incur, including that the court may provide that additional credit extended to a receiver by a secured creditor of the debtor be afforded the same priority as the secured creditor's existing lien.

3. When determining the propriety of allowing a receiver to obtain credit or incur debt pursuant to subsection 2 of this section, the court shall consider the likely impact on the interests of unsecured creditors of the debtor.

515.595. RIGHT TO SUE AND BE SUED — ACTION ADJUNCT TO RECEIVERSHIP ACTION — VENUE — JUDGMENT NOT A LIEN ON PROPERTY, WHEN. — 1. A receiver has the right to sue and be sued in the receiver's capacity as such, without leave of court, in all circumstances necessary or proper for the conduct of the receivership. However, an action seeking to dispossess a receiver of any estate property or otherwise to interfere with the receiver's management or control of any estate property may not be maintained or continued unless permitted by order of the court obtained upon notice and a hearing.

2. An action by or against a receiver is adjunct to the receivership action. The clerk of the court may assign or refer a case number that reflects the relationship of any action to the receivership action. All pleadings in an adjunct action shall include the case number of the receivership action as well as the adjunct action case number assigned by the clerk of the court. All adjunct actions shall be referred to the judge, if any, assigned to the receivership action.

3. A receiver may be joined or substituted as a party in any action or proceeding that was pending at the time of the receiver's appointment and in which the debtor is a party, upon application by the receiver to the court, agency, or other forum before which the action or proceeding is pending.

4. Venue for adjunct actions by or against a receiver shall lie in the court in which the receivership is pending, if the court has jurisdiction over the action. Actions in other courts in this state shall be transferred to the court upon the receiver's filing of a motion for change of venue, provided that the receiver files the motion within thirty days following service of original process upon the receiver. However, actions in other courts or forums in which a state agency is a party shall not be transferred on request of the receiver absent consent of the affected state agency or grounds provided under other applicable law.

5. An action by or against a receiver does not abate by reason of death or resignation or removal of the receiver, but continues against the successor receiver or against the debtor, if a successor receiver is not appointed.

6. Whenever the assets of any domestic or foreign corporation, that has been doing business in this state, has been placed in the hands of any general receiver and the receiver is in possession of its assets, service of all process upon the corporation may be made upon the receiver.

7. A judgment against a general receiver or the debtor is not a lien on estate property, nor shall any execution issue thereon. Upon entry of a judgment against a general receiver or the debtor in the court in which a general receivership is pending, or upon filing in a general receivership of a certified copy of a judgment against a general receiver or the debtor entered by another court in this state or a foreign jurisdiction, the judgment shall be treated as an allowed claim in the receivership. A judgment against a limited receiver shall be treated and has the same effect as a judgment against the debtor, except that the judgment is not enforceable against estate property unless otherwise ordered by the court upon notice and a hearing.

515.600. IMMUNITY FROM LIABILITY, WHEN. — 1. A receiver appointed pursuant to sections 515.500 to 515.665, and the agents, attorneys, and employees of the receivership employed by the receiver pursuant to section 515.605 shall enjoy judicial immunity for acts and omissions arising out of and performed in connection with his or her official duties on behalf of the court and within the scope of his or her appointment. A person other than a successor receiver duly appointed by the court does not have a right of action against a receiver under this section to recover property or the value thereof for or on behalf of the estate except as provided in subsection 2 of this section. A successor receiver may recover only actual damages incurred by the receivership estate from a prior receiver.

2. A person, other than a successor receiver duly appointed by the court, shall not have the right to bring an action against a receiver or the agents, attorneys, and employees of the receivership employed by the receiver pursuant to section 515.605 for any act or omission while acting in the performance of their functions and duties in connection with the receivership unless such person first files a verified application with the appointing court requesting leave to bring such action and the court grants such application after notice and hearing. The appointing court shall only approve the application to bring claims against the receiver under this section upon a prima facie showing by the person making such request that the receiver's actions are not protected by the grant of immunity set forth in subsection 1 of this section. No other court apart from the appointing court shall have the authority to review or approve the application to bring claims against the receiver under this section.

3. If a person requests leave to bring claims under subsection 2 of this section and such leave is denied, the court shall grant judgment in favor of the receiver for the costs of the proceeding and reasonable attorney's fee if the court finds that the position of the person was not substantially justified.

515.605. EMPLOYMENT OF PROFESSIONALS. — 1. The receiver, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons that do not hold or represent an interest adverse to the receivership to represent or assist the receiver in carrying out the receiver's duties.

2. A person is not disqualified for employment under this section solely because of the person's employment by, representation of, or other relationship with a creditor or other party in interest, if the relationship is disclosed in the application for the person's employment and if the court determines that there is no actual conflict of interest or inappropriate appearance of a conflict.

3. This section does not preclude the court from authorizing the receiver to act as attorney or accountant if the authorization is in the best interests of the receivership.

4. The receiver and any professionals employed by the receiver shall maintain itemized billing records containing a description of services, the time spent, billing rates of all who perform work to be compensated, and a detailed list of expenses. The receiver, and any professionals employed by the receiver may file a motion requesting the allowance of fees and expenses. Notice of the motion shall be served on all persons required to be identified on the master mailing list maintained pursuant to section 515.610, advising that objections to the application shall be filed within ten days from the date of the notice, and if objections are not timely filed, the court may approve the motion without further notice or hearing. If an objection is filed, the receiver or professional whose compensation is affected may notice the objection for a hearing. Upon request of any person required to receive notice pursuant to this subsection, the receiver and any professionals employed by the receiver shall provide a copy of their itemized billing records upon which their motion for fees and expenses is based within five days of the date of the request.

515.610. CREDITORS BOUND BY ACTS OF RECEIVER — RIGHT TO NOTICE AND MAY APPEAR IN RECEIVERSHIP — NOTICE REQUIREMENTS. — 1. Creditors and parties in interest to whom are given notice as provided by sections 515.500 to 515.665 and creditors or other persons submitting written claims in the receivership or otherwise appearing and participating in the receivership are bound by the acts of the receiver and the orders of the court relating to the receivership whether or not the person is a party to the receivership action.

2. Creditors and parties in interest have a right to notice and a hearing as provided in sections 515.500 to 515.665 whether or not the person is a party to the receivership action.

3. Any party in interest may appear in the receivership in the manner prescribed by court rule and shall file with the court a written notice including the name and mailing address of the party in interest, and the name and address of the party in interest's attorney, if any, with the clerk, and by serving a copy of the notice upon the receiver and the receiver's attorney of record, if any. The receiver shall maintain a master mailing list of all parties and of all parties in interest that file and serve a notice of appearance in accordance with this subsection and such parties in interest's attorneys, if any. The receiver shall make a copy of the current master mailing list available to any party or upon request.

4. Any request for relief against a state agency shall be mailed to or otherwise served on the agency and on the office of the attorney general.

5. The receiver shall give not less than ten days' written notice of any examination by the receiver of the debtor to all persons required to be identified on the master mailing list.

6. All persons required to be identified on the master mailing list are entitled to not less than thirty days' written notice of the hearing of any motion or other proceeding involving any proposed:

(1) Allowance or disallowance of any claim or claims;

(2) Abandonment, disposition, or distribution of estate property, other than an emergency disposition of property subject to eroding value or a disposition of estate property in the ordinary course of business;

(3) Compromise or settlement of a controversy that might affect the distribution to creditors from the receivership;

(4) Motion for termination of the receivership or removal or discharge of the receiver. Notice of the motion shall also be sent to the department of revenue and other applicable regulatory agencies;

(5) Any opposition to any motion to authorize any of the actions under subdivisions (1) to (4) of this subsection shall be filed and served upon all persons required to be identified on the master mailing list at least ten days before the date of the proposed action.

7. Whenever notice is not specifically required to be given under sections 515.500 to 515.665 or otherwise by court rule, the court may consider motions and grant or deny relief without notice or hearing, unless a party or party in interest would be prejudiced or harmed by the relief requested.

515.615. CLAIMS ADMINISTRATION PROCESS. — 1. The claims administration process identified in this section shall be administered by a general receiver and may be ordered by the court to be administered by a limited receiver.

2. All claims, other than claims of duly perfected secured creditors, arising prior to the receiver's appointment shall be in the form required by this section and served and noticed as required by this section. Any claim not in the form required by this section and so served and noticed is barred from participating in any distribution to creditors.

3. Claims shall be served on the receiver within thirty days from the date notice is given under this section, unless the court reduces or extends the period for cause shown,

except that a claim arising from the rejection of an executory contract or an unexpired lease of the debtor may be served within thirty days after the rejection. Claims by state agencies shall be served by such state agencies on the receiver within sixty days from the date notice is given by mail under this section.

4. Claims shall be in written form entitled "Proof of Claim", setting forth the name and address of the creditor and the nature and amount of the claim, and executed by the creditor or the creditor's authorized agent. When a claim or an interest in estate property securing the claim is based on a writing, the original or a copy of the writing shall be included as a part of the proof of claim together with evidence of perfection of any security interest or other lien asserted by the claimant. Unless otherwise ordered by the court, creditors may amend such claims and such amendments shall relate back to the original filing of such claim.

5. Notices of claim shall be filed with the court. A notice shall be filed with the court relating to each served claim. A notice of claim shall not include the claim or supporting documentation served upon the receiver. A notice of claim shall include the name and address of the creditor asserting the claim, together with the name and address of the attorney, if any representing the creditor, the amount of the claim, whether or not the claim is secured or unsecured, and if secured, a brief description of any estate property and other collateral securing the claim.

6. A claim properly noticed, executed, and served in accordance with this section constitutes prima facie evidence of the validity and amount of the claim.

515.620. OBJECTION TO A CLAIM, PROCEDURE. — 1. At any time prior to the entry of an order approving the general receiver's final report, the receiver or any party in interest may file with the court an objection to a claim, such objection shall be in writing and shall set forth the grounds for the objection to the claim. A copy of the objection shall be mailed to the creditor who shall have thirty days to file with the court any suggestions in support of the claim. Upon the filing of any suggestions in support of the claim, the court may adjudicate the claim objection or set a hearing relating to the claim objection. Claims that comply with the requirements of section 515.615 that are not disallowed by the court are entitled to share in distributions from the receivership in accordance with the priorities provided for by sections 515.500 to 515.665 or otherwise by law.

2. Upon order of the court, the general receiver, or any party in interest objecting to the creditor's claim, an objection may be subject to mediation prior to adjudication of the objection. However, state claims are not subject to mediation absent agreement of the state.

3. Upon motion of the general receiver or other party in interest, the following claims may be estimated for purpose of allowance under this section under the rules or orders applicable to the estimation of claims under this section:

(1) Any contingent or unliquidated claim, the fixing or liquidation of which, as the circumstance may be, would unduly delay the administration of the receivership; or

(2) Any right to payment arising from a right to an equitable remedy for breach of performance.

Claims subject to this subsection shall be allowed in the estimated amount thereof.

515.625. DISTRIBUTION OF CLAIMS. — 1. Claims not disallowed by the court shall receive distribution under sections 515.500 to 515.665 in the order of priority under subdivisions (1) to (8) of this section and, with the exception of subdivisions (1) to (3) of this subsection, on a pro rata basis:

(1) Any secured creditor that is duly perfected under applicable law, whether or not such secured creditor has filed a proof of claim, shall receive the proceeds from the disposition of the estate property that secures its claim. However, the receiver may recover

from estate property secured by a lien or the proceeds thereof the reasonable, necessary expenses of preserving, protecting, or disposing of the estate property to the extent of any benefit to a duly perfected secured creditor. If and to the extent that the proceeds are less than the amount of a duly perfected secured creditor's claim or a duly perfected secured creditor's lien is avoided on any basis, the duly perfected secured creditor's claim is an unsecured claim under subdivision (8) of this subsection. Duly perfected secured claims shall be paid from the proceeds in accordance with their respective priorities under otherwise applicable law;

(2) Actual, necessary costs and expenses incurred during the administration of the receivership, other than those expenses allowable under subdivision (1) of this subsection, including allowed fees and reimbursement of reasonable charges and expenses of the receiver and professional persons employed by the receiver. Notwithstanding subdivision (1) of this subsection, expenses incurred during the administration of the estate have priority over the secured claim of any secured creditor obtaining or consenting to the appointment of the receiver;

(3) A secured creditor that is not duly perfected under applicable law shall receive the proceeds from the disposition of the estate property that secures its claim if and to the extent that unsecured claims are made subject to those liens under applicable law;

(4) Claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay, or contributions to an employee benefit plan earned by the claimant within one hundred eighty days of the date of appointment of the receiver or the cessation of any business relating to the receivership, whichever occurs first, but only to the extent of ten thousand nine hundred fifty dollars;

(5) Unsecured claims, to the extent of two thousand four hundred twenty-five dollars for each natural person, arising from the deposit with the person debtor before the date of appointment of the receiver of money in connection with the purchase, lease, or rental of estate property or the purchase of services for personal, family, or household use that were not delivered or provided;

(6) Claims for a marital, family, or other support debt, but not to the extent that the debt is assigned to another person, voluntarily, by operation of law, or otherwise; or includes a liability designated as a support obligation unless that liability is actually in the nature of a support obligation;

(7) Unsecured claims of governmental units for taxes which accrued prior to the date of appointment of the receiver;

(8) Other unsecured claims.

2. If all of the classes under subsection 1 of this section have been paid in full, any residue shall be paid to the debtor.

515.630. SECURED CLAIMS PERMITTED AGAINST ESTATE PROPERTY. — Except as otherwise provided for by statute, estate property acquired by the estate, the receiver, or the debtor of the receiver is subject to an allowed secured claim to the same extent as would exist in the absence of a receivership.

515.635. NONCONTINGENT LIQUIDATED CLAIMS, INTEREST ALLOWED, RATE. — To the extent that funds are available in the estate for distribution to creditors in a general receivership, the holder of an allowed noncontingent, liquidated claim is entitled to receive interest at the legal rate or other applicable rate from the date of appointment of the receiver or the date on which the claim became a noncontingent, liquidated claim. If there are sufficient funds in the estate to fully pay all interest owing to all members of the class, then interest shall be paid proportionately to each member of the class.

515.640. BURDENSOME PROPERTY, ABANDONMENT OF, WHEN. — The receiver or any party upon order of the court following notice and a hearing and upon the terms and

conditions the court considers just and proper may abandon any estate property that is burdensome to the receiver or is of inconsequential value or benefit. However, a receiver may not abandon property that is a hazard or potential hazard to the public in contravention of a state statute or rule that is reasonably designed to protect the public health or safety from identified hazards. Property that is abandoned no longer constitutes estate property.

515.645. USE, SALE, OR LEASE OF ESTATE PROPERTY BY RECEIVER. — 1. The receiver with the court's approval after notice and a hearing may use, sell, or lease estate property other than in the ordinary course of business.

2. The court may order that a general receiver's sale of estate property either under subsection 1 of this section, or consisting of real property that the debtor intended to sell in its ordinary course of business, be effected free and clear of liens, claims, and of all rights of redemption, whether or not the sale will generate proceeds sufficient to fully satisfy all claims secured by the property, unless either:

(1) The property to be sold is real property used principally in the production of crops, livestock, or aquaculture, or the property is a homestead, and the owner of the property has not consented to the sale following the appointment of the receiver; or

(2) A party in interest, including but not limited to, an owner of the property to be sold or a secured creditor as regards to the property to be sold serves and files a timely opposition to the receiver's sale, and the court determines that the amount likely to be realized by the receiver's sale is less than the amount that may be realized within a reasonable time in the absence of the receiver's sale.

Upon any sale free and clear of liens authorized by this section, all liens encumbering the property sold shall transfer and attach to the proceeds of the sale, net of reasonable expenses incurred in the disposition of the property sold, in the same order, priority, and validity as the liens had with respect to the property sold immediately before the conveyance. The court may authorize the receiver at the time of sale to satisfy, in whole or in part, any lien on the property sold out of the proceeds of its sale if the interest of any other creditor having a lien against the proceeds of the sale would not thereby be impaired.

3. At a public sale of estate property under subsection 1 of this section, a creditor with a lien against the property to be sold may credit bid at the sale of the property. A creditor with a lien against the property to be sold who purchases the property from a receiver may offset against the purchase price its secured claim against the property, provided that such secured creditor tenders cash sufficient to satisfy in full all secured claims payable out of the proceeds of sale having priority over such secured creditor's secured claim. If the lien or the claim it secures is the subject of a bona fide dispute, the court may order the holder of the lien or claim to provide the receiver with adequate security to assure full payment of the purchase price in the event the lien, the claim, or any part thereof is determined to be invalid or unenforceable.

4. If estate property includes an interest as a co-owner of property, the receiver shall have the rights and powers of a co-owner afforded by applicable state or federal law, including but not limited to, any rights of partition.

5. The reversal or modification on appeal of an authorization to sell or lease estate property under this section does not affect the validity of a sale or lease under that authorization to any person that purchased or leased the property in good faith, whether or not the person knew of the pendency of the appeal, unless the authorization and sale or lease were stayed pending the appeal.

6. The notice of a proposed use, sale, or lease of estate property required by subsection 1 of this section shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections, and shall be

mailed to all parties in interest, and to such other persons as the court in the interests of justice may require.

7. In determining whether a sale free and clear of liens, claims, encumbrances, and of all rights of redemption is in the best interest of the estate, the court may consider, among such other factors as the court deems appropriate, the following:

(1) Whether the sale shall be conducted in a commercially reasonable manner considering assets of a similar type or nature;

(2) Whether an independent appraisal supports the purchase price to be paid;

(3) Whether creditors and parties in interest received adequate notice of the sale, sale procedures, and details of the proposed sale;

(4) Any relationship between the buyer and the debtor;

(5) Whether the sale is an arm's length transaction; and

(6) Whether parties asserting a lien as to the property to be sold consent to the proposed sale.

515.650. RECEIVER MAY BE APPOINTED AS A RECEIVER BY OUT-OF-STATE COURT, WHEN. — 1. A receiver appointed in any action pending in the courts of this state, without first seeking approval of the court, may apply to any court outside of this state for appointment as receiver with respect to any property or business of the person over whose property the receiver is appointed constituting estate property which is located in any other jurisdiction, if the appointment is necessary to the receiver's possession, control, management, or disposition of property in accordance with orders of the court.

2. A receiver appointed by a court of another state, or by a federal court in any district outside of this state, or any other person having an interest in that proceeding, may obtain appointment by a court of this state of that same receiver with respect to any property or business of the person over whose property the receiver is appointed constituting property of the foreign receivership that is located in this jurisdiction if the person is eligible to serve as receiver and the appointment is necessary to the receiver's possession, control, or disposition of the property in accordance with orders of the court in the foreign proceeding. Upon the receiver's request, the court shall enter the orders not offensive to the laws and public policy of this state, necessary to effectuate orders entered by the court in the foreign receivership proceeding. A receiver appointed in an ancillary receivership in this state is required to comply with sections 515.500 to 515.665 requiring notice to creditors or other parties in interest only as may be required by the superior court in the ancillary receivership.

515.655. REMOVAL OR REPLACEMENT OF RECEIVER, PROCEDURE. — 1. The court shall remove or replace the receiver on application of the debtor, the receiver, or any creditor, or any party or on the court's own motion if the receiver fails to perform the receiver's duties or obligations under sections 515.500 to 515.665, as ordered by the court.

2. Upon removal, resignation, or death of the receiver the court shall appoint a successor receiver if the court determines that further administration of the estate is required. The successor receiver shall immediately take possession of the estate and assume the duties of receiver.

3. Whenever the court is satisfied that the receiver so removed or replaced has fully accounted for and turned over to the successor receiver appointed by the court all of the property of the estate and has filed a report of all receipts and disbursements during the person's tenure as receiver, the court shall enter an order discharging that person from all further duties and responsibilities as receiver after notice and a hearing.

515.660. DISCHARGE OF RECEIVER. — 1. Upon distribution or disposition of all property of the estate, or the completion of the receiver's duties with respect to estate property, the receiver shall move the court to be discharged upon notice and a hearing.

2. The receiver's final report and accounting setting forth all receipts and disbursements of the estate shall be included in the petition for discharge and filed with the court.

3. Upon approval of the final report, the court shall discharge the receiver.

4. The receiver's discharge releases the receiver from any further duties and responsibilities as receiver under sections 515.500 to 515.665.

5. Upon motion of any party in interest, or upon the court's own motion, the court has the power to discharge the receiver and terminate the court's administration of the property over which the receiver was appointed. If the court determines that the appointment of the receiver was wrongfully procured or procured in bad faith, the court may assess against the person who procured the receiver's appointment all of the receiver's fees and other costs of the receivership and any other sanctions the court determines to be appropriate.

6. A certified copy of an order terminating the court's administration of the property over which the receiver was appointed shall operate as a release of any lis pendens notice recorded pursuant to section 515.545 and the same shall be recorded within the land records in any county in which such real property may be situated, together with a legal description of the real property if one is not included in that order.

515.665. ORDERS SUBJECT TO APPEAL. — Orders of the court pursuant to sections 515.500 to 515.665 are appealable to the extent allowed under existing law, including subdivision (2) of section 512.020.

[478.430. CIRCUIT JUDGE IN ST. LOUIS CITY MAY APPOINT JANITOR-MESSENGER. — Each circuit judge of the circuit court of the city of St. Louis who is visually impaired or otherwise physically handicapped is hereby authorized to appoint one janitor-messenger whose duty it shall be to keep in an orderly and cleanly manner the chambers and other rooms used by such judge and his reporter in the performance of their respective duties, and equipment in use therein, and also the halls, stairways, and jury rooms used in connection with the courtroom over which such judge presides, and to perform such other duties as said judge shall direct from time to time. And the judge making said appointment shall report the same to the circuit court in general session for certification, and such janitor-messenger shall hold his appointment during the pleasure of the judge making the same.**]**

[478.433. COMPENSATION OF JANITOR-MESSENGER. — The janitor-messenger appointed under section 478.430 shall receive and be paid, after proper appointment and certification by said court, or the presiding judge thereof, an annual salary of not less than two thousand two hundred dollars. Said salary shall be payable at the end of each and every month, in equal monthly installments, by the treasurer of the city of St. Louis out of any moneys appropriated therefor by the municipal assembly upon warrants drawn and countersigned by the proper officers of said city, pursuant to the charter thereof. It shall be the duty of the municipal assembly of said city to appropriate the money necessary for the payment of such salaries; provided further, that the court may, when sitting in general session, recommend to the St. Louis board of estimate and apportionment an increase in salary of janitor-messengers not exceeding two hundred dollars per annum, subject to the approval of said board. If said board of estimate and apportionment concur in such salary increase, the municipal assembly shall appropriate additional moneys for such salaries.**]**

[515.240. APPOINTMENT OF RECEIVER. — The court, or any judge thereof in vacation, shall have power to appoint a receiver, whenever such appointment shall be

deemed necessary, whose duty it shall be to keep and preserve any money or other thing deposited in court, or that may be subject of a tender, and to keep and preserve all property and protect any business or business interest entrusted to him pending any legal or equitable proceeding concerning the same, subject to the order of the court.**]**

[515.250. BOND OF RECEIVER — POWERS. — Such receiver shall give bond, and have the same powers and be subject to all the provisions, as far as they may be applicable, enjoined upon a receiver appointed by virtue of the law providing for suits by attachment.**]**

[515.260. COMPENSATION OF RECEIVER. — The court shall allow such receiver such compensation for his services and expenses as may be reasonable and just, and cause the same to be taxed as costs, and paid as other costs in the cause.**]**

Approved July 13, 2016

SB 579 [SB 579]

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 infection reporting of health care facilities

AN ACT to repeal sections 192.020, 192.667, 208.670, 334.108, and 335.175, RSMo, and to enact in lieu thereof twelve new sections relating to health care, with existing penalty provisions.

SECTION
A. Enacting clause.
191.1145. Definitions — telehealth services authorized, when.
191.1146. Physician-patient relationship required, how established.
192.020. To safeguard the health of the people of Missouri — certain diseases to be included on communicable or infectious disease list.
192.667. Health care providers, financial data, submission of data on infections to be collected, rules, recommendation — federal system may be implemented — use of data by department of health and senior services, duties, restrictions, penalty — publication of information, when — failure to provide information, effect — public reports required, when, requirements — rulemaking authority — antimicrobial stewardship program, report.
208.670. Practice of telehealth, rules — definitions.
208.671. Asynchronous store-and-forward technology, use of — rules — standard of care.
208.673. Telehealth services advisory committee, duties, members, rules.
208.675. Telehealth services, eligible health care providers.
208.677. Originating site defined.
208.686. Home telemonitoring services, reimbursement program authorized — discontinuance, when — rules.
334.108. Telemedicine or internet prescriptions and treatment, establishment of physician-patient relationship required.
335.175. Utilization of telehealth by nurses established — rulemaking authority — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Sections 192.020, 192.667, 208.670, 334.108, and 335.175, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 191.1145, 191.1146, 192.020, 192.667, 208.670, 208.671, 208.673, 208.675, 208.677, 208.686, 334.108, and 335.175, to read as follows:

191.1145. DEFINITIONS — TELEHEALTH SERVICES AUTHORIZED, WHEN. — 1. As used in sections 191.1145 and 191.1146, the following terms shall mean:

(1) "Asynchronous store-and-forward transfer", the collection of a patient's relevant health information and the subsequent transmission of that information from an originating site to a health care provider at a distant site without the patient being present;

(2) "Clinical staff", any health care provider licensed in this state;

(3) "Distant site", a site at which a health care provider is located while providing health care services by means of telemedicine;

(4) "Health care provider", as that term is defined in section 376.1350;

(5) "Originating site", a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine. For the purposes of asynchronous store-and-forward transfer, originating site shall also mean the location at which the health care provider transfers information to the distant site;

(6) "Telehealth" or "telemedicine", the delivery of health care services by means of information and communication technologies which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while such patient is at the originating site and the health care provider is at the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology.

2. Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person.

3. In order to treat patients in this state through the use of telemedicine or telehealth, health care providers shall be fully licensed to practice in this state and shall be subject to regulation by their respective professional boards.

4. Nothing in subsection 3 of this section shall apply to:

(1) Informal consultation performed by a health care provider licensed in another state, outside of the context of a contractual relationship, and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;

(2) Furnishing of health care services by a health care provider licensed and located in another state in case of an emergency or disaster; provided that, no charge is made for the medical assistance; or

(3) Episodic consultation by a health care provider licensed and located in another state who provides such consultation services on request to a physician in this state.

5. Nothing in this section shall be construed to alter the scope of practice of any health care provider or to authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this state.

6. No originating site for services or activities provided under this section shall be required to maintain immediate availability of on-site clinical staff during the telehealth services, except as necessary to meet the standard of care for the treatment of the patient's medical condition if such condition is being treated by an eligible health care provider who is not at the originating site, has not previously seen the patient in person in a clinical setting, and is not providing coverage for a health care provider who has an established relationship with the patient.

7. Nothing in this section shall be construed to alter any collaborative practice requirement as provided in chapters 334 and 335.

191.1146. PHYSICIAN-PATIENT RELATIONSHIP REQUIRED, HOW ESTABLISHED. — 1. Physicians licensed under chapter 334 who use telemedicine shall ensure that a properly established physician-patient relationship exists with the person who receives the telemedicine services. The physician-patient relationship may be established by:

(1) An in-person encounter through a medical interview and physical examination;

(2) Consultation with another physician, or that physician's delegate, who has an established relationship with the patient and an agreement with the physician to participate in the patient's care; or

(3) A telemedicine encounter, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

2. In order to establish a physician-patient relationship through telemedicine:

(1) The technology utilized shall be sufficient to establish an informed diagnosis as though the medical interview and physical examination has been performed in person; and

(2) Prior to providing treatment, including issuing prescriptions, a physician who uses telemedicine shall interview the patient, collect or review relevant medical history, and perform an examination sufficient for the diagnosis and treatment of the patient. A questionnaire completed by the patient, whether via the internet or telephone, does not constitute an acceptable medical interview and examination for the provision of treatment by telehealth.

192.020. TO SAFEGUARD THE HEALTH OF THE PEOPLE OF MISSOURI — CERTAIN DISEASES TO BE INCLUDED ON COMMUNICABLE OR INFECTIOUS DISEASE LIST. — 1. It shall be the general duty and responsibility of the department of health and senior services to safeguard the health of the people in the state and all its subdivisions. It shall make a study of the causes and prevention of diseases. It shall designate those diseases which are infectious, contagious, communicable or dangerous in their nature and shall make and enforce adequate orders, findings, rules and regulations to prevent the spread of such diseases and to determine the prevalence of such diseases within the state. It shall have power and authority, with approval of the director of the department, to make such orders, findings, rules and regulations as will prevent the entrance of infectious, contagious and communicable diseases into the state.

2. The department of health and senior services shall include in its list of communicable or infectious diseases which must be reported to the department methicillin-resistant staphylococcus aureus (MRSA)**, carbapenem-resistant enterobacteriaceae (CRE) as specified by the department,** and vancomycin-resistant enterococcus (VRE).

192.667. HEALTH CARE PROVIDERS, FINANCIAL DATA, SUBMISSION OF DATA ON INFECTIONS TO BE COLLECTED, RULES, RECOMMENDATION — FEDERAL SYSTEM MAY BE IMPLEMENTED — USE OF DATA BY DEPARTMENT OF HEALTH AND SENIOR SERVICES, DUTIES, RESTRICTIONS, PENALTY — PUBLICATION OF INFORMATION, WHEN — FAILURE TO PROVIDE INFORMATION, EFFECT — PUBLIC REPORTS REQUIRED, WHEN, REQUIREMENTS — RULEMAKING AUTHORITY — ANTIMICROBIAL STEWARDSHIP PROGRAM, REPORT. — 1. All health care providers shall at least annually provide to the department charge data as required by the department. All hospitals shall at least annually provide patient abstract data and financial data as required by the department. Hospitals as defined in section 197.020 shall report patient abstract data for outpatients and inpatients. **[**Within one year of August 28, 1992,**]** Ambulatory surgical centers as defined in section 197.200 shall provide patient abstract data to the department. The department shall specify by rule the types of information which shall be submitted and the method of submission.

2. The department shall collect data **[**on required nosocomial infection incidence rates**] on the incidence of health care-associated infections** from hospitals, ambulatory surgical centers, and other facilities as necessary to generate the reports required by this section. Hospitals, ambulatory surgical centers, and other facilities shall provide such data in compliance with this section.

3. **[**No later than July 1, 2005,**]** The department shall promulgate rules specifying the standards and procedures for the collection, analysis, risk adjustment, and reporting of **[**nosocomial infection incidence rates**] the incidence of health care-associated infections** and the types of infections and procedures to be monitored pursuant to subsection 12 of this section. In promulgating such rules, the department shall:

(1) Use methodologies and systems for data collection established by the federal Centers for Disease Control and Prevention National [Nosocomial Infection Surveillance System] **Healthcare Safety Network**, or its successor; and

(2) Consider the findings and recommendations of the infection control advisory panel established pursuant to section 197.165.

4. **By January 1, 2017,** the infection control advisory panel created by section 197.165 shall make [a recommendation] **recommendations** to the department regarding the [appropriateness of implementing all or part of the nosocomial] **Centers for Medicare and Medicaid Services' health care-associated** infection data collection, analysis, and public reporting requirements [of this act by authorizing] **for** hospitals, ambulatory surgical centers, and other facilities [to participate] in the federal Centers for Disease Control and [Prevention's] **Prevention** National [Nosocomial Infection Surveillance System] **Healthcare Safety Network**, or its successor**, in lieu of all or part of the data collection, analysis, and public reporting requirements of this section. The advisory panel recommendations shall address which hospitals shall be required as a condition of licensure to use the National Healthcare Safety Network for data collection; the use of the National Healthcare Safety Network for risk adjustment and analysis of hospital submitted data; and the use of the Centers for Medicare and Medicaid Services' Hospital Compare website, or its successor, for public reporting of the incidence of health care-associated infection metrics**. The advisory panel shall consider the following factors in developing its recommendation:

(1) Whether the public is afforded the same or greater access to facility-specific infection control indicators and [rates than would be provided under subsections 2, 3, and 6 to 12 of this section] **metrics**;

(2) Whether the data provided to the public [are] **is** subject to the same or greater accuracy of risk adjustment [than would be provided under subsections 2, 3, and 6 to 12 of this section];

(3) Whether the public is provided with the same or greater specificity of reporting of infections by type of facility infections and procedures [than would be provided under subsections 2, 3, and 6 to 12 of this section];

(4) Whether the data [are] **is** subject to the same or greater level of confidentiality of the identity of an individual patient [than would be provided under subsections 2, 3, and 6 to 12 of this section];

(5) Whether the National [Nosocomial Infection Surveillance System] **Healthcare Safety Network**, or its successor, has the capacity to receive, analyze, and report the required data for all facilities;

(6) Whether the cost to implement the [nosocomial] **National Healthcare Safety Network** infection data collection and reporting system is the same or less [than under subsections 2, 3, and 6 to 12 of this section].

5. [Based on] **After considering** the [affirmative recommendation] **recommendations** of the infection control advisory panel, and provided that the requirements of subsection 12 of this section can be met, the department [may or may not] **shall** implement **guidelines from** the federal Centers for Disease Control and [Prevention Nosocomial Infection Surveillance System] **Prevention's National Healthcare Safety Network**, or its successor[, as an alternative means of complying with the requirements of subsections 2, 3, and 6 to 12 of this section. If the department chooses to implement the use of the federal Centers for Disease Control Prevention Nosocomial Infection Surveillance System, or its successor, as an alternative means of complying with the requirements of subsections 2, 3, and 6 to 12 of this section,]. It shall be a condition of licensure for hospitals [and ambulatory surgical centers which opt to participate in the federal program to] **that meet the minimum public reporting requirements of the National Healthcare Safety Network and the Centers for Medicare and Medicaid Services to participate in the National Healthcare Safety Network, or its successor. Such hospitals shall** permit the [federal program] **National Healthcare Safety Network, or its successor,** to disclose facility-specific **infection** data to the department as **required under this section, and**

as necessary to provide the public reports required by the department. **It shall be a condition of licensure for** any **[**hospital or**]** ambulatory surgical center which does not voluntarily participate in the National **[**Nosocomial Infection Surveillance System**]** **Healthcare Safety Network**, or its successor, **[**shall be**]** **to submit facility-specific data to the department as** required **[**to abide by all of the requirements of subsections 2, 3, and 6 to 12 of this section**]** **under this section, and as necessary to provide the public reports required by the department**.

6. The department shall not require the resubmission of data which has been submitted to the department of health and senior services or the department of social services under any other provision of law. The department of health and senior services shall accept data submitted by associations or related organizations on behalf of health care providers by entering into binding agreements negotiated with such associations or related organizations to obtain data required pursuant to section 192.665 and this section. A health care provider shall submit the required information to the department of health and senior services:

(1) If the provider does not submit the required data through such associations or related organizations;

(2) If no binding agreement has been reached within ninety days of August 28, 1992, between the department of health and senior services and such associations or related organizations; or

(3) If a binding agreement has expired for more than ninety days.

7. Information obtained by the department under the provisions of section 192.665 and this section shall not be public information. Reports and studies prepared by the department based upon such information shall be public information and may identify individual health care providers. The department of health and senior services may authorize the use of the data by other research organizations pursuant to the provisions of section 192.067. The department shall not use or release any information provided under section 192.665 and this section which would enable any person to determine any health care provider's negotiated discounts with specific preferred provider organizations or other managed care organizations. The department shall not release data in a form which could be used to identify a patient. Any violation of this subsection is a class A misdemeanor.

8. The department shall undertake a reasonable number of studies and publish information, including at least an annual consumer guide, in collaboration with health care providers, business coalitions and consumers based upon the information obtained pursuant to the provisions of section 192.665 and this section. The department shall allow all health care providers and associations and related organizations who have submitted data which will be used in any **[**report**]** **publication** to review and comment on the **[**report**]** **publication** prior to its publication or release for general use. **[**The department shall include any comments of a health care provider, at the option of the provider, and associations and related organizations in the publication if the department does not change the publication based upon those comments.**]** The **[**report**]** **publication** shall be made available to the public for a reasonable charge.

9. Any health care provider which continually and substantially, as these terms are defined by rule, fails to comply with the provisions of this section shall not be allowed to participate in any program administered by the state or to receive any moneys from the state.

10. A hospital, as defined in section 197.020, aggrieved by the department's determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal as provided in section 197.071. An ambulatory surgical center as defined in section 197.200 aggrieved by the department's determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal as provided in section 197.221.

11. The department of health may promulgate rules providing for collection of data and publication of **[**nosocomial infection incidence rates**]** **the incidence of health care-associated infections** for other types of health facilities determined to be sources of infections; except that,

physicians' offices shall be exempt from reporting and disclosure of [infection incidence rates] **such infections**.

12. **By January 1, 2017, the advisory panel shall recommend and the department shall adopt in regulation with an effective date of no later than January 1, 2018, the requirements for the reporting of the following types of infections as specified in this subsection:**

(1) Infections associated with a minimum of four surgical procedures for hospitals and a minimum of two surgical procedures for ambulatory surgical centers that meet the following criteria:

(a) Are usually associated with an elective surgical procedure. An elective surgical procedure is a planned, nonemergency surgical procedure, that may be either medically required such as a hip replacement or optional such as breast augmentation;

(b) Demonstrate a high priority aspect such as affecting a large number of patients, having a substantial impact for a smaller population, or being associated with substantial cost, morbidity, or mortality; or

(c) Are infections for which reports are collected by the National Healthcare Safety Network or its successor;

(2) Central line-related bloodstream infections;

(3) Health care-associated infections specified for reporting by hospitals, ambulatory surgical centers, and other health care facilities by the rules of the Centers for Medicare and Medicaid Services to the federal Centers for Disease Control and Prevention's National Healthcare Safety Network, or its successor; and

(4) Other categories of infections that may be established by rule by the department. The department, in consultation with the advisory panel, shall be authorized to collect and report data on subsets of each type of infection described in this subsection.

13. In consultation with the infection control advisory panel established pursuant to section 197.165, the department shall develop and disseminate to the public reports based on data compiled for a period of twelve months. Such reports shall be updated quarterly and shall show for each hospital, ambulatory surgical center, and other facility [a risk-adjusted nosocomial infection incidence rate for the following types of infection:

(1) Class I Surgical site infections;

(2) Ventilator-associated pneumonia;

(3) Central line-related bloodstream infections;

(4) Other categories of infections that may be established by rule by the department.

The department, in consultation with the advisory panel, shall be authorized to collect and report data on subsets of each type of infection described in this subsection] **metrics on risk adjusted health care-associated infections under this section**.

[13. In the event the provisions of this act are implemented by requiring hospitals, ambulatory surgical centers, and other facilities to participate in the federal Centers for Disease Control and Prevention National Nosocomial Infection Surveillance System, or its successor,]

14. The types of infections **under subsection 12 of this section** to be publicly reported shall be determined by the department by rule and shall be consistent with the infections tracked by the National [Nosocomial Infection Surveillance System] **Healthcare Safety Network**, or its successor.

[14.] **15.** Reports published pursuant to subsection [12] **13** of this section shall be published **and readily accessible** on the department's internet website. [The initial report shall be issued by the department not later than December 31, 2006.] The reports shall be distributed at least annually to the governor and members of the general assembly. **The department shall make such reports available to the public for a period of at least two years.**

[15.] **16.** The Hospital Industry Data Institute shall publish a report of Missouri hospitals' and ambulatory surgical centers' compliance with standardized quality of care measures established by the federal Centers for Medicare and Medicaid Services for prevention of

infections related to surgical procedures. If the Hospital Industry Data Institute fails to do so by July 31, 2008, and annually thereafter, the department shall be authorized to collect information from the Centers for Medicare and Medicaid Services or from hospitals and ambulatory surgical centers and publish such information in accordance with [subsection 14 of] this section.

[16.] **17.** The data collected or published pursuant to this section shall be available to the department for purposes of licensing hospitals and ambulatory surgical centers pursuant to chapter 197.

[17.] **18.** The department shall promulgate rules to implement the provisions of section 192.131 and sections 197.150 to 197.160. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

19. No later than August 28, 2017, each hospital, excluding mental health facilities as defined in section 632.005, and each ambulatory surgical center as defined in section 197.200, shall in consultation with its medical staff establish an antimicrobial stewardship program for evaluating the judicious use of antimicrobials, especially antibiotics that are the last line of defense against resistant infections. The hospital's stewardship program and the results of the program shall be monitored and evaluated by hospital quality improvement departments and shall be available upon inspection to the department. At a minimum, the antimicrobial stewardship program shall be designed to evaluate that hospitalized patients receive, in accordance with accepted medical standards of practice, the appropriate antimicrobial, at the appropriate dose, at the appropriate time, and for the appropriate duration.

20. Hospitals described in subsection 19 of this section shall meet the National Healthcare Safety Network requirements for reporting antimicrobial usage or resistance by using the Centers for Disease Control and Prevention's Antimicrobial Use and Resistance (AUR) Module when regulations concerning Stage 3 of the Medicare and Medicaid Electronic Health Records Incentive Programs promulgated by the Centers for Medicare and Medicaid Services that enable the electronic interface for such reporting are effective. When such antimicrobial usage or resistance reporting takes effect, hospitals shall authorize the National Healthcare Safety Network, or its successor, to disclose to the department facility-specific information reported to the AUR Module. Facility-specific data on antibiotic usage and resistance collected under this subsection shall not be disclosed to the public, but the department may release case-specific information to other facilities, physicians, and the public if the department determines on a case-by-case basis that the release of such information is necessary to protect persons in a public health emergency.

21. The department shall make a report to the general assembly beginning January 1, 2018, and on every January first thereafter on the incidence, type, and distribution of antimicrobial-resistant infections identified in the state and within regions of the state.

208.670. PRACTICE OF TELEHEALTH, RULES — DEFINITIONS. — 1. As used in this section, these terms shall have the following meaning:

(1) "Provider", any provider of medical services and mental health services, including all other medical disciplines;

(2) "Telehealth", [the use of medical information exchanged from one site to another via electronic communications to improve the health status of a patient] **the same meaning as such term is defined in section 191.1145.**

2. Reimbursement for the use of asynchronous store-and-forward technology in the practice of telehealth in the MO HealthNet program shall be allowed for orthopedics, dermatology, ophthalmology and optometry, in cases of diabetic retinopathy, burn and wound care, dental services which require a diagnosis, and maternal-fetal medicine ultrasounds.

[2.**]** **3.** The department of social services, in consultation with the departments of mental health and health and senior services, shall promulgate rules governing the practice of telehealth in the MO HealthNet program. Such rules shall address, but not be limited to, appropriate standards for the use of telehealth, certification of agencies offering telehealth, and payment for services by providers. Telehealth providers shall be required to obtain **[**patient**]** **participant** consent before telehealth services are initiated and to ensure confidentiality of medical information.

[3.**]** **4.** Telehealth may be utilized to service individuals who are qualified as MO HealthNet participants under Missouri law. Reimbursement for such services shall be made in the same way as reimbursement for in-person contacts.

5. The provisions of section 208.671 shall apply to the use of asynchronous store-and-forward technology in the practice of telehealth in the MO HealthNet program.

208.671. ASYNCHRONOUS STORE-AND-FORWARD TECHNOLOGY, USE OF — RULES — STANDARD OF CARE. — 1. As used in this section and section 208.673, the following terms shall mean:

(1) "Asynchronous store-and-forward", the transfer of a participant's clinically important digital samples, such as still images, videos, audio, text files, and relevant data from an originating site through the use of a camera or similar recording device that stores digital samples that are forwarded via telecommunication to a distant site for consultation by a consulting provider without requiring the simultaneous presence of the participant and the participant's treating provider;

(2) "Asynchronous store-and-forward technology", cameras or other recording devices that store images which may be forwarded via telecommunication devices at a later time;

(3) "Consultation", a type of evaluation and management service as defined by the most recent edition of the Current Procedural Terminology published annually by the American Medical Association;

(4) "Consulting provider", a provider who, upon referral by the treating provider, evaluates a participant and appropriate medical data or images delivered through asynchronous store-and-forward technology. If a consulting provider is unable to render an opinion due to insufficient information, the consulting provider may request additional information to facilitate the rendering of an opinion or decline to render an opinion;

(5) "Distant site", the site where a consulting provider is located at the time the consultation service is provided;

(6) "Originating site", the site where a MO HealthNet participant receiving services and such participant's treating provider are both physically located;

(7) "Provider", any provider of medical, mental health, optometric, or dental health services, including all other medical disciplines, licensed and providing MO HealthNet services who has the authority to refer participants for medical, mental health, optometric, dental, or other health care services within the scope of practice and licensure of the provider;

(8) "Telehealth", as that term is defined in section 191.1145;

(9) "Treating provider", a provider who:

(a) Evaluates a participant;

(b) Determines the need for a consultation;

(c) Arranges the services of a consulting provider for the purpose of diagnosis and treatment; and

(d) Provides or supplements the participant's history and provides pertinent physical examination findings and medical information to the consulting provider.

2. The department of social services, in consultation with the departments of mental health and health and senior services, shall promulgate rules governing the use of asynchronous store-and-forward technology in the practice of telehealth in the MO HealthNet program. Such rules shall include, but not be limited to:

(1) Appropriate standards for the use of asynchronous store-and-forward technology in the practice of telehealth;

(2) Certification of agencies offering asynchronous store-and-forward technology in the practice of telehealth;

(3) Timelines for completion and communication of a consulting provider's consultation or opinion, or if the consulting provider is unable to render an opinion, timelines for communicating a request for additional information or that the consulting provider declines to render an opinion;

(4) Length of time digital files of such asynchronous store-and-forward services are to be maintained;

(5) Security and privacy of such digital files;

(6) Participant consent for asynchronous store-and-forward services; and

(7) Payment for services by providers; except that, consulting providers who decline to render an opinion shall not receive payment under this section unless and until an opinion is rendered.

Telehealth providers using asynchronous store-and-forward technology shall be required to obtain participant consent before asynchronous store-and-forward services are initiated and to ensure confidentiality of medical information.

3. Asynchronous store-and-forward technology in the practice of telehealth may be utilized to service individuals who are qualified as MO HealthNet participants under Missouri law. The total payment for both the treating provider and the consulting provider shall not exceed the payment for a face-to-face consultation of the same level.

4. The standard of care for the use of asynchronous store-and-forward technology in the practice of telehealth shall be the same as the standard of care for services provided in person.

208.673. TELEHEALTH SERVICES ADVISORY COMMITTEE, DUTIES, MEMBERS, RULES. — 1. There is hereby established the "Telehealth Services Advisory Committee" to advise the department of social services and propose rules regarding the coverage of telehealth services in the MO HealthNet program utilizing asynchronous store-and-forward technology.

2. The committee shall be comprised of the following members:

(1) The director of the MO HealthNet division, or the director's designee;

(2) The medical director of the MO HealthNet division;

(3) A representative from a Missouri institution of higher education with expertise in telehealth;

(4) A representative from the Missouri office of primary care and rural health;

(5) Two board-certified specialists licensed to practice medicine in this state;

(6) A representative from a hospital located in this state that utilizes telehealth;

(7) A primary care physician from a federally qualified health center (FQHC) or rural health clinic;

(8) A primary care physician from a rural setting other than from an FQHC or rural health clinic;

(9) A dentist licensed to practice in this state; and

(10) A psychologist, or a physician who specializes in psychiatry, licensed to practice in this state.

3. Members of the committee listed in subdivisions (3) to (10) of subsection 2 of this section shall be appointed by the governor with the advice and consent of the senate. The first appointments to the committee shall consist of three members to serve three-year terms, three members to serve two-year terms, and three members to serve a one-year term as designated by the governor. Each member of the committee shall serve for a term of three years thereafter.

4. Members of the committee shall not receive any compensation for their services but shall be reimbursed for any actual and necessary expenses incurred in the performance of their duties.

5. Any member appointed by the governor may be removed from office by the governor without cause. If there is a vacancy for any cause, the governor shall make an appointment to become effective immediately for the unexpired term.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

208.675. TELEHEALTH SERVICES, ELIGIBLE HEALTH CARE PROVIDERS. — For purposes of the provision of telehealth services in the MO HealthNet program, the following individuals, licensed in Missouri, shall be considered eligible health care providers:

(1) Physicians, assistant physicians, and physician assistants;

(2) Advanced practice registered nurses;

(3) Dentists, oral surgeons, and dental hygienists under the supervision of a currently registered and licensed dentist;

(4) Psychologists and provisional licensees;

(5) Pharmacists;

(6) Speech, occupational, or physical therapists;

(7) Clinical social workers;

(8) Podiatrists;

(9) Optometrists;

(10) Licensed professional counselors; and

(11) Eligible health care providers under subdivisions (1) to (10) of this section practicing in a rural health clinic, federally qualified health center, or community mental health center.

208.677. ORIGINATING SITE DEFINED. — 1. For purposes of the provision of telehealth services in the MO HealthNet program, the term "originating site" shall mean a telehealth site where the MO HealthNet participant receiving the telehealth service is located for the encounter. The standard of care in the practice of telehealth shall be the same as the standard of care for services provided in person. An originating site shall be one of the following locations:

(1) An office of a physician or health care provider;

(2) A hospital;

(3) A critical access hospital;

(4) A rural health clinic;

(5) A federally qualified health center;

(6) A long-term care facility licensed under chapter 198;

(7) A dialysis center;

(8) A Missouri state habilitation center or regional office;

(9) A community mental health center;

(10) A Missouri state mental health facility;

(11) A Missouri state facility;

(12) A Missouri residential treatment facility licensed by and under contract with the children's division. Facilities shall have multiple campuses and have the ability to adhere to technology requirements. Only Missouri licensed psychiatrists, licensed psychologists, or provisionally licensed psychologists, and advanced practice registered nurses who are MO HealthNet providers shall be consulting providers at these locations;

(13) A comprehensive substance treatment and rehabilitation (CSTAR) program;

(14) A school;

(15) The MO HealthNet recipient's home;

(16) A clinical designated area in a pharmacy; or

(17) A child assessment center as described in section 210.001.

2. If the originating site is a school, the school shall obtain permission from the parent or guardian of any student receiving telehealth services prior to each provision of service.

208.686. HOME TELEMONITORING SERVICES, REIMBURSEMENT PROGRAM AUTHORIZED — DISCONTINUANCE, WHEN — RULES. — 1. Subject to appropriations, the department shall establish a statewide program that permits reimbursement under the MO HealthNet program for home telemonitoring services. For the purposes of this section, "home telemonitoring service" shall mean a health care service that requires scheduled remote monitoring of data related to a participant's health and transmission of the data to a health call center accredited by the Utilization Review Accreditation Commission (URAC).

2. The program shall:

(1) Provide that home telemonitoring services are available only to persons who:

(a) Are diagnosed with one or more of the following conditions:

a. Pregnancy;

b. Diabetes;

c. Heart disease;

d. Cancer;

e. Chronic obstructive pulmonary disease;

f. Hypertension;

g. Congestive heart failure;

h. Mental illness or serious emotional disturbance;

i. Asthma;

j. Myocardial infarction; or

k. Stroke; and

(b) Exhibit two or more of the following risk factors:

a. Two or more hospitalizations in the prior twelve-month period;

b. Frequent or recurrent emergency department admissions;

c. A documented history of poor adherence to ordered medication regimens;

d. A documented history of falls in the prior six-month period;

e. Limited or absent informal support systems;

f. Living alone or being home alone for extended periods of time;

g. A documented history of care access challenges; or

h. A documented history of consistently missed appointments with health care providers;

(2) Ensure that clinical information gathered by a home health agency or hospital while providing home telemonitoring services is shared with the participant's physician; and

(3) Ensure that the program does not duplicate any disease management program services provided by MO HealthNet.

3. If, after implementation, the department determines that the program established under this section is not cost effective, the department may discontinue the program and stop providing reimbursement under the MO HealthNet program for home telemonitoring services.

4. The department shall determine whether the provision of home telemonitoring services to persons who are eligible to receive benefits under both the MO HealthNet and Medicare programs achieves cost savings for the Medicare program.

5. If, before implementing any provision of this section, the department determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the department shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

6. The department shall 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, 2016, shall be invalid and void.

334.108. TELEMEDICINE OR INTERNET PRESCRIPTIONS AND TREATMENT, ESTABLISHMENT OF PHYSICIAN-PATIENT RELATIONSHIP REQUIRED. — 1. Prior to prescribing any drug, controlled substance, or other treatment through **telemedicine, as defined in section 191.1145, or** the internet, a physician shall establish a valid physician-patient relationship **as described in section 191.1146**. This relationship shall include:

(1) Obtaining a reliable medical history and performing a physical examination of the patient, adequate to establish the diagnosis for which the drug is being prescribed and to identify underlying conditions or contraindications to the treatment recommended or provided;

(2) Having sufficient dialogue with the patient regarding treatment options and the risks and benefits of treatment or treatments;

(3) If appropriate, following up with the patient to assess the therapeutic outcome;

(4) Maintaining a contemporaneous medical record that is readily available to the patient and, subject to the patient's consent, to the patient's other health care professionals; and

(5) **[**Including**]** **Maintaining** the electronic prescription information as part of the patient's medical record.

2. The requirements of subsection 1 of this section may be satisfied by the prescribing physician's designee when treatment is provided in:

(1) A hospital as defined in section 197.020;

(2) A hospice program as defined in section 197.250;

(3) Home health services provided by a home health agency as defined in section 197.400;

(4) Accordance with a collaborative practice agreement as defined in section 334.104;

(5) Conjunction with a physician assistant licensed pursuant to section 334.738;

(6) **Conjunction with an assistant physician licensed under section 334.036;**

(7) Consultation with another physician who has an ongoing physician-patient relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications; or

[(7)**]** **(8)** On-call or cross-coverage situations.

3. No health care provider, as defined in section 376.1350, shall prescribe any drug, controlled substance, or other treatment to a patient based solely on an evaluation over

the telephone; except that, a physician, such physician's on-call designee, an advanced practice registered nurse in a collaborative practice arrangement with such physician, a physician assistant in a supervision agreement with such physician, or an assistant physician in a supervision agreement with such physician may prescribe any drug, controlled substance, or other treatment that is within his or her scope of practice to a patient based solely on a telephone evaluation if a previously established and ongoing physician-patient relationship exists between such physician and the patient being treated.

4. No health care provider shall prescribe any drug, controlled substance, or other treatment to a patient based solely on an internet request or an internet questionnaire.

335.175. UTILIZATION OF TELEHEALTH BY NURSES ESTABLISHED — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. No later than January 1, 2014, there is hereby established within the state board of registration for the healing arts and the state board of nursing the "Utilization of Telehealth by Nurses". An advanced practice registered nurse (APRN) providing nursing services under a collaborative practice arrangement under section 334.104 may provide such services outside the geographic proximity requirements of section 334.104 if the collaborating physician and advanced practice registered nurse utilize telehealth in the care of the patient and if the services are provided in a rural area of need. Telehealth providers shall be required to obtain patient consent before telehealth services are initiated and ensure confidentiality of medical information.

2. As used in this section, "telehealth" **[**means the use of medical information exchanged from one site to another via electronic communications to improve the health status of a patient, as defined in section 208.670**] shall have the same meaning as such term is defined in section 191.1145**.

3. (1) The boards shall jointly promulgate rules governing the practice of telehealth under this section. Such rules shall address, but not be limited to, appropriate standards for the use of telehealth.

(2) Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

4. For purposes of this section, "rural area of need" means any rural area of this state which is located in a health professional shortage area as defined in section 354.650.

5. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2013, unless reauthorized by an act of the general assembly; and

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

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

Approved June 8, 2016

SB 585 [SCS SB 585]

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

Divides the Thirty-Eighth Judicial Circuit and creates a new Forty-Sixth Judicial Circuit

AN ACT to repeal sections 211.393, 478.170, and 478.191, RSMo, and to enact in lieu thereof six new sections relating to the division of multicounty judicial circuits, with an emergency clause.

SECTION
A. Enacting clause.
211.393. Definitions — compensation of juvenile officers, apportionment — state to reimburse salaries, when — multicounty circuit provisions — local juvenile court budget, amount maintained, when — exclusion from benefits, when.
478.011. Number of judicial circuits
478.170. Circuit No. 38.
478.188. Circuit No. 46.
478.191. Authority for establishment of circuits, repealed, effective when.
478.577. Circuit No. 46, number of judges — election, when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 211.393, 478.170, and 478.191, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 211.393, 478.011, 478.170, 478.188, 478.191, and 478.577, to read as follows:

211.393. DEFINITIONS — COMPENSATION OF JUVENILE OFFICERS, APPORTIONMENT — STATE TO REIMBURSE SALARIES, WHEN — MULTICOUNTY CIRCUIT PROVISIONS — LOCAL JUVENILE COURT BUDGET, AMOUNT MAINTAINED, WHEN — EXCLUSION FROM BENEFITS, WHEN. — 1. For purposes of this section, the following words and phrases mean:

(1) "County retirement plan", any public employees' defined benefit retirement plan established by law that provides retirement benefits to county or city employees, but not to include the county employees' retirement system as provided in sections 50.1000 to 50.1200;

(2) "Juvenile court employee", any person who is employed by a juvenile court in a position normally requiring one thousand hours or more of service per year;

(3) "Juvenile officer", any juvenile officer appointed pursuant to section 211.351;

(4) "Multicounty circuit", all other judicial circuits not included in the definition of a single county circuit;

(5) "Single county circuit", a judicial circuit composed of a single county of the first classification, including the circuit for the city of St. Louis;

(6) "State retirement plan", the public employees' retirement plan administered by the Missouri state employees' retirement system pursuant to chapter 104.

2. Juvenile court employees employed in a single county circuit shall be subject to the following provisions:

(1) The juvenile officer employed in such circuits on and prior to July 1, 1999, shall:

(a) Be state employees on that portion of their salary received from the state pursuant to section 211.381, and in addition be county employees on that portion of their salary provided by the county at a rate determined pursuant to section 50.640;

(b) Receive state-provided benefits, including retirement benefits from the state retirement plan, on that portion of their salary paid by the state and may participate as members in a county retirement plan on that portion of their salary provided by the county except any juvenile officer whose service as a juvenile court officer is being credited based on all salary received from any

source in a county retirement plan on June 30, 1999, shall not be eligible to receive state-provided benefits, including retirement benefits, or any creditable prior service as described in this section but shall continue to participate in such county retirement plan;

(c) Receive creditable prior service in the state retirement plan for service rendered as a juvenile court employee prior to July 1, 1999, to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service, if such service was rendered in a single county circuit or a multicounty circuit; except that if the juvenile officer forfeited such credit in such county retirement plan prior to being eligible to receive creditable prior service under this paragraph, they may receive service under this paragraph;

(d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even though they already have received credit for such creditable service in a county retirement plan if they elect to forfeit their creditable service from such plan in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service, determined as if the person were going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

(e) Receive creditable prior service for service rendered as a juvenile court employee in a multicounty circuit in a position that was financed in whole or in part by a public or private grant, pursuant to the provisions of paragraph (e) of subdivision (1) of subsection 3 of this section;

(2) Juvenile officers who begin employment for the first time as a juvenile officer in a single county circuit on or after July 1, 1999, shall:

(a) Be county employees and receive salary from the county at a rate determined pursuant to section 50.640 subject to reimbursement by the state as provided in section 211.381; and

(b) Participate as members in the applicable county retirement plan subject to reimbursement by the state for the retirement contribution due on that portion of salary reimbursed by the state;

(3) All other juvenile court employees who are employed in a single county circuit on or after July 1, 1999:

(a) Shall be county employees and receive a salary from the county at a rate determined pursuant to section 50.640; and

(b) Shall, in accordance with their status as county employees, receive other county-provided benefits including retirement benefits from the applicable county retirement plan if such employees otherwise meet the eligibility requirements for such benefits;

(4) (a) The state shall reimburse each county comprised of a single county circuit for an amount equal to the greater of:

a. Twenty-five percent of such circuit's total juvenile court personnel budget, excluding the salary for a juvenile officer, for calendar year 1997, and excluding all costs of retirement, health and other fringe benefits; or

b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile officer class I, as provided in section 211.381;

(b) The state may reimburse a single county circuit up to fifty percent of such circuit's total calendar year 1997 juvenile court personnel budget, subject to appropriations. The state may reimburse, subject to appropriations, the following percentages of such circuits' total juvenile court personnel budget, expended for calendar year 1997, excluding the salary for a juvenile officer, and excluding all costs of retirement, health and other fringe benefits: thirty percent beginning July 1, 2000, until June 30, 2001; forty percent beginning July 1, 2001, until June 30, 2002; fifty percent beginning July 1, 2002; however, no county shall receive any reimbursement from the state in an amount less than the greater of:

a. Twenty-five percent of the total juvenile court personnel budget of the single county circuit expended for calendar year 1997, excluding fringe benefits; or

b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile officer class I, as provided in section 211.381;

(5) Each single county circuit shall file a copy of its initial 1997 and each succeeding year's budget with the office of the state courts administrator after January first each year and prior to reimbursement. The office of the state courts administrator shall make payment for the reimbursement from appropriations made for that purpose on or before July fifteenth of each year following the calendar year in which the expenses were made. The office of the state courts administrator shall submit the information from the budgets relating to full-time juvenile court personnel from each county to the general assembly;

(6) Any single county circuit may apply to the office of the state courts administrator to become subject to subsection 3 of this section, and such application shall be approved subject to appropriation of funds for that purpose;

(7) The state auditor may audit any single county circuit to verify compliance with the requirements of this section, including an audit of the 1997 budget.

3. Juvenile court employees in multicounty circuits shall be subject to the following provisions:

(1) Juvenile court employees including detention personnel hired in 1998 in those multicounty circuits who began actual construction on detention facilities in 1996, employed in a multicounty circuit on or after July 1, 1999, shall:

(a) Not be state employees unless they receive all salary from the state, which shall include any salary as provided in section 211.381 in addition to any salary provided by the applicable county or counties during calendar year 1997 and any general salary increase approved by the state of Missouri for fiscal year 1999 and fiscal year 2000;

(b) Participate in the state retirement plan;

(c) Receive creditable prior service in the state retirement plan for service rendered as a juvenile court employee prior to July 1, 1999, to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service if such service was rendered in a single county circuit or a multicounty circuit, except that if they forfeited such credit in such county retirement plan prior to being eligible to receive creditable prior service under this paragraph, they may receive creditable service under this paragraph;

(d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even though they already have received credit for such creditable service in a county retirement plan if they elect within six months from the date they become participants in the state retirement plan pursuant to this section to forfeit their service from such plan in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service, determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

(e) Receive creditable prior service for service rendered as a juvenile court employee in a multicounty circuit in a position that was financed in whole or in part by a public or private grant to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service except that if they:

a. Forfeited such credit in such county retirement plan prior to being eligible to receive creditable service under this paragraph, they may receive creditable service under paragraph (e) of this subdivision;

b. Received credit for such creditable service in a county retirement plan, they may not receive creditable prior service pursuant to paragraph (e) of this subdivision unless they elect to forfeit their service from such plan, in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial liability for the forfeited creditable service, determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

c. Terminated employment prior to August 28, 2007, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement they may receive creditable service under paragraph (e) of this subdivision;

d. Retired prior to August 28, 2007, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement, they shall have their retirement benefits adjusted so they receive retirement benefits equal to the amount they would have received had their retirement benefit been initially calculated to include such creditable prior service; or

e. Purchased creditable prior service pursuant to section 104.344 or section 105.691 based on service as a juvenile court employee in a position that was financed in whole or in part by a public or private grant, they shall receive a refund based on the amount paid for such purchased service;

(2) Juvenile court employee positions added after December 31, 1997, shall be terminated and not subject to the provisions of subdivision (1) of this subsection, unless the office of the state courts administrator requests and receives an appropriation specifically for such positions;

(3) The salary of any juvenile court employee who becomes a state employee, effective July 1, 1999, shall be limited to the salary provided by the state of Missouri, which shall be set in accordance with guidelines established by the state pursuant to a salary survey conducted by the office of the state courts administrator, but such salary shall in no event be less than the amount specified in paragraph (a) of subdivision (1) of this subsection. Notwithstanding any provision to the contrary in subsection 1 of section 211.394, such employees shall not be entitled to additional compensation paid by a county as a public officer or employee. Such employees shall be considered employees of the judicial branch of state government for all purposes;

(4) All other employees of a multicounty circuit who are not juvenile court employees as defined in subsection 1 of this section shall be county employees subject to the county's own terms and conditions of employment**;**

(5) In a single county circuit that changed from a multicounty circuit on or after August 28, 2016, any juvenile court employee, who receives all salary from the state, shall be a state employee, receive state-provided benefits under this subsection, including retirement benefits from the state retirement plan, and not be subject to subsection 2 of this section while employed in that circuit.

4. The receipt of creditable prior service as described in paragraph (c) of subdivision (1) of subsection 2 of this section and paragraph (c) of subdivision (1) of subsection 3 of this section is contingent upon the office of the state courts administrator providing the state retirement plan information, in a form subject to verification and acceptable to the state retirement plan, indicating the dates of service and amount of monthly salary paid to each juvenile court employee for such creditable prior service.

5. No juvenile court employee employed by any single or multicounty circuit shall be eligible to participate in the county employees' retirement system fund pursuant to sections 50.1000 to 50.1200.

6. Each county in every circuit in which a juvenile court employee becomes a state employee shall maintain each year in the local juvenile court budget an amount, defined as "maintenance of effort funding", not less than the total amount budgeted for all employees of the juvenile court including any juvenile officer, deputy juvenile officer, or other juvenile court employees in calendar year 1997, minus the state reimbursements as described in this section received for the calendar year 1997 personnel costs for the salaries of all such juvenile court employees who become state employees. The juvenile court shall provide a proposed budget to the county commission each year. The budget shall contain a separate section specifying all funds to be expended in the juvenile court. Such funding may be used for contractual costs for detention services, guardians ad litem, transportation costs for those circuits without detention facilities to transport children to and from detention and hearings, short-term residential services, indebtedness for juvenile facilities, expanding existing detention facilities or services, continuation of services funded by public grants or subsidy, and enhancing the court's ability to provide prevention, probation, counseling and treatment services. The county commission may review such budget and may appeal the proposed budget to the judicial finance commission pursuant to section 50.640.

7. Any person who is employed on or after July 1, 1999, in a position covered by the state retirement plan or the transportation department and highway patrol retirement system and who has rendered service as a juvenile court employee in a judicial circuit that was not a single county of the first classification shall be eligible to receive creditable prior service in such plan or system as provided in subsections 2 and 3 of this section. For purposes of this subsection, the provisions of paragraphs (c) and (d) of subdivision (1) of subsection 2 of this section and paragraphs (c) and (d) of subdivision (1) of subsection 3 of this section that apply to the state retirement plan shall also apply to the transportation department and highway patrol retirement system.

8. (1) Any juvenile officer who is employed as a state employee in a multicounty circuit on or after July 1, 1999, shall not be eligible to participate in the state retirement plan as provided by this section unless such juvenile officer elects to:

(a) Receive retirement benefits from the state retirement plan based on all years of service as a juvenile officer and a final average salary which shall include salary paid by the county and the state; and

(b) Forfeit any county retirement benefits from any county retirement plan based on service rendered as a juvenile officer.

(2) Upon making the election described in this subsection, the county retirement plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions.

9. The elections described in this section shall be made on forms developed and made available by the state retirement plan.

478.011. NUMBER OF JUDICIAL CIRCUITS — This state is divided into forty-six judicial circuits, numbered consecutively from one to forty-six.

478.170. CIRCUIT NO. 38. — 1. Until December 31, 2016, circuit number thirty-eight shall consist of the counties of Christian and Taney.

2. Beginning January 1, 2017, circuit number thirty-eight shall consist of the county of Christian.

478.188. CIRCUIT NO. 46. — Beginning January 1, 2017, circuit number forty-six shall consist of the county of Taney.

478.191. AUTHORITY FOR ESTABLISHMENT OF CIRCUITS, REPEALED, EFFECTIVE WHEN. — The repeal of sections 478.075, 478.077, 478.080, 478.085, 478.087, 478.090, 478.093, 478.095, 478.097, 478.100, 478.103, 478.105, 478.107, 478.110, 478.113, 478.115, 478.117, 478.120, 478.123, 478.125, 478.127, 478.130, 478.133, 478.135, 478.137, 478.140, 478.143, 478.145, 478.147, 478.150, 478.153, 478.155, 478.157, 478.160, 478.163, 478.165, 478.167, 478.170, 478.173, 478.175, 478.177, 478.180, 478.183, 478.185, 478.186, **478.188,** and the repeal and reenactment of section 487.010 shall become effective December 31, 2020.

478.577. CIRCUIT NO. 46, NUMBER OF JUDGES — ELECTION, WHEN. — Beginning January 1, 2017, there shall be one circuit judge in the forty-sixth judicial circuit who shall be elected in 2016 for a two-year term and thereafter in 2018 for a full six-year term.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to enable the judiciary to continue serving the citizens of Missouri efficiently and effectively, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved February 18, 2016

SB 586 [SCS SBs 586 & 651]

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 definition of "current operating expenditures" and "state adequacy target" for the purposes of state funding and applies the definition of "average daily attendance" to charter schools

AN ACT to repeal sections 163.011 and 163.018, RSMo, and to enact in lieu thereof two new sections relating to elementary and secondary education, with an emergency clause.

SECTION
A. Enacting clause.
163.011. Definitions — method of calculating state aid.
163.018. Early childhood education programs, pupils included in average daily attendance calculation, when — applicability for unaccredited districts, provisionally accredited districts, and other districts.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 163.011 and 163.018, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 163.011 and 163.018, to read as follows:

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011 in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for

transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515; the vocational education entitlement for the district, as provided for in section 167.332; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target**[**. Beginning on July 1, 2010, current operating expenditures shall be the amount in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target**]**;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar-value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the City of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the City of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced **price** lunch pupil count", for school districts not eligible for and those that do not choose the USDA Community Eligibility Option, the number of pupils eligible for free and reduced **price** lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations. For eligible school districts that choose the USDA Community

Eligibility Option, the free and reduced **price** lunch pupil count shall be the percentage of free and reduced **price** lunch students calculated as eligible on the last Wednesday in January of the most recent school year that included household applications to determine free and reduced **price** lunch count multiplied by the district's average daily attendance figure;

(7) "Free and reduced **price** lunch threshold" shall be calculated by dividing the total free and reduced **price** lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080 except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in the calculation outlined in paragraph (a) of this subdivision. When a change in a school district's boundary lines occurs because of a boundary line change, annexation, attachment, consolidation, reorganization, or dissolution under section 162.071, 162.081, sections 162.171 to 162.201, section 162.221, 162.223, 162.431, 162.441, or 162.451, or in the event that a school

district assumes any territory from a district that ceases to exist for any reason, the department of elementary and secondary education shall make a proper adjustment to each affected district's local effort, so that each district's local effort figure conforms to the new boundary lines of the district. The department shall compute the local effort figure by applying the calendar year 2004 assessed valuation data to the new land areas resulting from the boundary line change, annexation, attachment, consolidation, reorganization, or dissolution and otherwise follow the procedures described in this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011 in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100 of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092 and as reported on the final annual performance report for that district each year; for calculations to be utilized for payments in fiscal years subsequent to fiscal year 2018, the number of performance districts shall not exceed twenty-five percent of all public school districts;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program or services plan and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their

current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data. The recalculation shall never result in a decrease from the **[**previous state adequacy target amount**]** **state adequacy target as calculated for fiscal years 2017 and 2018 and any state adequacy target figure calculated subsequent to fiscal year 2018**. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations as provided in subsection 7 of section 163.031;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced **price** lunch pupil count that exceeds the free and reduced **price** lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced **price** lunch pupil count that exceeds the free and reduced **price** lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

163.018. EARLY CHILDHOOD EDUCATION PROGRAMS, PUPILS INCLUDED IN AVERAGE DAILY ATTENDANCE CALCULATION, WHEN — APPLICABILITY FOR UNACCREDITED DISTRICTS, PROVISIONALLY ACCREDITED DISTRICTS, AND OTHER DISTRICTS. — 1. Notwithstanding the definition of "average daily attendance" in subdivision (2) of section 163.011 to the contrary, pupils between the ages of three and five who are eligible for free and reduced **price** lunch and attend an early childhood education program that is operated by and in a district or by a charter school that has declared itself as a local educational agency providing full-day kindergarten and that meets standards established by the state board of education shall be included in the district's or charter school's calculation of average daily attendance. The total number of such pupils included in the district's or charter school's calculation of average daily attendance shall not exceed four percent of the total number of pupils who are eligible for free and reduced **price** lunch between the ages of **[**three**]** **five** and eighteen who are included in the district's or charter school's calculation of average daily attendance.

2. (1) For any district that has been declared unaccredited by the state board of education and remains unaccredited as of July 1, 2015, **and for any charter school located in said district,** the provisions of subsection 1 of this section shall become applicable during the 2015-16 school year.

(2) For any district that is declared unaccredited by the state board of education after July 1, 2015, **and for any charter school located in said district,** the provisions of subsection 1 of this section shall become applicable immediately upon such declaration.

(3) For any district that has been declared provisionally accredited by the state board of education and remains provisionally accredited as of July 1, 2016, **and for any charter school located in said district,** the provisions of subsection 1 of this section shall become applicable beginning in the 2016-17 school year.

(4) For any district that is declared provisionally accredited by the state board of education after July 1, 2016, **and for any charter school located in said district,** the provisions of this section shall become applicable beginning in the 2016-17 school year or immediately upon such declaration, whichever is later.

(5) For all other districts **and charter schools**, the provisions of subsection 1 of this section shall become effective in any school year subsequent to a school year in which the amount appropriated for subsections 1 and 2 of section 163.031 is equal to or exceeds the amount necessary to fund the entire entitlement calculation determined by subsections 1 and 2 of section 163.031, and shall remain effective in all school years thereafter, irrespective of the amount appropriated for subsections 1 and 2 of section 163.031 in any succeeding year.

3. This section shall not require school attendance beyond that mandated under section 167.031 and shall not change or amend the provisions of sections 160.051, 160.053, 160.054, and 160.055 relating to kindergarten attendance.

SECTION B. EMERGENCY CLAUSE. — Because of the importance of funding elementary and secondary education, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2016.

Vetoed May 4, 2016
Overridden May 5, 2016

SB 588 [HCS SCS SBs 588, 603 & 942]

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 petitions for the expungement of criminal records

AN ACT to repeal sections 488.650 and 610.140, RSMo, and to enact in lieu thereof two new sections relating to petitions for the expungement of records, with a delayed effective date.

SECTION

A. Enacting clause.
488.650. Expungement cases under section 610.140, surcharge, amount, waiver. Expungement cases under section 610.140, surcharge, amount.
610.140. Expungement of certain criminal records, petition, contents, procedure — effect of expungement on employer inquiry — lifetime limits. Expungement of certain criminal records, petition, contents, procedure.
B. Delayed effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 488.650 and 610.140, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 488.650 and 610.140, to read as follows:

488.650. EXPUNGEMENT CASES UNDER SECTION 610.140, SURCHARGE, AMOUNT, WAIVER. EXPUNGEMENT CASES UNDER SECTION 610.140, SURCHARGE, AMOUNT. — There shall be assessed as costs a surcharge in the amount of **[**one**] two** hundred **fifty** dollars on all petitions for expungement filed under the provisions of section 610.140. **The judge may waive the surcharge if the petitioner is found by the judge to be indigent and unable to pay the costs.** Such surcharge shall be collected and disbursed by the clerk of the court as provided by sections 488.010 to 488.020. Moneys collected from this surcharge shall be payable to the general revenue fund.

610.140. EXPUNGEMENT OF CERTAIN CRIMINAL RECORDS, PETITION, CONTENTS, PROCEDURE — EFFECT OF EXPUNGEMENT ON EMPLOYER INQUIRY — LIFETIME LIMITS. EXPUNGEMENT OF CERTAIN CRIMINAL RECORDS, PETITION, CONTENTS, PROCEDURE. — 1. Notwithstanding any other provision of law and subject to the provisions of this section, any person may apply to any court in which such person was **charged or** found guilty of any **[**of the**]** offenses **[**specified in subsection 2 of this section**], violations, or infractions** for an order to expunge **[recordations] records of such arrest, plea, trial, or conviction. Subject to the limitations of subsection 12 of this section,** a person may apply to have one or more offenses**, violations, or infractions** expunged **if such offense, violation, or infraction occurred within the state of Missouri and was prosecuted under the jurisdiction of a Missouri municipal, associate circuit, or circuit court,** so long as such person lists all the offenses**, violations, and infractions** he or she is seeking to have expunged in the **[**same**]** petition and so long as all such offenses**, violations, and infractions** are **[**eligible**] not excluded** under subsection 2 of this section. **If the offenses, violations, or infractions were charged as counts in the same indictment or information or were committed as part of the same course of criminal conduct, the person may include all the related offenses, violations, and infractions in the petition, regardless of the limits of subsection 12 of this section, and the petition shall only count as a petition for expungement of the highest level violation or offense contained in the petition for the purpose of determining future eligibility for expungement.**

2. **[**The following offenses are eligible to be expunged when such offenses occurred within the state of Missouri and were prosecuted under the jurisdiction of a Missouri municipal associate or circuit court:

(1) Any felony or misdemeanor offense of passing a bad check under 570.120, fraudulently stopping payment of an instrument under 570.125, or fraudulent use of a credit device or debit device under section 570.130;

(2) Any misdemeanor offense of sections 569.065, 569.067, 569.090, subdivision (1) of subsection 1 of section 569.120, sections 569.140, 569.145, 572.020, 574.020, or 574.075; or

(3) Any class B or C misdemeanor offense of section 574.010.**] The following offenses, violations, and infractions shall not be eligible for expungement under this section:**

(1) Any class A felony offense;

(2) Any dangerous felony as that term is defined in section 556.061;

(3) Any offense that requires registration as a sex offender;

(4) Any felony offense where death is an element of the offense;

(5) Any felony offense of assault; misdemeanor or felony offense of domestic assault; or felony offense of kidnapping;

(6) Any offense listed, or previously listed, in chapter 566 or section 105.454, 105.478, 115.631, 130.028, 188.030, 188.080, 191.677, 194.425, 217.360, 217.385, 334.245, 375.991, 389.653, 455.085, 455.538, 557.035, 565.084, 565.085, 565.086, 565.095, 565.120, 565.130, 565.156, 565.200, 565.214, 566.093, 566.111, 566.115, 568.020, 568.030, 568.032, 568.045, 568.060, 568.065, 568.080, 568.090, 568.175, 569.030, 569.035, 569.040, 569.050, 569.055, 569.060, 569.065, 569.067, 569.072, 569.100, 569.160, 570.025, 570.030, 570.090, 570.100, 570.130, 570.180, 570.223, 570.224, 570.310, 571.020, 571.030, 571.060, 571.063, 571.070, 571.072, 571.150, 574.070, 574.105, 574.115, 574.120, 574.130, 575.040, 575.095, 575.153,

575.155, 575.157, 575.159, 575.195, 575.200, 575.210, 575.220, 575.230, 575.240, 575.350, 575.353, 577.078, 577.703, 577.706, 578.008, 578.305, 578.310, or 632.520;

(7) Any offense eligible for expungement under section 577.054 or 610.130;

(8) Any intoxication-related traffic or boating offense as defined in section 577.001, or any offense of operating an aircraft with an excessive blood alcohol content or while in an intoxicated condition;

(9) Any ordinance violation that is the substantial equivalent of any offense that is not eligible for expungement under this section; and

(10) Any violations of any state law or county or municipal ordinance regulating the operation of motor vehicles when committed by an individual who has been issued a commercial driver's license or is required to possess a commercial driver's license issued by this state or any other state.

3. The petition shall name as defendants all law enforcement agencies, courts, prosecuting or circuit attorneys, **municipal prosecuting attorneys,** central state repositories of criminal records, or others who the petitioner has reason to believe may possess the records subject to expungement for each of the offenses**, violations, and infractions** listed in the petition. The court's order of expungement shall not affect any person or entity not named as a defendant in the action.

4. The petition shall **[**be dismissed if it does not**]** include the following information:

(1) The petitioner's:

(a) Full name;

(b) Sex;

(c) Race;

(d) Driver's license number, if applicable; and

(e) Current address;

(2) Each offense **[**charged against the petitioner**], violation, or infraction** for which the petitioner is requesting expungement;

(3) The **approximate** date the petitioner was **[**arrested**] charged** for each offense**, violation, or infraction**; **and**

(4) The name of the county where the petitioner was **[**arrested**] charged** for each offense**, violation, or infraction** and if any of the offenses**, violations, or infractions** occurred in a municipality, the name of the municipality for each offense**, violation, or infraction**; **and**

(5) **[**The name of the agency that arrested the petitioner for each offense;

(6)**]** The case number and name of the court for each offense**[**; and

(7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition for expungement which will be forwarded to the central repository for the sole purpose of positively identifying the petitioner**]**.

5. **The clerk of the court shall give notice of the filing of the petition to the office of the prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted the offenses, violations, or infractions listed in the petition. If the prosecuting attorney, circuit attorney, or municipal prosecuting attorney objects to the petition for expungement, he or she shall do so in writing within thirty days after receipt of service. Unless otherwise agreed upon by the parties, the court shall hold a hearing within sixty days after any written objection is filed, giving reasonable notice of the hearing to the petitioner. If no objection has been filed within thirty days after receipt of service,** the court may set a hearing on the matter **[**no sooner than thirty days from the filing of the petition**]** and shall give reasonable notice of the hearing to each entity named in the petition. At **[**the**] any** hearing, the court may accept evidence and hear testimony on, and may consider, the following criteria for each of the offenses**, violations, or infractions** listed in the petition for expungement:

(1) It has been at least **[**twenty**] seven** years if the offense is a felony, or at least **[**ten**] three** years if the offense is a misdemeanor, municipal offense, or infraction, **[**since the person making the application completed:

(a) Any sentence of imprisonment; or

(b) Any period of probation or parole**] from the date the petitioner completed any authorized disposition imposed under section 557.011 for each offense, violation, or infraction listed in the petition**;

(2) The person has not been found guilty of **[**a**]** **any other** misdemeanor or felony, not including violations of the traffic regulations provided under chapters 304 and 307, during the time period specified for the underlying offense**, violation, or infraction** in subdivision (1) of this subsection;

(3) The person has **[**paid any amount of restitution ordered by the court**] satisfied all obligations relating to any such disposition, including the payment of any fines or restitution**;

(4) The **[**circumstances and behavior of the petitioner warrant the expungement**] person does not have charges pending**; **[**and**]**

(5) **The petitioner's habits and conduct demonstrate that the petitioner is not a threat to the public safety of the state; and**

(6) The expungement is consistent with the public welfare **and the interests of justice warrant the expungement.**

A pleading by the petitioner that such petitioner meets the requirements of subdivisions (5) and (6) of this subsection shall create a rebuttable presumption that the expungement is warranted so long as the criteria contained in subdivisions (1) to (4) of this subsection are otherwise satisfied. The burden shall shift to the prosecuting attorney, circuit attorney, or municipal prosecuting attorney to rebut the presumption. A victim of an offense, violation, or infraction listed in the petition shall have an opportunity to be heard at any hearing held under this section, and the court may make a determination based solely on such victim's testimony.

6. **A petition to expunge records related to an arrest for an eligible offense, violation, or infraction may be made in accordance with the provisions of this section to a court of competent jurisdiction in the county where the petitioner was arrested no earlier than three years from the date of arrest; provided that, during such time, the petitioner has not been charged and the petitioner has not been found guilty of any misdemeanor or felony offense.**

7. If the court determines **[**at the conclusion of the hearing**]** that such person meets all the criteria set forth in subsection 5 of this section for each of the offenses**, violations, or infractions** listed in the petition for expungement, the court **[**may**] shall** enter an order of expungement. **In all cases under this section, the court shall issue an order of expungement or dismissal within six months of the filing of the petition.** A copy of the order **of expungement** shall be provided to **[**each entity named in the petition**] the petitioner and each entity possessing records subject to the order**, and, upon receipt of the order, each entity shall **[**destroy**] close** any record in its possession relating to any offense**, violation, or infraction** listed in the petition**, in the manner established by section 610.120**. **[**If destruction of the record is not feasible because of the permanent nature of the record books, such record entries shall be blacked out. Entries of a record ordered expunged shall be removed from all electronic files maintained with the state of Missouri, except for the files of the court.**]** The records and files maintained in any administrative or court proceeding in a municipal, associate, or circuit court for any offense**, infraction, or violation** ordered expunged under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The central repository shall request the Federal Bureau of Investigation to expunge the records from its files.

[7.**] 8.** The order shall not limit any of the petitioner's rights that were restricted as a collateral consequence of such person's criminal record, and such rights shall be restored upon issuance of the order of expungement. Except as otherwise provided under this section, the effect of such order shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken place. No person as to whom such

order has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas, trials, convictions, or expungement in response to an inquiry made of him or her and no such inquiry shall be made for information relating to an expungement, except the petitioner shall disclose the expunged offense**, violation, or infraction** to any court when asked or upon being charged with any subsequent offense**, violation, or infraction**. The expunged offense**, violation, or infraction** may be considered a prior offense in determining a sentence to be imposed for any subsequent offense that the person is found guilty of committing.

[8.**]** **9.** Notwithstanding the provisions of subsection **[**7**]** **8** of this section to the contrary, a person granted an expungement shall disclose any expunged offense**, violation, or infraction** when the disclosure of such information is necessary to complete any application for:

(1) A license, certificate, or permit issued by this state to practice such individual's profession;

(2) Any license issued under chapter 313 **or permit issued under chapter 571**; **[**or**]**

(3) Paid or unpaid employment with an entity licensed under chapter 313, any state-operated lottery, or any emergency services provider, including any law enforcement agency**;**

(4) Employment with any federally insured bank or savings institution or credit union or an affiliate of such institution or credit union for the purposes of compliance with 12 U.S.C. Section 1829 and 12 U.S.C. Section 1785;

(5) Employment with any entity engaged in the business of insurance or any insurer for the purpose of complying with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or other similar law which requires an employer engaged in the business of insurance to exclude applicants with certain criminal convictions from employment; or

(6) Employment with any employer that is required to exclude applicants with certain criminal convictions from employment due to federal or state law, including corresponding rules and regulations.

An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this subsection. Notwithstanding any provision of law to the contrary, an expunged offense**, violation, or infraction** shall not be grounds for automatic disqualification of an applicant, but may be a factor for denying employment, or a professional license, certificate, or permit**; except that, an offense, violation, or infraction expunged under the provisions of this section may be grounds for automatic disqualification if the application is for employment under subdivisions (4) to (6) of this subsection**.

[9.**]** **10. A person who has been granted an expungement of records pertaining to a misdemeanor or felony offense, an ordinance violation, or an infraction may answer "no" to an employer's inquiry into whether the person has ever been convicted of a crime if, after the granting of the expungement, the person has no public record of a misdemeanor or felony offense, an ordinance violation, or an infraction. The person, however, shall answer such an inquiry affirmatively and disclose his or her criminal convictions, including any offense or violation expunged under this section or similar law, if the employer is required to exclude applicants with certain criminal convictions from employment due to federal or state law, including corresponding rules and regulations.**

11. If the court determines that **[**such person**]** **the petitioner** has not met the criteria for any of the offenses**, violations, or infractions** listed in the petition for expungement **or the petitioner has knowingly provided false information in the petition**, the court shall enter an order dismissing the petition. Any person whose petition for expungement has been dismissed by the court for failure to meet the criteria set forth in subsection 5 of this section may not refile another petition until a year has passed since the date of filing for the previous petition.

[10.**]** **12.** A person may be granted more than one expungement under this section provided that **[**no person shall be granted more than one order of expungement from the same court. Nothing contained in this section shall prevent the court from maintaining records to ensure that an individual has only one petition for expungement granted by such court under this

section**] during his or her lifetime, the total number of offenses, violations, or infractions for which orders of expungement are granted to the person shall not exceed the following limits:**

(1) Not more than two misdemeanor offenses or ordinance violations that have an authorized term of imprisonment; and

(2) Not more than one felony offense.

A person may be granted expungement under this section for any number of infractions. Nothing in this section shall prevent the court from maintaining records to ensure that an individual has not exceeded the limitations of this subsection. Nothing in this section shall be construed to limit or impair in any way the subsequent use of any record expunged under this section of any arrests or findings of guilt by a law enforcement agency, criminal justice agency, prosecuting attorney, circuit attorney, or municipal prosecuting attorney, including its use as a prior offense, violation, or infraction.

13. The court shall make available a form for pro se petitioners seeking expungement, which shall include the following statement: "I declare under penalty of perjury that the statements made herein are true and correct to the best of my knowledge, information, and belief.".

14. Nothing in this section shall be construed to limit or restrict the availability of expungement to any person under any other law.

SECTION B. DELAYED EFFECTIVE DATE. — Section A of this act shall become effective on January 1, 2018.

Approved July 13, 2016

SB 590 [HCS SS#2 SCS SB 590]

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 related to first degree murder

AN ACT to repeal sections 565.020, 565.030, 565.032, and 565.040, RSMo, and to enact in lieu thereof seven new sections relating to crime, with penalty provisions, an emergency clause for certain sections, and an effective date for a certain section.

SECTION

A. Enacting clause.
558.047. Persons under eighteen, review of sentence, when, procedure.
565.020. First degree murder, penalty — person under eighteen years of age, penalty.
565.030. Trial procedure, first degree murder.
565.032. Evidence to be considered in assessing punishment in first degree murder cases for which death penalty authorized. Evidence to be considered in assessing punishment in first degree murder cases for which death penalty authorized.
565.033. Person under eighteen, sentencing — factors to be considered, jury instructions.
565.034. Person under eighteen, written notice filed to seek life without parole, procedure — withdrawal — trial procedure — required findings.
565.040. Death penalty, if held unconstitutional, resentencing procedure.
B. Delayed effective date.
C. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 565.020, 565.030, 565.032, and 565.040, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 558.047, 565.020, 565.030, 565.032, 565.033, 565.034, and 565.040, to read as follows:

558.047. PERSONS UNDER EIGHTEEN, REVIEW OF SENTENCE, WHEN, PROCEDURE. — 1. (1) Any person sentenced to a term of imprisonment for life without eligibility for parole before August 28, 2016, who was under eighteen years of age at the time of the commission of the offense or offenses, may submit to the parole board a petition for a review of his or her sentence, regardless of whether the case is final for purposes of appeal, after serving twenty-five years of incarceration on the sentence of life without parole.

(2) Any person found guilty of murder in the first degree who was sentenced on or after August 28, 2016, to a term of life imprisonment with eligibility for parole or a term of imprisonment of not less than thirty years and not to exceed forty years, who was under eighteen years of age at the time of the commission of the offense or offenses may submit to the parole board a petition for a review of his or her sentence, regardless of whether the case is final for purposes of appeal, after serving twenty-five years of incarceration, and a subsequent petition after serving thirty-five years of incarceration.

2. A copy of the petition shall be served on the office of the prosecutor in the judicial circuit of original jurisdiction. The petition shall include the person's statement that he or she was under eighteen years of age at the time of the offense, is eligible to petition under this section, and requests that his or her sentence be reviewed.

3. If any of the information required in subsection 2 of this section is missing from the petition, or if proof of service on the prosecuting or circuit attorney is not provided, the parole board shall return the petition to the person and advise him or her that the matter cannot be considered without the missing information.

4. The parole board shall hold a hearing and determine if the defendant shall be granted parole. At such a hearing, the victim or victim's family members shall retain their rights under section 595.209.

5. In a parole review hearing under this section, the board shall consider, in addition to the factors listed in section 565.033:

(1) Efforts made toward rehabilitation since the offense or offenses occurred, including participation in educational, vocational, or other programs during incarceration, when available;

(2) The subsequent growth and increased maturity of the person since the offense or offenses occurred;

(3) Evidence that the person has accepted accountability for the offense or offenses, except in cases where the person has maintained his or her innocence;

(4) The person's institutional record during incarceration; and

(5) Whether the person remains the same risk to society as he or she did at the time of the initial sentencing.

565.020. FIRST DEGREE MURDER, PENALTY — PERSON UNDER EIGHTEEN YEARS OF AGE, PENALTY. — 1. A person commits the **[crime] offense** of murder in the first degree if he **or she** knowingly causes the death of another person after deliberation upon the matter.

2. **The offense of** murder in the first degree is a class A felony, and**, if a person is eighteen years of age or older at the time of the offense,** the punishment shall be either death or imprisonment for life without eligibility for probation or parole, or release except by act of the governor**[**; except that,**]**. If a person has not reached his **[**sixteenth**] or her eighteenth** birthday at the time of the commission of the **[**crime**] offense**, the punishment shall be **[**imprisonment for life without eligibility for probation or parole, or release except by act of the governor**] as provided under section 565.033**.

565.030. TRIAL PROCEDURE, FIRST DEGREE MURDER. — 1. Where murder in the first degree is charged but not submitted or where the state waives the death penalty, the submission to the trier and all subsequent proceedings in the case shall proceed as in all other criminal cases **[**with a single stage trial in which guilt and punishment are submitted together**]**.

2. Where murder in the first degree is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than murder in the first degree in a count together with a count of murder in the first degree, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558.

3. If murder in the first degree is submitted and the death penalty was not waived but the trier finds the defendant guilty of a lesser homicide, a second stage of the trial shall proceed **[**at which the only issue shall be the punishment to be assessed and declared. No further evidence shall be received. If the trier is a jury it shall be instructed on the law**] as in all other criminal cases**. The attorneys may then argue as in other criminal cases the issue of punishment, after which the trier shall assess and declare the punishment as in all other criminal cases.

4. If the trier at the first stage of a trial where the death penalty was not waived finds the defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and mitigation of punishment, including but not limited to evidence supporting any of the aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be presented subject to the rules of evidence at criminal trials. Such evidence may include, within the discretion of the court, evidence concerning the murder victim and the impact of the **[**crime**] offense** upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. If the trier is a jury it shall be instructed on the law. The attorneys may then argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor:

(1) If the trier finds by a preponderance of the evidence that the defendant is intellectually disabled; or

(2) If the trier does not find beyond a reasonable doubt at least one of the statutory aggravating circumstances set out in subsection 2 of section 565.032; or

(3) If the trier concludes that there is evidence in mitigation of punishment, including but not limited to evidence supporting the statutory mitigating circumstances listed in subsection 3 of section 565.032, which is sufficient to outweigh the evidence in aggravation of punishment found by the trier; or

(4) If the trier decides under all of the circumstances not to assess and declare the punishment at death. If the trier is a jury it shall be so instructed.

If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out in writing the aggravating circumstance or circumstances listed in subsection 2 of section 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed before the case is submitted that if it is unable to decide or agree upon the punishment the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor or death. The court shall follow the same procedure as set out in this section whenever it is required to determine punishment for murder in the first degree.

5. Upon written agreement of the parties and with leave of the court, the issue of the defendant's intellectual disability may be taken up by the court and decided prior to trial without prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in subsection 4 of this section.

6. As used in this section, the terms "intellectual disability" or "intellectually disabled" refer to a condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with continual extensive related deficits and

limitations in two or more adaptive behaviors such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which conditions are manifested and documented before eighteen years of age.

7. The provisions of this section shall only govern offenses committed on or after August 28, 2001.

565.032. EVIDENCE TO BE CONSIDERED IN ASSESSING PUNISHMENT IN FIRST DEGREE MURDER CASES FOR WHICH DEATH PENALTY AUTHORIZED. — 1. In all cases of murder in the first degree for which the death penalty is authorized, the judge in a jury-waived trial shall consider, or **[**he**]** shall include in his **or her** instructions to the jury for it to consider:

(1) Whether a statutory aggravating circumstance or circumstances enumerated in subsection 2 of this section is established by the evidence beyond a reasonable doubt; and

(2) If a statutory aggravating circumstance or circumstances is proven beyond a reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence of life imprisonment without eligibility for probation, parole, or release except by act of the governor. In determining the issues enumerated in subdivisions (1) and (2) of this subsection, the trier shall consider all evidence which it finds to be in aggravation or mitigation of punishment, including evidence received during the first stage of the trial and evidence supporting any of the statutory aggravating or mitigating circumstances set out in subsections 2 and 3 of this section. If the trier is a jury, it shall not be instructed upon any specific evidence which may be in aggravation or mitigation of punishment, but shall be instructed that each juror shall consider any evidence which he **or she** considers to be aggravating or mitigating.

2. Statutory aggravating circumstances for a murder in the first degree offense shall be limited to the following:

(1) The offense was committed by a person with a prior record of conviction for murder in the first degree, or the offense was committed by a person who has one or more serious assaultive criminal convictions;

(2) The murder in the first degree offense was committed while the offender was engaged in the commission or attempted commission of another unlawful homicide;

(3) The offender by his **or her** act of murder in the first degree knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person;

(4) The offender committed the offense of murder in the first degree for himself **or herself** or another, for the purpose of receiving money or any other thing of monetary value from the victim of the murder or another;

(5) The murder in the first degree was committed against a judicial officer, former judicial officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former circuit attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant circuit attorney or former assistant circuit attorney, peace officer or former peace officer, elected official or former elected official during or because of the exercise of his official duty;

(6) The offender caused or directed another to commit murder in the first degree or committed murder in the first degree as an agent or employee of another person;

(7) The murder in the first degree was outrageously or wantonly vile, horrible or inhuman in that it involved torture, or depravity of mind;

(8) The murder in the first degree was committed against any peace officer, or fireman while engaged in the performance of his **or her** official duty;

(9) The murder in the first degree was committed by a person in, or who has escaped from, the lawful custody of a peace officer or place of lawful confinement;

(10) The murder in the first degree was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or custody in a place of lawful confinement, of himself **or herself** or another;

(11) The murder in the first degree was committed while the defendant was engaged in the perpetration or was aiding or encouraging another person to perpetrate or attempt to perpetrate a felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony offense in chapter 195 **or 579**;

(12) The murdered individual was a witness or potential witness in any past or pending investigation or past or pending prosecution, and was killed as a result of his **or her** status as a witness or potential witness;

(13) The murdered individual was an employee of an institution or facility of the department of corrections of this state or local correction agency and was killed in the course of performing his **or her** official duties, or the murdered individual was an inmate of such institution or facility;

(14) The murdered individual was killed as a result of the hijacking of an airplane, train, ship, bus or other public conveyance;

(15) The murder was committed for the purpose of concealing or attempting to conceal any felony offense defined in chapter 195 **or 579**;

(16) The murder was committed for the purpose of causing or attempting to cause a person to refrain from initiating or aiding in the prosecution of a felony offense defined in chapter 195 **or 579**;

(17) The murder was committed during the commission of **[**a crime**]** **an offense** which is part of a pattern of criminal street gang activity as defined in section 578.421.

3. Statutory mitigating circumstances shall include the following:

(1) The defendant has no significant history of prior criminal activity;

(2) The murder in the first degree was committed while the defendant was under the influence of extreme mental or emotional disturbance;

(3) The victim was a participant in the defendant's conduct or consented to the act;

(4) The defendant was an accomplice in the murder in the first degree committed by another person and his **or her** participation was relatively minor;

(5) The defendant acted under extreme duress or under the substantial domination of another person;

(6) The capacity of the defendant to appreciate the criminality of his **or her** conduct or to conform his **or her** conduct to the requirements of law was substantially impaired;

(7) The age of the defendant at the time of the **[**crime**]** **offense**.

565.033. PERSON UNDER EIGHTEEN, SENTENCING — FACTORS TO BE CONSIDERED, JURY INSTRUCTIONS. — 1. A person found guilty of murder in the first degree who was under the age of eighteen at the time of the commission of the offense shall be sentenced to a term of life without eligibility for probation or parole as provided in section 565.034, life imprisonment with eligibility for parole, or not less than thirty years and not to exceed forty years imprisonment.

2. When assessing punishment in all first degree murder cases in which the defendant was under the age of eighteen at the time of the commission of the offense or offenses, the judge in a jury-waived trial shall consider, or the judge shall include in instructions to the jury for it to consider, the following factors:

(1) The nature and circumstances of the offense committed by the defendant;

(2) The degree of the defendant's culpability in light of his or her age and role in the offense;

(3) The defendant's age, maturity, intellectual capacity, and mental and emotional health and development at the time of the offense;

(4) The defendant's background, including his or her family, home, and community environment;

(5) The likelihood for rehabilitation of the defendant;

(6) The extent of the defendant's participation in the offense;

(7) The effect of familial pressure or peer pressure on the defendant's actions;

(8) The nature and extent of the defendant's prior criminal history, including whether the offense was committed by a person with a prior record of conviction for murder in the first degree, or one or more serious assaultive criminal convictions;

(9) The effect of characteristics attributable to the defendant's youth on the defendant's judgment; and

(10) A statement by the victim or the victim's family member as provided by section 557.041 until December 31, 2016, and beginning January 1, 2017, section 595.229.

565.034. PERSON UNDER EIGHTEEN, WRITTEN NOTICE FILED TO SEEK LIFE WITHOUT PAROLE, PROCEDURE — WITHDRAWAL — TRIAL PROCEDURE — REQUIRED FINDINGS. — 1. If the state intends to seek a sentence of life without eligibility for probation or parole for a person charged with murder in the first degree who was under the age of eighteen at the time of the commission of the offense, the state must file with the court and serve upon the person a written notice of intent to seek life without eligibility for probation or parole. This notice shall be provided within one hundred twenty days of the person's arraignment upon an indictment or information charging the person with murder in the first degree. For good cause shown, the court may extend the period for service and filing of the notice. Any notice of intent to seek life without eligibility for probation or parole shall include a listing of the statutory aggravating circumstances, as provided by subsection 6 of this section, upon which the state will rely in seeking that sentence.

2. Notwithstanding any other provisions of law, where the state files a notice of intent to seek life without eligibility for probation or parole pursuant to this section, the defendant shall be entitled to an additional sixty days for the purpose of filing new motions or supplementing pending motions.

3. A notice of intent to seek life without eligibility for probation or parole pursuant to this section may be withdrawn at any time by a written notice of withdrawal filed with the court and served upon the defendant. Once withdrawn, the notice of intent to seek life without eligibility for probation or parole shall not be refiled.

4. After the state has filed a proper notice of intent to seek life without eligibility for probation or parole pursuant to this section, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the person is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage.

5. If the trier at the first stage of the trial finds the person guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared.

6. A person found guilty of murder in the first degree who was under the age of eighteen at the time of the commission of the offense is eligible for a sentence of life without eligibility for probation or parole only if a unanimous jury, or a judge in a jury-waived sentencing, finds beyond a reasonable doubt that:

(1) The victim received physical injuries personally inflicted by the defendant and the physical injuries inflicted by the defendant caused the death of the victim; and

(2) The defendant was found guilty of first degree murder and one of the following aggravating factors was present:

(a) The defendant has a previous conviction for first degree murder, assault in the first degree, rape in the first degree, or sodomy in the first degree;

(b) The murder was committed during the perpetration of any other first degree murder, assault in the first degree, rape in the first degree, or sodomy in the first degree;

(c) The murder was committed as part of an agreement with a third party that the defendant was to receive money or any other thing of monetary value in exchange for the commission of the offense;

(d) The defendant inflicted severe pain on the victim for the pleasure of the defendant or for the purpose of inflicting torture;

(e) The defendant killed the victim after he or she was bound or otherwise rendered helpless by the defendant or another person;

(f) The defendant, while killing the victim or immediately thereafter, purposely mutilated or grossly disfigured the body of the victim by an act or acts beyond that necessary to cause his or her death;

(g) The defendant, while killing the victim or immediately thereafter, had sexual intercourse with the victim or sexually violated him or her;

(h) The defendant killed the victim for the purposes of causing suffering to a third person; or

(i) The first degree murder was committed against a current or former: judicial officer, prosecuting attorney or assistant prosecuting attorney, law enforcement officer, firefighter, state or local corrections officer; or against a witness or potential witness to a past or pending investigation or prosecution, during or because of the exercise of their official duty or status as a witness.

565.040. DEATH PENALTY, IF HELD UNCONSTITUTIONAL, RESENTENCING PROCEDURE. — 1. In the event that the death penalty provided in this chapter is held to be unconstitutional, any person convicted of murder in the first degree shall be sentenced by the court to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for resentencing or retrial of the punishment pursuant to subsection 5 of section **[**565.036**]** **565.035**.

2. In the event that any death sentence imposed pursuant to this chapter is held to be unconstitutional, the trial court which previously sentenced the defendant to death shall cause the defendant to be brought before the court and shall sentence the defendant to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be inapplicable, unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for retrial of the punishment pursuant to subsection 5 of section 565.035.

SECTION B. DELAYED EFFECTIVE DATE. — The repeal and reenactment of section 565.032 of this act shall become effective on January 1, 2017.

SECTION C. EMERGENCY CLAUSE. — Because of the need to adopt a punishment scheme for first degree murderers of a certain age after the United States Supreme Court declared as unconstitutional the only punishment available under Missouri law for such offenders, the repeal and reenactment of section 565.020, and the enactment of sections 558.047, 565.033, and 565.034 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 565.020, and the enactment of sections 558.047, 565.033, and 565.034 of this act shall be in full force and effect upon its passage and approval.

Approved July 13, 2016

SB 607 [CCS HCS SB 607]

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 public assistance programs

AN ACT to repeal sections 208.152, 208.952, and 208.985, RSMo, and to enact in lieu thereof five new sections relating to public assistance programs.

SECTION

A. Enacting clause.
208.065. Verification of eligibility for public assistance, contract for.
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 — reimbursement for behavioral, social, and psychological services for physical health issues.
208.952. Committee established, members, duties.
208.1030. Supplemental reimbursement for ground emergency medical transportation — amount — voluntary participation.
208.1032. Intergovernmental transfer program — increased reimbursement for services, when — participation requirements.
208.985. Legislative budget office to conduct forecast, items to be included.

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

SECTION A. ENACTING CLAUSE. — Sections 208.152, 208.952, and 208.985, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 208.065, 208.152, 208.952, 208.1030, and 208.1032, to read as follows:

208.065. VERIFICATION OF ELIGIBILITY FOR PUBLIC ASSISTANCE, CONTRACT FOR. — 1. No later than January 1, 2017, the department of social services shall procure and enter into a competitively bid contract with a contractor to provide verification of initial and ongoing eligibility data for assistance under the supplemental nutrition assistance program (SNAP); temporary assistance for needy families (TANF) program; child care assistance program; and MO HealthNet program. The contractor shall conduct data matches using the name, date of birth, address, and Social Security number of each applicant and recipient, and additional data provided by the applicant or recipient relevant to eligibility against public records and other data sources to verify eligibility data.

2. The contractor shall evaluate the income, resources, and assets of each applicant and recipient no less than quarterly. In addition to quarterly eligibility data verification, the contractor shall identify on a monthly basis any program participants who have died, moved out of state, or have been incarcerated longer than ninety days.

3. The contractor, upon completing an eligibility data verification of an applicant or recipient, shall notify the department of the results; except that, the contractor shall not verify the eligibility data of persons residing in long-term care facilities or persons receiving home- and community-based services whose income and resources were at or below the applicable financial eligibility standards at the time of their last review. Within twenty business days of such notification, the department shall make an eligibility determination. The department shall retain final authority over eligibility determinations. The contractor shall keep a record of all eligibility data verifications communicated to the department. Nothing in this subsection shall be construed to affect any obligation or requirement under state or federal law or regulation that the department verify the eligibility data of persons residing in long-term care facilities or persons receiving home- and community-based services.

4. Within thirty days of the end of each calendar year, the department and contractor shall file a joint report to the governor, the speaker of the house of representatives, and the president pro tempore of the senate. The report shall include, but shall not be limited to, the number of applicants and recipients determined ineligible for assistance programs based on the eligibility data verification by the contractor and the stated reasons for the determination of ineligibility by the department.

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 — REIMBURSEMENT FOR BEHAVIORAL, SOCIAL, AND PSYCHOLOGICAL SERVICES FOR PHYSICAL HEALTH ISSUES. — 1. MO HealthNet payments shall be made on behalf of those eligible needy persons as **[**defined**]** **described** 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**]** **described** 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 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.

14. Beginning July 1, 2016, and subject to appropriations, providers of behavioral, social, and psychophysiological services for the prevention, treatment, or management of physical health problems shall be reimbursed utilizing the behavior assessment and intervention reimbursement codes 96150 to 96154 or their successor codes under the Current Procedural Terminology (CPT) coding system. Providers eligible for such reimbursement shall include psychologists.

208.952. COMMITTEE ESTABLISHED, MEMBERS, DUTIES. — 1. There is hereby established **[**the**] a permanent** "Joint Committee on **[**MO HealthNet**] Public Assistance**". The committee shall have **[**as its purpose the study of**]** the **following purposes:**

(1) Studying, monitoring, and reviewing the efficacy of the public assistance programs within the state;

(2) Determining the level and adequacy of resources needed [to continue and improve the MO HealthNet program over time**] for the public assistance programs within the state; and**

(3) Developing recommendations to the general assembly on the public assistance programs within the state and on promoting independence from safety net programs among participants as may be appropriate.

The committee shall receive and obtain information from the departments of social services, mental health, health and senior services, and elementary and secondary education, and any other department as applicable, regarding the public assistance programs within the state including, but not limited to, MO HealthNet, the supplemental nutrition assistance program (SNAP), and temporary assistance for needy families (TANF). Such information shall include projected enrollment growth, budgetary matters, trends in childhood poverty and hunger, and any other information deemed to be relevant to the committee's purpose.

2. The directors of the department of social services, mental health, and health and senior services shall each submit an annual written report to the committee providing data and statistical information regarding the caseloads of the department's employees involved in the administration of public assistance programs.

3. The committee shall consist of ten members:

(1) The chair and the ranking minority member of the house **of representatives** committee on the budget;

(2) The chair and the ranking minority member of the senate committee on appropriations **[**committee**]**;

(3) The chair and the ranking minority member of the **standing** house **of representatives** committee **[**on appropriations for health, mental health, and social services**]** **designated to consider public assistance legislation and matters**;

(4) The chair and the ranking minority member of the **standing** senate committee **[**on health and mental health**]** **designated to consider public assistance legislation and matters**;

(5) A representative chosen by the speaker of the house of representatives; and

(6) A senator chosen by the president pro **[**tem**]** **tempore** of the senate.

No more than **[**three**]** **four** members from each **[**house**]** **chamber** shall be of the same political party.

[2.**]** **4.** A chair of the committee shall be selected by the members of the committee.

[3.**]** **5.** The committee shall meet **[**as necessary**]** **at least twice a year. A portion of the meeting shall be set aside for the purpose of receiving public testimony. The committee shall seek recommendations from social, economic, and public assistance experts on ways to improve the effectiveness of public assistance programs, to improve program efficiency and reduce costs, and to promote self-sufficiency among public assistance recipients as may be appropriate**.

[4. Nothing in this section shall be construed as authorizing the committee to hire employees or enter into any employment contracts.

5. The committee shall receive and study the five-year rolling MO HealthNet budget forecast issued annually by the legislative budget office.**]**

6. **The committee is authorized to hire staff and enter into employment contracts including, but not limited to, an executive director to conduct special reviews or investigations of the public assistance programs within the state in order to assist the committee with its duties. Staff appointments shall be approved by the president pro tempore of the senate and the speaker of the house of representatives. The compensation of committee staff and the expenses of the committee shall be paid from the joint contingent fund or jointly from the senate and house of representatives contingent funds until an appropriation is made therefor.**

7. The committee shall annually conduct a rolling five-year forecast of the public assistance programs within the state and make recommendations in a report to the general assembly by January first each year, beginning in **[**2008**]** **2018**, on anticipated growth **[**in the MO HealthNet program**]** **of the public assistance programs within the state**, needed improvements, anticipated needed appropriations, and suggested strategies on ways to structure the state budget in order to satisfy the future needs of **[**the program**]** **such programs**.

208.1030. SUPPLEMENTAL REIMBURSEMENT FOR GROUND EMERGENCY MEDICAL TRANSPORTATION — AMOUNT — VOLUNTARY PARTICIPATION. — 1. An eligible provider, as described in subsection 2 of this section, may, in addition to the rate of payment that the provider would otherwise receive for Medicaid ground emergency medical transportation services, receive MO HealthNet supplemental reimbursement to the extent provided by law.

2. A provider shall be eligible for Medicaid supplemental reimbursement if the provider meets the following characteristics during the state reporting period:

(1) Provides ground emergency medical transportation services to MO HealthNet participants;

(2) Is enrolled as a MO HealthNet provider for the period being claimed; and

(3) Is owned, operated, or contracted by the state or a political subdivision.

3. An eligible provider's Medicaid supplemental reimbursement under this section shall be calculated and paid as follows:

(1) The supplemental reimbursement to an eligible provider, as described in subsection 2 of this section, shall be equal to the amount of federal financial participation received as a result of the claims submitted under subdivision (2) of subsection 6 of this section;

(2) In no instance shall the amount certified under subdivision (1) of subsection 5 of this section, when combined with the amount received from all other sources of reimbursement from the MO HealthNet program, exceed one hundred percent of actual costs, as determined under the Medicaid state plan for ground emergency medical transportation services; and

(3) The supplemental Medicaid reimbursement provided by this section shall be distributed exclusively to eligible providers under a payment methodology based on ground emergency medical transportation services provided to MO HealthNet participants by eligible providers on a per-transport basis or other federally permissible basis. The department of social services shall obtain approval from the Centers for Medicare and Medicaid Services for the payment methodology to be utilized and shall not make any payment under this section prior to obtaining that approval.

4. An eligible provider, as a condition of receiving supplemental reimbursement under this section, shall enter into and maintain an agreement with the department's designee for the purposes of implementing this section and reimbursing the department of social services for the costs of administering this section. The non-federal share of the supplemental reimbursement submitted to the Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid with funds from the governmental entities described in subdivision (3) of subsection 2 of this section and certified to the state as provided in subsection 5 of this section.

5. Participation in the program by an eligible provider described in this section is voluntary. If an applicable governmental entity elects to seek supplemental reimbursement under this section on behalf of an eligible provider owned or operated by the entity, as described in subdivision (3) of subsection 2 of this section, the governmental entity shall do the following:

(1) Certify in conformity with the requirements of 42 CFR 433.51 that the claimed expenditures for the ground emergency medical transportation services are eligible for federal financial participation;

(2) Provide evidence supporting the certification as specified by the department of social services;

(3) Submit data as specified by the department of social services to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation; and

(4) Keep, maintain, and have readily retrievable any records specified by the department of social services to fully disclose reimbursement amounts to which the eligible provider is entitled and any other records required by the Centers for Medicare and Medicaid Services.

6. The department of social services shall be authorized to seek any necessary federal approvals for the implementation of this section. The department may limit the program to those costs that are allowable expenditures under Title XIX of the Social Security Act, 42 U.S.C. Section 1396, et seq.

(1) The department of social services shall submit claims for federal financial participation for the expenditures for the services described in subsection 5 of this section that are allowable expenditures under federal law.

(2) The department of social services shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation shall include only those expenditures that are allowable under federal law.

208.1032. INTERGOVERNMENTAL TRANSFER PROGRAM — INCREASED REIMBURSEMENT FOR SERVICES, WHEN — PARTICIPATION REQUIREMENTS. — 1. The department of social services shall be authorized to design and implement in consultation and coordination with eligible providers as described in subsection 2 of this section an intergovernmental transfer program relating to ground emergency medical transport

services, including those services provided at the emergency medical responder, emergency medical technician (EMT), advanced EMT, EMT intermediate, or paramedic levels in the pre-stabilization and preparation for transport, in order to increase capitation payments for the purpose of increasing reimbursement to eligible providers.

2. A provider shall be eligible for increased reimbursement under this section only if the provider meets the following conditions in an applicable state fiscal year:

(1) Provides ground emergency medical transportation services to MO HealthNet participants;

(2) Is enrolled as a MO HealthNet provider for the period being claimed; and

(3) Is owned, operated, or contracted by the state or a political subdivision.

3. To the extent intergovernmental transfers are voluntarily made by and accepted from an eligible provider described in subsection 2 of this section or a governmental entity affiliated with an eligible provider, the department of social services shall make increased capitation payments to applicable MO HealthNet eligible providers for covered ground emergency medical transportation services.

(1) The increased capitation payments made under this section shall be in amounts at least actuarially equivalent to the supplemental fee-for-service payments and up to equivalent of commercial reimbursement rates available for eligible providers to the extent permissible under federal law.

(2) Except as provided in subsection 6 of this section, all funds associated with intergovernmental transfers made and accepted under this section shall be used to fund additional payments to eligible providers.

(3) MO HealthNet managed care plans and coordinated care organizations shall pay one hundred percent of any amount of increased capitation payments made under this section to eligible providers for providing and making available ground emergency medical transportation and pre-stabilization services pursuant to a contract or other arrangement with a MO HealthNet managed care plan or coordinated care organization.

4. The intergovernmental transfer program developed under this section shall be implemented on the date federal approval is obtained, and only to the extent intergovernmental transfers from the eligible provider, or the governmental entity with which it is affiliated, are provided for this purpose. The department of social services shall implement the intergovernmental transfer program and increased capitation payments under this section on a retroactive basis as permitted by federal law.

5. Participation in the intergovernmental transfers under this section is voluntary on the part of the transferring entities for purposes of all applicable federal laws.

6. As a condition of participation under this section, each eligible provider as described in subsection 2 of this section or the governmental entity affiliated with an eligible provider shall agree to reimburse the department of social services for any costs associated with implementing this section. Intergovernmental transfers described in this section are subject to an administration fee of up to twenty percent of the nonfederal share paid to the department of social services and shall be allowed to count as a cost of providing the services not to exceed one hundred twenty percent of the total amount.

7. As a condition of participation under this section, MO HealthNet managed care plans, coordinated care organizations, eligible providers as described in subsection 2 of this section, and governmental entities affiliated with eligible providers shall agree to comply with any requests for information or similar data requirements imposed by the department of social services for purposes of obtaining supporting documentation necessary to claim federal funds or to obtain federal approvals.

8. This section shall be implemented only if and to the extent federal financial participation is available and is not otherwise jeopardized, and any necessary federal approvals have been obtained.

9. To the extent that the director of the department of social services determines that the payments made under this section do not comply with federal Medicaid requirements,

the director retains the discretion to return or not accept an intergovernmental transfer, and may adjust payments under this section as necessary to comply with federal Medicaid requirements.

[208.985. LEGISLATIVE BUDGET OFFICE TO CONDUCT FORECAST, ITEMS TO BE INCLUDED. — 1. Pursuant to section 33.803, by January 1, 2008, and each January first thereafter, the legislative budget office shall annually conduct a rolling five-year MO HealthNet forecast. The forecast shall be issued to the general assembly, the governor, the joint committee on MO HealthNet, and the oversight committee established in section 208.955. The forecast shall include, but not be limited to, the following, with additional items as determined by the legislative budget office:

(1) The projected budget of the entire MO HealthNet program;

(2) The projected budgets of selected programs within MO HealthNet;

(3) Projected MO HealthNet enrollment growth, categorized by population and geographic area;

(4) Projected required reimbursement rates for MO HealthNet providers; and

(5) Projected financial need going forward.

2. In preparing the forecast required in subsection 1 of this section, where the MO HealthNet program overlaps more than one department or agency, the legislative budget office may provide for review and investigation of the program or service level on an interagency or interdepartmental basis in an effort to review all aspects of the program.**]**

Allowed to go into effect pursuant to Article III, Section 31 of the Missouri Constitution

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SB 613 [SCS SB 613]

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

Enacts new provisions of law relating to the workers' compensation insurance premiums of volunteer fire departments

AN ACT to repeal sections 287.957 and 287.975, RSMo, and to enact in lieu thereof three new sections relating to worker's compensation.

SECTION

A. Enacting clause.
287.245. Volunteer firefighters, grants for workers' compensation insurance premiums.
287.957. Experience rating plan, contents.
287.975. Pure premium rate, schedule of rates, filed with director, when — payroll differential, advisory organization to collect data, when, purpose — construction group, submission to advisory organization.

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

SECTION A. ENACTING CLAUSE. — Sections 287.957 and 287.975, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 287.245, 287.957, and 287.975, to read as follows:

287.245. VOLUNTEER FIREFIGHTERS, GRANTS FOR WORKERS' COMPENSATION INSURANCE PREMIUMS. — **1. As used in this section, the following terms shall mean:**

(1) "Association", volunteer fire protection associations as defined in section 320.300;

(2) "State fire marshal", the state fire marshal selected under the provisions of sections 320.200 to 320.270;

(3) "Volunteer firefighter", the same meaning as in section 287.243.

2. Any association may apply to the state fire marshal for a grant for the purpose of funding such association's costs related to workers' compensation insurance premiums for volunteer firefighters.

3. Subject to appropriations, the state fire marshal shall disburse grants to each applying volunteer fire protection association according to the following schedule:

(1) Associations which had zero to five volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for two thousand dollars in grant money;

(2) Associations which had six to ten volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand five hundred dollars in grant money;

(3) Associations which had eleven to fifteen volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand dollars in grant money;

(4) Associations which had sixteen to twenty volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for five hundred dollars in grant money.

4. Grant money disbursed under this section shall only be used for the purpose of paying for the workers' compensation insurance premiums of volunteer firefighters.

287.957. EXPERIENCE RATING PLAN, CONTENTS. — The experience rating plan shall contain reasonable eligibility standards, provide adequate incentives for loss prevention, and shall provide for sufficient premium differentials so as to encourage safety. The uniform experience rating plan shall be the exclusive means of providing prospective premium adjustment based upon measurement of the loss-producing characteristics of an individual insured. An insurer may submit a rating plan or plans providing for retrospective premium adjustments based upon an insured's past experience. Such system shall provide for retrospective adjustment of an experience modification and premiums paid pursuant to such experience modification where a prior reserved claim produced an experience modification that varied by greater than fifty percent from the experience modification that would have been established based on the settlement amount of that claim. The rating plan shall prohibit an adjustment to the experience modification of an employer if the total medical cost does not exceed **[**one thousand dollars**]** **twenty percent of the current split point of primary and excess losses under the uniform experience rating plan,** and the employer pays all of the total medical costs and there is no lost time from the employment, other than the first three days or less of disability under subsection 1 of section 287.160, and no claim is filed. An employer opting to utilize this provision maintains an obligation to report the injury under subsection 1 of section 287.380.

287.975. PURE PREMIUM RATE, SCHEDULE OF RATES, FILED WITH DIRECTOR, WHEN —PAYROLL DIFFERENTIAL, ADVISORY ORGANIZATION TO COLLECT DATA, WHEN, PURPOSE —CONSTRUCTION GROUP, SUBMISSION TO ADVISORY ORGANIZATION. — 1. The advisory organization shall file with the director every pure premium rate, every manual of rating rules, every rating schedule and every change or amendment, or modification of any of the foregoing, proposed for use in this state no more than thirty days after it is distributed to members, subscribers or others.

2. The advisory organization which makes a uniform classification system for use in setting rates in this state shall collect data for two years after January 1, 1994, on the payroll differential between employers within the construction group of code classifications, including, but not limited to, payroll costs of the employer and number of hours worked by all employees of the employer engaged in construction work. Such data shall be transferred to the department of insurance, financial institutions and professional registration in a form prescribed by the director of the department of insurance, financial institutions and professional registration, and the department shall compile the data and develop a formula to equalize premium rates for employers within the construction group of code classifications based on such payroll differential within three years after the data is submitted by the advisory organization.

3. The formula to equalize premium rates for employers within the construction group of code classifications established under subsection 2 of this section shall be the formula in effect on January 1, 1999. This subsection shall become effective on January 1, 2014.

4. For the purposes of calculating the premium credit under the Missouri contracting classification premium adjustment program, an employer within the construction group of code classifications may submit to the advisory organization the required payroll record information for the first, second, third, or fourth calendar quarter of the year prior to the workers' compensation policy beginning or renewal date, provided that the employer clearly indicates for which quarter the payroll information is being submitted.

Allowed to go into effect pursuant to Article III, Section 31 of the Missouri Constitution

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SB 620 [SCS SBs 620 & 582]

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

Modifies composition of the Career and Technical Education Advisory Council and requires said council to establish minimum requirement for a career and technical education certificate

AN ACT to repeal section 178.550, RSMo, and to enact in lieu thereof two new sections relating to career and technical education.

SECTION

A. Enacting clause.

170.029. Career and technical education (CTE) certificates, minimum requirements — curriculum — recognition of program — rulemaking authority.

178.550. Career and technical education student protection act — council established, members, terms, meetings, duties.

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

SECTION A. ENACTING CLAUSE. — Section 178.550, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 170.029 and 178.550, to read as follows:

170.029. CAREER AND TECHNICAL EDUCATION (CTE) CERTIFICATES, MINIMUM REQUIREMENTS — CURRICULUM — RECOGNITION OF PROGRAM — RULEMAKING AUTHORITY. — 1. The state board of education, in consultation with the career and technical education advisory council as established in section 178.550, shall establish minimum requirements for a career and technical education (CTE) certificate that a student can earn in addition to his or her high school graduation diploma. Students

entering high school in school year 2017-2018 and thereafter shall be eligible to earn a CTE certificate.

2. The state board of education shall establish CTE requirements intended to provide students with the necessary technical employability skills to be prepared for an entry-level career in a technical field or additional training in a technical field. The provisions of this section shall not be considered a means for tracking students in order to impel students to particular vocational, career, or college paths. The state board of education shall work with local school districts to ensure that tracking does not occur. For purposes of this section, "tracking" means separating pupils by academic ability into groups for all subjects or certain classes and curriculum.

3. Each local school district shall determine the curriculum, programs of study, and course offerings based on the needs and interests of the students in the district. As required by Missouri's state plan for career education and the Missouri school improvement program, the state board of education shall work in cooperation with individual school districts to stipulate the minimum number of CTE offerings. Each local school district shall strive to offer programs of study that are economically feasible for students in the district. In establishing CTE offerings, the district may rely on standards, technical coursework, and skills assessments developed for industry-recognized certificates or credentials.

4. No later than January 1, 2017, the department of elementary and secondary education shall develop a process for recognition of a school district's career and technical education program that offers a career and technical education certificate.

5. The department of elementary and secondary education 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, 2016, shall be invalid and void.

178.550. CAREER AND TECHNICAL EDUCATION STUDENT PROTECTION ACT — COUNCIL ESTABLISHED, MEMBERS, TERMS, MEETINGS, DUTIES. — 1. This section shall be known and may be cited as the "Career and Technical Education Student Protection Act". There is hereby established the "Career and Technical Education Advisory Council" within the department of elementary and secondary education.

2. The advisory council shall be composed of **[**eleven**]** **fifteen** members who shall be Missouri residents**[**, appointed by the governor with the advice and consent of the senate**]. The commissioner of education shall appoint the following members**:

(1) A director or administrator of a career and technical education center;

(2) An individual from the business community with a background in commerce;

(3) A representative from State Technical College of Missouri;

(4) Three current or retired career and technical education teachers who also serve or served as an advisor to any of the nationally recognized career and technical education student organizations of:

(a) DECA;

(b) Future Business Leaders of America (FBLA);

(c) FFA;

(d) Family, Career and Community Leaders of America (FCCLA);

(e) Health Occupations Students of America (HOSA);

(f) SkillsUSA; or

(g) Technology Student Association (TSA);

(5) A representative from a business organization, association of businesses, or a business coalition;

(6) A representative from a Missouri community college;

(7) A representative from Southeast Missouri State University or the University of Central Missouri;

(8) An individual participating in an apprenticeship recognized by the department of labor and industrial relations or approved by the United States Department of Labor's Office of Apprenticeship;

(9) A school administrator or school superintendent of a school that offers career and technical education.

3. Members shall serve a term of five years except for the initial appointments, which shall be for the following lengths:

(1) One member shall be appointed for a term of one year;

(2) Two members shall be appointed for a term of two years;

(3) Two members shall be appointed for a term of three years;

(4) Three members shall be appointed for a term of four years;

(5) Three members shall be appointed for a term of five years.

4. **Four members shall be from the general assembly. The president pro tempore of the senate shall appoint two members of the senate of whom not more than one shall be of the same party. The speaker of the house of representatives shall appoint two members of the house of representatives of whom not more than one shall be of the same party. The legislative members shall serve on the advisory council until such time as they resign, are no longer members of the general assembly, or are replaced by new appointments.**

5. The advisory council shall have three nonvoting ex officio members:

(1) A director of guidance and counseling services at the department of elementary and secondary education, or a similar position if such position ceases to exist;

(2) The director of the division of workforce development; and

(3) A member of the coordinating board for higher education, as selected by the coordinating board.

[5.**]** **6.** The assistant commissioner for the office of college and career readiness of the department of elementary and secondary education shall provide staff assistance to the advisory council.

[6.**]** **7.** The advisory council shall meet at least four times annually. The advisory council may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The advisory council shall elect from among its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the advisory council shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the advisory council.

[7.**]** **8.** Any business to come before the advisory council shall be available on the advisory council's internet website at least seven business days prior to the start of each meeting. All records of any decisions, votes, exhibits, or outcomes shall be available on the advisory council's internet website within forty-eight hours following the conclusion of every meeting. Any materials prepared for the members shall be delivered to the members at least five days before the meeting, and to the extent such materials are public records as defined in section 610.010 and are not permitted to be closed under section 610.021, shall be made available on the advisory council's internet website at least five business days in advance of the meeting.

[8.**]** **9.** The advisory council shall make an annual written report to the state board of education and the commissioner of education regarding the development, implementation, and administration of the state budget for career and technical education.

[9.**]** **10.** The advisory council shall annually submit written recommendations to the state board of education and the commissioner of education regarding the oversight and procedures for the handling of funds for student career and technical education organizations.

[10.**]** **11.** The advisory council shall:

(1) Develop a comprehensive statewide short- and long-range strategic plan for career and technical education;

(2) Identify service gaps and provide advice on methods to close such gaps as they relate to youth and adult employees, workforce development, and employers on training needs;

(3) Confer with public and private entities for the purpose of promoting and improving career and technical education;

(4) Identify legislative recommendations to improve career and technical education;

(5) Promote coordination of existing career and technical education programs;

(6) Adopt, alter, or repeal by its own bylaws, rules and regulations governing the manner in which its business may be transacted.

[11.**]** **12.** For purposes of this section, the department of elementary and secondary education shall provide such documentation and information as to allow the advisory council to be effective.

[12.**]** **13.** For purposes of this section, "advisory council" shall mean the career and technical education advisory council.

Approved June 13, 2016

SB 624 [SB 624]

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 crimes of stealing and fraudulent procurement of a credit or debit device

AN ACT to repeal section 570.010 as enacted by house bill no. 1888, ninety-first general assembly, second regular session, section 570.030 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 570.030 as enacted by senate bill no. 9, ninety-seventh general assembly, first regular session, and section 570.135 as enacted by senate bill no. 491, ninety-seventh general assembly, and to enact in lieu thereof three new sections relating to stealing, with penalty provisions.

SECTION

A. Enacting clause.
570.010. Until December 31, 2016 — Chapter definitions..
570.030. Beginning January 1, 2017 — Stealing — penalties.
570.030. Until December 31, 2016 — Stealing — penalties.
570.135. Beginning January 1, 2017 — Fraudulent procurement of a credit or debit card — penalty — limitation of liability.

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

SECTION A. ENACTING CLAUSE. — Section 570.010 as enacted by house bill no. 1888, ninety-first general assembly, second regular session, section 570.030 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 570.030 as enacted by senate bill no. 9, ninety-seventh general assembly, first regular session, and section 570.135 as enacted by senate bill no. 491, ninety-seventh general assembly, are repealed and three new sections enacted in lieu thereof, to be known as sections 570.010, 570.030, and 570.135, to read as follows:

570.010. UNTIL DECEMBER 31, 2016 — CHAPTER DEFINITIONS. — As used in this chapter:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

(3) "Coercion" means a threat, however communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(4) "Credit device" means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(5) "Dealer" means a person in the business of buying and selling goods;

(6) "Debit device" means a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

(7) "Deceit" means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

(8) "Deprive" means:

(a) To withhold property from the owner permanently; or

(b) To restore property only upon payment of reward or other compensation; or

(c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

(9) **"Financial institution" means a bank, trust company, savings and loan association, or credit union;**

(10) "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

[(10)**]** **(11)** "New and unused property" means tangible personal property that has never been used since its production or manufacture and is in its original unopened package or container if such property was packaged;

[(11)**]** **(12)** "Of another" property or services is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

[(12)**]** **(13)** "Property" means anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

[(13)**]** **(14)** "Receiving" means acquiring possession, control or title or lending on the security of the property;

[(14)**]** **(15)** "Services" includes transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

[(15)**]** **(16)** "Writing" includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

570.030. BEGINNING JANUARY 1, 2017 — STEALING — PENALTIES. — 1. A person commits the offense of stealing if he or she:

(1) Appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion;

(2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or

(3) For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. The offense of stealing is a class A felony if the property appropriated consists of any of the following containing any amount of anhydrous ammonia: a tank truck, tank trailer, rail tank car, bulk storage tank, field nurse, field tank or field applicator.

3. The offense of stealing is a class B felony if:

(1) The property appropriated or attempted to be appropriated consists of any amount of anhydrous ammonia or liquid nitrogen;

(2) The property consists of any animal considered livestock as the term livestock is defined in section 144.010, or any captive wildlife held under permit issued by the conservation commission, and the value of the animal or animals appropriated exceeds three thousand dollars and that person has previously been found guilty of appropriating any animal considered livestock or captive wildlife held under permit issued by the conservation commission. Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections;

(3) A person appropriates property consisting of a motor vehicle, watercraft, or aircraft, and that person has previously been found guilty of two stealing-related offenses committed on two separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense; **[**or**]**

(4) The property appropriated or attempted to be appropriated consists of any animal considered livestock as the term is defined in section 144.010 if the value of the livestock exceeds ten thousand dollars**; or**

(5) The property appropriated or attempted to be appropriated is owned by or in the custody of a financial institution and the property is taken or attempted to be taken physically from an individual person to deprive the owner or custodian of the property.

4. The offense of stealing is a class C felony if the value of the property or services appropriated is twenty-five thousand dollars or more.

5. The offense of stealing is a class D felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more;

(2) The offender physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft;

(b) Any will or unrecorded deed affecting real property;

(c) Any credit device, debit device or letter of credit;

(d) Any firearms;

(e) Any explosive weapon as defined in section 571.010;

(f) Any United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open;

(g) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri;

(h) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States;

(i) Any book of registration or list of voters required by chapter 115;

(j) Any animal considered livestock as that term is defined in section 144.010;

(k) Any live fish raised for commercial sale with a value of seventy-five dollars or more;

(l) Any captive wildlife held under permit issued by the conservation commission;

(m) Any controlled substance as defined by section 195.010;

(n) Ammonium nitrate;

(o) Any wire, electrical transformer, or metallic wire associated with transmitting telecommunications, video, internet, or voice over internet protocol service, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels; or

(p) Any material appropriated with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues.

6. The offense of stealing is a class E felony if:

(1) The property appropriated is an animal; or

(2) A person has previously been found guilty of three stealing-related offenses committed on three separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense.

7. The offense of stealing is a class D misdemeanor if the property is not of a type listed in subsection 2, 3, 5, or 6 of this section, the property appropriated has a value of less than one hundred fifty dollars, and the person has no previous findings of guilt for a stealing-related offense.

8. The offense of stealing is a class A misdemeanor if no other penalty is specified in this section.

9. If a violation of this section is subject to enhanced punishment based on prior findings of guilt, such findings of guilt shall be pleaded and proven in the same manner as required by section 558.021.

10. The appropriation of any property or services of a type listed in subsection 2, 3, 5, or 6 of this section or of a value of seven hundred fifty dollars or more may be considered a separate felony and may be charged in separate counts.

11. The value of property or services appropriated pursuant to one scheme or course of conduct, whether from the same or several owners and whether at the same or different times, constitutes a single criminal episode and may be aggregated in determining the grade of the offense, except as set forth in subsection 10 of this section.

570.030. UNTIL DECEMBER 31, 2016 — STEALING — PENALTIES. — 1. A person commits the crime of stealing if he or she appropriates property or services of another with the

purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) Any explosive weapon as defined in section 571.010; or

(f) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(g) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(h) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(i) Any book of registration or list of voters required by chapter 115; or

(j) Any animal considered livestock as that term is defined in section 144.010; or

(k) Live fish raised for commercial sale with a value of seventy-five dollars; or

(l) Captive wildlife held under permit issued by the conservation commission; or

(m) Any controlled substance as defined by section 195.010; or

(n) Anhydrous ammonia;

(o) Ammonium nitrate; or

(p) Any document of historical significance which has fair market value of five hundred dollars or more.

4. Notwithstanding any other provision of law, stealing of any animal considered livestock, as that term is defined in section 144.010, is a class B felony if the value of the livestock exceeds ten thousand dollars.

5. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class C felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class B felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

6. **If the actor appropriates or attempts to appropriate property that is owned by or in the custody of a financial institution and the property is taken or attempted to be taken physically from an individual person to deprive the owner or custodian of the property, the theft is a class B felony.**

7. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

[7.**]** **8.** Any person with a prior conviction of paragraph (j) or (l) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (j) or (l) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony. Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections.

[8.**]** **9.** Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

[9.**]** **10.** Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

570.135. BEGINNING JANUARY 1, 2017 — FRAUDULENT PROCUREMENT OF A CREDIT OR DEBIT CARD — PENALTY — LIMITATION OF LIABILITY. — 1. A person commits the offense of fraudulent procurement of a credit or debit device if he or she:

(1) Knowingly makes or causes to be made, directly or indirectly, a false statement regarding another person for the purpose of fraudulently procuring the issuance of a credit or debit device; **[**or**]**

(2) Knowingly obtains a means of identification of another person without the authorization of that person and uses that means of identification fraudulently to obtain, or attempt to obtain, credit, goods or services in the name of the other person without the consent of that person**; or**

(3) Knowingly possesses a fraudulently obtained credit or debit device.

2. The offense of fraudulent procurement of a credit or debit device is a class A misdemeanor.

3. Notwithstanding any other provision of this section, no corporation, proprietorship, partnership, limited liability company, limited liability partnership or other business entity shall be **criminally** liable under this section for accepting applications for credit or debit devices or for the use of a credit or debit device in any transaction, absent clear and convincing evidence that such business entity conspired with or was a part of the fraudulent procuring of the issuance of a credit or debit device.

Approved June 6, 2016

SB 625 [CCS HCS SB 625]

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 state highways and creates a process for the naming of additional highways and bridges

AN ACT to amend chapter 227, RSMo, by adding thereto five new sections relating to the designation of highways.

SECTION
A. Enacting clause.
227.432. Judge Vincent E. Baker Memorial Highway designated for a portion of I-470 in Jackson County.
227.443. Special Agent Tom Crowell Memorial Highway designated for a portion of I-49 in Newton County.
227.445. Deputy Sheriff Matthew S. Chism Memorial Highway designated for a portion of State Highway 32 in Cedar County.
227.446. Phyllis D. Shelley Memorial Highway designated for a portion of U.S. Highway 50 in Moniteau County.
227.528. Sgt. Peggy Vassallo Way designated for a portion of State Highway 367 in St. Louis County.

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

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto five new sections, to be known as sections 227.432, 227.443, 227.445, 227.446, and 227.528, to read as follows:

227.432. JUDGE VINCENT E. BAKER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-470 IN JACKSON COUNTY. — The portion of Interstate 470 at the interchange with Woods Chapel Road continuing to Lakewood Boulevard in Jackson County shall be designated as the "Judge Vincent E. Baker Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.443. SPECIAL AGENT TOM CROWELL MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-49 IN NEWTON COUNTY. — The portion of Interstate 49 from its intersection with State Highway 86 continuing north to Iris Road in Newton County shall be designated the "Special Agent Tom Crowell Memorial Highway". Costs for such designation shall be paid for by private donations.

227.445. DEPUTY SHERIFF MATTHEW S. CHISM MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY 32 IN CEDAR COUNTY. — The portion of State Highway 32 from Stockton Dam Road continuing west to State Highway 39/County Road 1401 within the city limits of Stockton in Cedar County shall be designated as the "Deputy Sheriff Matthew S. Chism Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with costs for such designation to be paid for by private donation.

227.446. PHYLLIS D. SHELLEY MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 50 IN MONITEAU COUNTY. — The portion of U.S. Highway 50 from County Line Road continuing west to Mockingbird Road in Moniteau County shall be designated as the "Phyllis D. Shelley Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with costs to be paid for by private donation.

227.528. SGT. PEGGY VASSALLO WAY DESIGNATED FOR A PORTION OF STATE HIGHWAY 367 IN ST. LOUIS COUNTY. — The portion of State Highway 367 from the southern city limit of Bellefontaine Neighbors north to the intersection of Interstate 270 in St. Louis County shall be designated "Sgt. Peggy Vassallo Way". The department of transportation shall erect and maintain appropriate signs designating such highway with the costs to be paid by private donations.

Approved July 8, 2016

SB 635 [CCS HCS SB 635]

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 health care

AN ACT to repeal sections 167.638, 170.310, 174.335, 190.142, 190.241, 192.737, 192.2490, 192.2495, 197.315, 324.001, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 338.200, 376.1235, 376.1237, and 536.031, RSMo, and to enact in lieu thereof forty-seven new sections relating to health care, with penalty provisions, an emergency clause for a certain section, and an effective date for certain sections.

SECTION

A. Enacting clause.
96.192. Investment of hospital funds, limitations.
167.638. Meningitis immunization, brochure, contents.
167.950. Dyslexia screening guidelines — screenings required, when — definitions — rulemaking authority.
170.310. Cardiopulmonary resuscitation instruction and training, grades nine through twelve, requirements — rulemaking authority.
174.335. Meningococcal disease, all on-campus students to be vaccinated — exemption, when — records to be maintained.
190.142. Emergency medical technician license — rules.
190.241. Trauma, STEMI, or stroke centers, designation by department — on-site reviews — grounds for suspension or revocation of designation — data submission and analysis — fees — administrative hearing commission to hear persons aggrieved by designation.
190.265. Helipads, hospitals not required to have fencing or barriers.
191.1075. Definitions.
191.1080. Council created, purpose, members, terms, duties — report — expiration date.
191.1085. Program established, purpose, website information — rulemaking authority.
192.737. Data analysis and needs assessment.
192.2490. Employee disqualification list, notification of placement, contents — challenge of allegation, procedure — hearing, procedure — appeal — removal of name from list — list provided to whom — prohibition of employment.
192.2495. Beginning January 1, 2017 — Criminal background checks of employees, required when — persons with criminal history not to be hired, when, penalty — failure to disclose, penalty — improper hirings, penalty — definitions — rules to waive hiring restrictions.
197.065. Life safety code standards — waiver, when — rulemaking authority.
197.315. Certificate of need granted, when — forfeiture, grounds — application for certificate, fee — certificate not required, when.
324.001. Division of professional registration established, duties — boards and commissions assigned to — reference to division in statutes — workforce data analysis, requirements.
334.1200. Purpose.
334.1203. Definitions.
334.1206. State participation in the compact.
334.1209. Compact privilege.
334.1212. Active duty military personnel or their spouses.
334.1215. Adverse actions.
334.1218. Establishment of the physical therapy compact commission.
334.1221. Data system.
334.1224. Rulemaking.
334.1227. Oversight, dispute resolution, and enforcement.
334.1230. Date of implementation of the interstate commission for physical therapy practice and associated rules, withdrawal, and amendment.
334.1233. Construction and severability.
335.360. Findings and declaration of purpose.
335.365. Definitions.
335.370. General provisions and jurisdiction.
335.375. Applications for licensure in a party state.
335.380. Additional authorities invested in party state licensing boards.
335.385. Coordinated licensure information system and exchange of information.
335.390. Establishment of the interstate commission of nurse licensure compact administrators.
335.395. Rulemaking.

335.400. Oversight, dispute resolution and enforcement.
335.405. Effective date, withdrawal and amendment.
335.410. Construction and severability.
335.415. Head of the nurse licensing board defined.
338.200. Pharmacist may dispense emergency prescription, when, requirements — rulemaking authority.
376.388. Maximum allowable costs — definitions — contract requirements — reimbursement — appeals process required.
376.1235. No co-payments or coinsurance for physical or occupational therapy services, when — actuarial analysis of cost, when.
376.1237. Refills for prescription eye drops, required, when — definitions — termination date.
536.031. Code to be published — to be revised monthly — incorporation by reference authorized, courts to take judicial notice — incorporation by reference of certain rules, how.
633.420. Dyslexia defined — task force created, members, duties, recommendations — expiration date.
335.300. Findings and declaration of purpose.
335.305. Definitions.
335.310. General provisions and jurisdiction.
335.315. Applications for licensure in a party state.
335.320. Adverse actions.
335.325. Additional authorities invested in party state nurse licensing boards.
335.330. Coordinated licensure information system.
335.335. Compact administration and interchange of information.
335.340. Immunity.
335.345. Entry into force, withdrawal and amendment.
335.350. Construction and severability.
335.355. Applicability of compact.
B. Emergency clause.
C. Contingent effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 167.638, 170.310, 174.335, 190.142, 190.241, 192.737, 192.2490, 192.2495, 197.315, 324.001, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 338.200, 376.1235, 376.1237, and 536.031, RSMo, are repealed and forty-seven new sections enacted in lieu thereof, to be known as sections 96.192, 167.638, 167.950, 170.310, 174.335, 190.142, 190.241, 190.265, 191.1075, 191.1080, 191.1085, 192.737, 192.2490, 192.2495, 197.065, 197.315, 324.001, 334.1200, 334.1203, 334.1206, 334.1209, 334.1212, 334.1215, 334.1218, 334.1221, 334.1224, 334.1227, 334.1230, 334.1233, 335.360, 335.365, 335.370, 335.375, 335.380, 335.385, 335.390, 335.395, 335.400, 335.405, 335.410, 335.415, 338.200, 376.388, 376.1235, 376.1237, 536.031, and 633.420, to read as follows:

96.192. INVESTMENT OF HOSPITAL FUNDS, LIMITATIONS. — 1. The board of trustees of any hospital authorized under subsection 2 of this section, and established and organized under the provisions of sections 96.150 to 96.229, may invest up to twenty-five percent of the hospital's funds not required for immediate disbursement in obligations or for the operation of the hospital in any United States investment grade fixed income funds or any diversified stock funds, or both.

2. The provisions of this section shall only apply if the hospital:

(1) Receives less than one percent of its annual revenues from municipal, county, or state taxes; and

(2) Receives less than one percent of its annual revenue from appropriated funds from the municipality in which such hospital is located.

167.638. MENINGITIS IMMUNIZATION, BROCHURE, CONTENTS. — The department of health and senior services shall develop an informational brochure relating to meningococcal disease that states that **[**an immunization**] immunizations** against meningococcal disease **[**is**] are** available. The department shall make the brochure available on its website and shall notify every public institution of higher education in this state of the availability of the brochure. Each public

institution of higher education shall provide a copy of the brochure to all students and if the student is under eighteen years of age, to the student's parent or guardian. Such information in the brochure shall include:

(1) The risk factors for and symptoms of meningococcal disease, how it may be diagnosed, and its possible consequences if untreated;

(2) How meningococcal disease is transmitted;

(3) The latest scientific information on meningococcal disease immunization and its effectiveness**, including information on all meningococcal vaccines receiving a Category A or B recommendation from the Advisory Committee on Immunization Practices**; **[**and**]**

(4) A statement that any questions or concerns regarding immunization against meningococcal disease may be answered by contacting the individuals's health care provider**; and**

(5) A recommendation that the current student or entering student receive meningococcal vaccines in accordance with current Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention guidelines.

167.950. DYSLEXIA SCREENING GUIDELINES — SCREENINGS REQUIRED, WHEN — DEFINITIONS — RULEMAKING AUTHORITY. — 1. (1) By December 31, 2017, the department of elementary and secondary education shall develop guidelines for the appropriate screening of students for dyslexia and related disorders and the necessary classroom support for students with dyslexia and related disorders. Such guidelines shall be consistent with the findings and recommendations of the task force created under section 633.420.

(2) In the 2018-19 school year and subsequent years, each public school, including each charter school, shall conduct dyslexia screenings for students in the appropriate year consistent with the guidelines developed by the department of elementary and secondary education.

(3) In the 2018-19 school year and subsequent years, the school board of each district and the governing board of each charter school shall provide reasonable classroom support consistent with the guidelines developed by the department of elementary and secondary education.

2. In the 2018-19 school year and subsequent years, the practicing teacher assistance programs established under section 168.400 shall include two hours of in-service training provided by each local school district for all practicing teachers in such district regarding dyslexia and related disorders. Each charter school shall also offer all of its teachers two hours of training on dyslexia and related disorders. Districts and charter schools may seek assistance from the department of elementary and secondary education in developing and providing such training. Completion of such training shall count as two contact hours of professional development under section 168.021.

3. For purposes of this section, the following terms mean:

(1) "Dyslexia", a disorder that is neurological in origin, characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language, often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, and of which secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge. Nothing in this definition shall require a student with dyslexia to obtain an individualized education program (IEP) unless the student has otherwise met the federal conditions necessary;

(2) "Dyslexia screening", a short test conducted by a teacher or school counselor to determine whether a student likely has dyslexia or a related disorder in which a positive result does not represent a medical diagnosis but indicates that the student could benefit from approved support;

(3) "Related disorders", disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability;

(4) "Support", low-cost and effective best practices, such as oral examinations and extended test-taking periods, used to support students who have dyslexia or any related disorder.

4. The state board of education shall promulgate rules and regulations for each public school to screen students for dyslexia and related disorders and to provide the necessary classroom support for students with dyslexia and related disorders. 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, 2016, shall be invalid and void.

5. Nothing in this section shall require the MO HealthNet program to expand the services that it provides.

170.310. CARDIOPULMONARY RESUSCITATION INSTRUCTION AND TRAINING, GRADES NINE THROUGH TWELVE, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. **For school year 2017-18 and each school year thereafter, upon graduation from high school, pupils in public schools and charter schools shall have received thirty minutes of cardiopulmonary resuscitation instruction and training in the proper performance of the Heimlich maneuver or other first aid for choking given any time during a pupil's four years of high school.**

2. Beginning in school year 2017-18, any public school or charter school serving grades nine through twelve **[**may**]** **shall** provide enrolled students instruction in cardiopulmonary resuscitation. Students with disabilities may participate to the extent appropriate as determined by the provisions of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. **[**Instruction may be embedded in any health education course**]** **Instruction shall be included in the district's existing health or physical education curriculum**. Instruction shall be based on a program established by the American Heart Association or the American Red Cross, or through a nationally recognized program based on the most current national evidence-based emergency cardiovascular care guidelines, and psychomotor skills development shall be incorporated into the instruction. For purposes of this section, "psychomotor skills" means the use of hands-on practicing and skills testing to support cognitive learning.

[2.**]** **3.** The teacher of the cardiopulmonary resuscitation course or unit shall not be required to be a certified trainer of cardiopulmonary resuscitation if the instruction is not designed to result in certification of students. Instruction that is designed to result in certification being earned shall be required to be taught by an authorized cardiopulmonary instructor. Schools may develop agreements with any local chapter of a voluntary organization of first responders to provide the required hands-on practice and skills testing.

[3.**]** **4.** The department of elementary and secondary education may promulgate rules 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, 2012, shall be invalid and void.

174.335. MENINGOCOCCAL DISEASE, ALL ON-CAMPUS STUDENTS TO BE VACCINATED — EXEMPTION, WHEN — RECORDS TO BE MAINTAINED. — 1. Beginning with the 2004-05 school year and for each school year thereafter, every public institution of higher education in this state shall require all students who reside in on-campus housing to have received the meningococcal vaccine **not more than five years prior to enrollment and in accordance with the latest recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention,** unless a signed statement of medical or religious exemption is on file with the institution's administration. A student shall be exempted from the immunization requirement of this section upon signed certification by a physician licensed under chapter 334 indicating that either the immunization would seriously endanger the student's health or life or the student has documentation of the disease or laboratory evidence of immunity to the disease. A student shall be exempted from the immunization requirement of this section if he or she objects in writing to the institution's administration that immunization violates his or her religious beliefs.

2. Each public university or college in this state shall maintain records on the meningococcal vaccination status of every student residing in on-campus housing at the university or college.

3. Nothing in this section shall be construed as requiring any institution of higher education to provide or pay for vaccinations against meningococcal disease.

4. For purposes of this section, the term "on-campus housing" shall include, but not be limited to, any fraternity or sorority residence, regardless of whether such residence is privately owned, on or near the campus of a public institution of higher education.

190.142. EMERGENCY MEDICAL TECHNICIAN LICENSE — RULES. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as it deems necessary to be made of the applicant for an emergency medical technician's license. The director may authorize investigations into criminal records in other states for any applicant.

2. The department shall issue a license to all levels of emergency medical technicians, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical technician including but not limited to:

(1) Age requirements;

(2) Education and training requirements based on respective national curricula of the United States Department of Transportation and any modification to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;

(3) Initial licensure testing requirements**. Initial EMT-P licensure testing shall be through the national registry of EMTs or examinations developed and administered by the department of health and senior services**;

(4) Continuing education and relicensure requirements; and

(5) Ability to speak, read and write the English language.

3. Application for all levels of emergency medical technician license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical technician meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. All levels of emergency medical technicians may perform only that patient care which is:

(1) Consistent with the training, education and experience of the particular emergency medical technician; and

(2) Ordered by a physician or set forth in protocols approved by the medical director.

5. No person shall hold themselves out as an emergency medical technician or provide the services of an emergency medical technician unless such person is licensed by the department.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

190.241. TRAUMA, STEMI, OR STROKE CENTERS, DESIGNATION BY DEPARTMENT — ON-SITE REVIEWS — GROUNDS FOR SUSPENSION OR REVOCATION OF DESIGNATION — DATA SUBMISSION AND ANALYSIS — FEES — ADMINISTRATIVE HEARING COMMISSION TO HEAR PERSONS AGGRIEVED BY DESIGNATION. — 1. The department shall designate a hospital as an adult, pediatric or adult and pediatric trauma center when a hospital, upon proper application submitted by the hospital and site review, has been found by the department to meet the applicable level of trauma center criteria for designation in accordance with rules adopted by the department as prescribed by section 190.185.

2. **Except as provided in subsection 4 of this section,** the department shall designate a hospital as a STEMI or stroke center when such hospital, upon proper application and site review, has been found by the department to meet the applicable level of STEMI or stroke center criteria for designation in accordance with rules adopted by the department as prescribed by section 190.185. In developing STEMI center and stroke center designation criteria, the department shall use, as it deems practicable, appropriate peer-reviewed or evidence-based research on such topics including, but not limited to, the most recent guidelines of the American College of Cardiology and American Heart Association for STEMI centers, or the Joint Commission's Primary Stroke Center Certification program criteria for stroke centers, or Primary and Comprehensive Stroke Center Recommendations as published by the American Stroke Association.

3. The department of health and senior services shall, not less than once every five years, conduct an on-site review of every trauma, STEMI, and stroke center through appropriate department personnel or a qualified contractor**, with the exception of stroke centers designated pursuant to subsection 4 of this section; however, this provision is not intended to limit the department's ability to conduct a complaint investigation pursuant to subdivision (3) of subsection 2 of section 197.080 of any trauma, STEMI, or stroke center**. On-site reviews shall be coordinated for the different types of centers to the extent practicable with hospital licensure inspections conducted under chapter 197. No person shall be a qualified contractor for purposes of this subsection who has a substantial conflict of interest in the operation of any trauma, STEMI, or stroke center under review. The department may deny, place on probation, suspend or revoke such designation in any case in which it has reasonable cause to believe that there has been a substantial failure to comply with the provisions of this chapter or any rules or regulations promulgated pursuant to this chapter. If the department of health and senior services has reasonable cause to believe that a hospital is not in compliance with such provisions or regulations, it may conduct additional announced or unannounced site reviews of the hospital to verify compliance. If a trauma, STEMI, or stroke center fails two consecutive on-site reviews because of substantial noncompliance with standards prescribed by sections 190.001 to 190.245 or rules adopted by the department pursuant to sections 190.001 to 190.245, its center designation shall be revoked.

4. **Instead of applying for stroke center designation pursuant to the provisions of subsection 2 of this section, a hospital may apply for stroke center designation pursuant to this subsection. Upon receipt of an application from a hospital on a form prescribed by the department, the department shall designate such hospital:**

(1) A level I stroke center if such hospital has been certified as a comprehensive stroke center by the Joint Commission or any other certifying organization designated by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines;

(2) A level II stroke center if such hospital has been certified as a primary stroke center by the Joint Commission or any other certifying organization designated by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines; or

(3) A level III stroke center if such hospital has been certified as an acute stroke-ready hospital by the Joint Commission or any other certifying organization designated by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines.

Except as provided by subsection 5 of this section, the department shall not require compliance with any additional standards for establishing or renewing stroke designations. The designation shall continue if such hospital remains certified. The department may remove a hospital's designation as a stroke center if the hospital requests removal of the designation or the department determines that the certificate recognizing the hospital as a stroke center has been suspended or revoked. Any decision made by the department to withdraw its designation of a stroke center pursuant to this subsection that is based on the revocation or suspension of a certification by a certifying organization shall not be subject to judicial review. The department shall report to the certifying organization any complaint it receives related to the stroke center certification of a stroke center designated pursuant to this subsection. The department shall also advise the complainant which organization certified the stroke center and provide the necessary contact information should the complainant wish to pursue a complaint with the certifying organization.

5. Any hospital receiving designation as a stroke center pursuant to subsection 4 of this section shall:

(1) Annually and within thirty days of any changes submit to the department proof of stroke certification and the names and contact information of the medical director and the program manager of the stroke center;

(2) Submit to the department a copy of the certifying organization's final stroke certification survey results within thirty days of receiving such results;

(3) Submit every four years an application on a form prescribed by the department for stroke center review and designation;

(4) Participate in the emergency medical services regional system of stroke care in its respective emergency medical services region as defined in rules promulgated by the department;

(5) Participate in local and regional emergency medical services systems by reviewing and sharing outcome data and providing training and clinical educational resources.

Any hospital receiving designation as a level III stroke center pursuant to subsection 4 of this section shall have a formal agreement with a level I or level II stroke center for physician consultative services for evaluation of stroke patients for thrombolytic therapy and the care of the patient post-thrombolytic therapy.

6. Hospitals designated as a STEMI or stroke center by the department, including those designated pursuant to subsection 4 of this section, shall submit data to meet the data submission requirements specified by rules promulgated by the department. Such submission of data may be done by the following methods:

(1) Entering hospital data directly into a state registry by direct data entry;

(2) Downloading hospital data from a nationally-recognized registry or data bank and importing the data files into a state registry; or

(3) Authorizing a nationally-recognized registry or data bank to disclose or grant access to the department facility-specific data held by the registry or data bank.

A hospital submitting data pursuant to subdivisions (2) or (3) of this subsection shall not be required to collect and submit any additional STEMI or stroke center data elements.

7. When collecting and analyzing data pursuant to the provisions of this section, the department shall comply with the following requirements:

(1) Names of any health care professionals, as defined in section 376.1350, shall not be subject to disclosure;

(2) The data shall not be disclosed in a manner that permits the identification of an individual patient or encounter;

(3) The data shall be used for the evaluation and improvement of hospital and emergency medical services' trauma, stroke, and STEMI care;

(4) The data collection system shall be capable of accepting file transfers of data entered into to any national recognized trauma, stroke, or STEMI registry or data bank to fulfill trauma, stroke, or STEMI certification reporting requirements;

(5) STEMI and stroke center data elements shall conform to nationally recognized performance measures, such as the American Heart Association's Get With the Guidelines, and include published detailed measure specifications, data coding instructions, and patient population inclusion and exclusion criteria to ensure data reliability and validity; and

(6) Generate from the trauma, stroke, and STEMI registries quarterly regional and state outcome data reports for trauma, stroke, and STEMI designated centers, the state advisory council on EMS, and regional EMS committees to review for performance improvement and patient safety.

8. The board of registration for the healing arts shall have sole authority to establish education requirements for physicians who practice in an emergency department of a facility designated as a trauma, STEMI, or stroke center by the department under this section. The department shall deem such education requirements promulgated by the board of registration for the healing arts sufficient to meet the standards for designations under this section.

9. The department of health and senior services may establish appropriate fees to offset the costs of trauma, STEMI, and stroke center reviews.

[5.**]** **10.** No hospital shall hold itself out to the public as a STEMI center, stroke center, adult trauma center, pediatric trauma center, or an adult and pediatric trauma center unless it is designated as such by the department of health and senior services.

[6.**]** **11.** Any person aggrieved by an action of the department of health and senior services affecting the trauma, STEMI, or stroke center designation pursuant to this chapter, including the revocation, the suspension, or the granting of, refusal to grant, or failure to renew a designation, may seek a determination thereon by the administrative hearing commission under chapter 621. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department.

190.265. HELIPADS, HOSPITALS NOT REQUIRED TO HAVE FENCING OR BARRIERS. — 1. In order to ensure that the skids of a helicopter do not get caught in a fence or other barriers and cause a potentially catastrophic outcome, any rules and regulations promulgated by the department of health and senior services pursuant to sections 190.185, 190.241, and 192.006, chapter 197, or any other provision of Missouri law shall not require hospitals to have a fence, or other barriers, around such hospital's helipad. Any regulation requiring fencing, or other barriers, or any interpretation of such regulation shall be null and void.

2. In addition to the prohibition in subsection 1 of this section, the department shall not promulgate any rules and regulations with respect to the operation or construction of a helipad located at a hospital.

3. Hospitals shall ensure that helipads are free of obstruction and safe for use by a helicopter while on the ground, during approach, and takeoff.

4. As used in this section, the term "hospital" shall have the same meaning as in section 197.020.

191.1075. DEFINITIONS. — As used in sections 191.1075 to 191.1085, the following terms shall mean:

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

(2) "Health care professional", a physician or other health care practitioner licensed, accredited, or certified by the state of Missouri to perform specified health services;

(3) "Hospital":

(a) A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of not less than twenty-four consecutive hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or

(b) A place devoted primarily to provide for not less than twenty-four consecutive hours in any week medical or nursing care for three or more unrelated individuals. "Hospital" does not include convalescent, nursing, shelter, or boarding homes as defined in chapter 198.

191.1080. COUNCIL CREATED, PURPOSE, MEMBERS, TERMS, DUTIES — REPORT — EXPIRATION DATE. — 1. There is hereby created within the department the "Missouri Palliative Care and Quality of Life Interdisciplinary Council", which shall be a palliative care consumer and professional information and education program to improve quality and delivery of patient-centered and family-focused care in this state.

2. On or before December 1, 2016, the following members shall be appointed to the council:

(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) Two board-certified hospice and palliative medicine physicians licensed in this state, appointed by the governor with the advice and consent of the senate;

(4) Two certified hospice and palliative nurses licensed in this state, appointed by the governor with the advice and consent of the senate;

(5) A certified hospice and palliative social worker, appointed by the governor with the advice and consent of the senate;

(6) A patient and family caregiver advocate representative, appointed by the governor with the advice and consent of the senate; and

(7) A spiritual professional with experience in palliative care and health care, appointed by the governor with the advice and consent of the senate.

3. Council members shall serve for a term of three years. The members of the council shall elect a chair and vice chair whose duties shall be established by the council. The department shall determine a time and place for regular meetings of the council, which shall meet at least biannually.

4. Members of the council shall serve without compensation, but shall, subject to appropriations, be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council.

5. The council shall consult with and advise the department on matters related to the establishment, maintenance, operation, and outcomes evaluation of palliative care initiatives in this state, including the palliative care consumer and professional information and education program established in section 191.1085.

6. The council shall submit an annual report to the general assembly, which includes an assessment of the availability of palliative care in this state for patients at early stages of serious disease and an analysis of barriers to greater access to palliative care.

7. The council authorized under this section shall automatically expire August 28, 2022.

191.1085. PROGRAM ESTABLISHED, PURPOSE, WEBSITE INFORMATION — RULEMAKING AUTHORITY. — 1. There is hereby established the "Palliative Care Consumer and Professional Information and Education Program" within the department.

2. The purpose of the program is to maximize the effectiveness of palliative care in this state by ensuring that comprehensive and accurate information and education about palliative care is available to the public, health care providers, and health care facilities.

3. The department shall publish on its website information and resources, including links to external resources, about palliative care for the public, health care providers, and health care facilities including, but not limited to:

(1) Continuing education opportunities for health care providers;

(2) Information about palliative care delivery in the home, primary, secondary, and tertiary environments; and

(3) Consumer educational materials and referral information for palliative care, including hospice.

4. Each hospital in this state is encouraged to have a palliative care presence on its intranet or internet website which provides links to one or more of the following organizations: the Institute of Medicine, the Center to Advance Palliative Care, the Supportive Care Coalition, the National Hospice and Palliative Care Organization, the American Academy of Hospice and Palliative Medicine, and the National Institute on Aging.

5. Each hospital in this state is encouraged to have patient education information about palliative care available for distribution to patients.

6. The department shall consult with the palliative care and quality of life interdisciplinary council established in section 191.1080 in implementing the section.

7. The department may promulgate rules to implement the provisions of sections 191.1075 to 191.1085. 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 191.1075 to 191.1085 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. Sections 191.1075 to 191.1085 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, 2016, shall be invalid and void.

8. Notwithstanding the provisions of section 23.253 to the contrary, the program authorized under this section shall automatically expire on August 28, 2022.

192.737. DATA ANALYSIS AND NEEDS ASSESSMENT. — [1.**]** The department of health and senior services shall **[**establish and maintain an information registry and reporting system for the purpose of data collection and needs assessment of brain and spinal cord injured persons in this state**] use patient abstract data under section 192.667, the department's trauma registry, motor vehicle crash and outcome data, and other publicly available data sources to provide information and create reports for the purpose of data analysis and needs assessment of traumatic brain and spinal cord injured persons**.

[2. Reports of traumatic brain and spinal cord injuries shall be filed with the department by a treating physician or his designee within seven days of identification. The attending physician of any patient with traumatic brain or spinal cord injury who is in the hospital shall provide in writing to the chief administrative officer the information required to be reported by this section. The chief administrative officer of the hospital shall then have the duty to submit the required reports.

3. Reporting forms and the manner in which the information is to be reported shall be provided by the department. Such reports shall include, but shall not be limited to, the following information: name, age, and residence of the injured person, the date and cause of the injury, the initial diagnosis and such other information as required by the department.**]**

192.2490. EMPLOYEE DISQUALIFICATION LIST, NOTIFICATION OF PLACEMENT, CONTENTS — CHALLENGE OF ALLEGATION, PROCEDURE — HEARING, PROCEDURE — APPEAL — REMOVAL OF NAME FROM LIST — LIST PROVIDED TO WHOM — PROHIBITION OF EMPLOYMENT. — 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his or her last known address that:

(1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) The person's name will be included in the employee disqualification list of the department;

(3) The consequences of being so listed including the length of time to be listed; and

(4) The person's rights and the procedure to challenge the allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director or the director's designee, based upon the criteria contained in subsection 9 of this section.

3. If the person so notified wishes to challenge the allegation, such person may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the matter for hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

4. If a person's name is included on the employee disqualification list without the department providing notice as required under subsection 1 of this section, such person may file a request with the department for removal of the name or for a hearing. Within thirty days after receipt of the request, the department shall either remove the name from the list or grant a hearing and set a date therefor.

5. Any hearing shall be conducted in the county of the person's residence by the director of the department or the director's designee. The provisions of chapter 536 for a contested case except those provisions or amendments which are in conflict with this section shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536, relevant to the allegations.

6. Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the person shall be listed on the employee disqualification list. The director of the department or the director's designee shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

7. A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under chapter 536. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

8. A decision by the director shall be inadmissible in any civil action brought against a facility or the in-home services provider agency and arising out of the facts and circumstances which brought about the employment disqualification proceeding, unless the civil action is brought against the facility or the in-home services provider agency by the department of health and senior services or one of its divisions.

9. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director of the department of health and senior services or the director's designee, based upon the following:

(1) Whether the person acted recklessly or knowingly, as defined in chapter 562;

(2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;

(3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

(4) Whether the person has previously been listed on the employee disqualification list;

(5) Any mitigating circumstances;

(6) Any aggravating circumstances; and

(7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation, organization, or association who:

(1) Is licensed as an operator under chapter 198;

(2) Provides in-home services under contract with the department of social services or its divisions;

(3) Employs **[**nurses and nursing assistants**]** **health care providers as defined in section 376.1350** for temporary or intermittent placement in health care facilities;

(4) Is approved by the department to issue certificates for nursing assistants training;

(5) Is an entity licensed under chapter 197;

(6) Is a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations with entities described in subdivision (1), (2), or (5) of this subsection are included in the employee disqualification list; or

(7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting Act that conducts employee background checks on behalf of entities listed in **[**subdivisions (1), (2), (5), or (6) of**]** this subsection. Such a consumer reporting agency shall conduct the employee disqualification list check only upon the initiative or request of an entity described in **[**subdivisions (1), (2), (5), or (6) of**]** this subsection when the entity is fulfilling its duties required under this section.

The information shall be disclosed only to the requesting entity. The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing. No person, corporation, organization, or association who is entitled to access the employee disqualification list may disclose the information to any person, corporation, organization, or association who is not entitled to access the list. Any person, corporation, organization, or association who is entitled to access the employee disqualification list who discloses the information to any person, corporation, organization, or association who is not entitled to access the list shall be guilty of an infraction.

12. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. Any person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section, or any person responsible for providing health care

service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. Any employer or vendor as defined in sections 197.250, 197.400, 198.006, 208.900, or 192.2400 required to deny employment to an applicant or to discharge an employee, provisional or otherwise, as a result of information obtained through any portion of the background screening and employment eligibility determination process under section 210.903, or subsequent, periodic screenings, shall not be liable in any action brought by the applicant or employee relating to discharge where the employer is required by law to terminate the employee, provisional or otherwise, and shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, if the employer terminated the employee because the employee:

(1) Has been found guilty, pled guilty or nolo contendere in this state or any other state of a crime as listed in subsection 6 of section 192.2495;

(2) Was placed on the employee disqualification list under this section after the date of hire;

(3) Was placed on the employee disqualification registry maintained by the department of mental health after the date of hire;

(4) Has a disqualifying finding under this section, section 192.2495, or is on any of the background check lists in the family care safety registry under sections 210.900 to 210.936; or

(5) Was denied a good cause waiver as provided for in subsection 10 of section 192.2495.

14. Any person who has been listed on the employee disqualification list may request that the director remove his or her name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.

192.2495. BEGINNING JANUARY 1, 2017 — CRIMINAL BACKGROUND CHECKS OF EMPLOYEES, REQUIRED WHEN — PERSONS WITH CRIMINAL HISTORY NOT TO BE HIRED, WHEN, PENALTY — FAILURE TO DISCLOSE, PENALTY — IMPROPER HIRINGS, PENALTY — DEFINITIONS — RULES TO WAIVE HIRING RESTRICTIONS. — 1. For the purposes of this section, the term "provider" means any person, corporation or association who:

(1) Is licensed as an operator pursuant to chapter 198;

(2) Provides in-home services under contract with the department of social services or its divisions;

(3) Employs **[**nurses or nursing assistants**]** **health care providers as defined in section 376.1350** for temporary or intermittent placement in health care facilities;

(4) Is an entity licensed pursuant to chapter 197;

(5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health; or

(6) Is a licensed adult day care provider.

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540.

3. Prior to allowing any person who has been hired as a full-time, part-time or temporary position to have contact with any patient or resident the provider shall, or in the case of temporary employees hired through or contracted for an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(1) Request a criminal background check as provided in section 43.540. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the provider shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The fingerprint cards and any required fees shall be sent to the highway patrol's central repository. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. The provisions relating to applicants for employment who have not resided in this state for five consecutive years shall apply only to persons who have no employment history with a licensed Missouri facility during that five-year period. Notwithstanding the provisions of section 610.120, all records related to any criminal history information discovered shall be accessible and available to the provider making the record request; and

(2) Make an inquiry to the department of health and senior services whether the person is listed on the employee disqualification list as provided in section 192.2490.

4. When the provider requests a criminal background check pursuant to section 43.540, the requesting entity may require that the applicant reimburse the provider for the cost of such record check. When a provider requests a nationwide criminal background check pursuant to subdivision (1) of subsection 3 of this section, the total cost to the provider of any background check required pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide criminal background check shall be subject to the availability of appropriations.

5. An applicant for a position to have contact with patients or residents of a provider shall:

(1) Sign a consent form as required by section 43.540 so the provider may request a criminal records review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; **[**and**]**

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section 192.2490**; and**

(4) Disclose if the applicant is listed on any of the background checks in the family care safety registry established under section 210.903. A provider not otherwise prohibited from employing an individual listed on such background checks may deny employment to an individual listed on any of the background checks in such registry.

6. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have contact with patients or residents and the person has been found guilty in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter 565, 566 or 569, or any violation of subsection 3 of section 198.070 or section 568.020.

7. Any in-home services provider agency or home health agency shall be guilty of a class A misdemeanor if such agency knowingly employs a person to provide in-home services or home health services to any in-home services client or home health patient and such person

either refuses to register with the family care safety registry or is listed on any of the background check lists in the family care safety registry pursuant to sections 210.900 to 210.937.

8. The highway patrol shall examine whether protocols can be developed to allow a provider to request a statewide fingerprint criminal records review check through local law enforcement agencies.

9. A provider may use a private investigatory agency rather than the highway patrol to do a criminal history records review check, and alternatively, the applicant pays the private investigatory agency such fees as the provider and such agency shall agree.

10. Except for the hiring restriction based on the department of health and senior services employee disqualification list established pursuant to section 192.2490, the department of health and senior services shall promulgate rules and regulations to waive the hiring restrictions pursuant to this section for good cause. For purposes of this section, "good cause" means the department has made a determination by examining the employee's prior work history and other relevant factors that such employee does not present a risk to the health or safety of residents.

197.065. LIFE SAFETY CODE STANDARDS — WAIVER, WHEN — RULEMAKING AUTHORITY. — 1. The department of health and senior services shall promulgate regulations for the construction and renovation of hospitals that include life safety code standards for hospitals that exclusively reflect the life safety code standards imposed by the federal Medicare program under Title XVIII of the Social Security Act and its conditions of participation in the Code of Federal Regulations.

2. The department shall not require a hospital to meet the standards contained in the Facility Guidelines Institute for the Design and Construction of Health Care Facilities but any hospital that complies with the 2010 or later version of such guidelines for the construction and renovation of hospitals shall not be required to comply with any regulation that is inconsistent or conflicts in any way with such guidelines.

3. The department may waive enforcement of the standards for licensed hospitals imposed by this section if the department determines that:

(1) Compliance with those specific standards would result in unreasonable hardship for the facility and if the health and safety of hospital patients would not be compromised by such waiver or waivers; or

(2) The hospital has used other standards that provide for equivalent design criteria.

4. Regulations promulgated by the department to establish and enforce hospital licensure regulations under this chapter that conflict with the standards established under subsections 1 and 3 of this section shall lapse on and after January 1, 2018.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

197.315. CERTIFICATE OF NEED GRANTED, WHEN — FORFEITURE, GROUNDS — APPLICATION FOR CERTIFICATE, FEE — CERTIFICATE NOT REQUIRED, WHEN. — 1. Any person who proposes to develop or offer a new institutional health service within the state must obtain a certificate of need from the committee prior to the time such services are offered.

2. Only those new institutional health services which are found by the committee to be needed shall be granted a certificate of need. Only those new institutional health services which are granted certificates of need shall be offered or developed within the state. No expenditures for new institutional health services in excess of the applicable expenditure minimum shall be made by any person unless a certificate of need has been granted.

3. After October 1, 1980, no state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed without obtaining a certificate of need.

4. If any person proposes to develop any new institutional health care service without a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the attorney general, and he shall apply for an injunction or other appropriate legal action in any court of this state against that person.

5. After October 1, 1980, no agency of state government may appropriate or grant funds to or make payment of any funds to any person or health care facility which has not first obtained every certificate of need required pursuant to sections 197.300 to 197.366.

6. A certificate of need shall be issued only for the premises and persons named in the application and is not transferable except by consent of the committee.

7. Project cost increases, due to changes in the project application as approved or due to project change orders, exceeding the initial estimate by more than ten percent shall not be incurred without consent of the committee.

8. Periodic reports to the committee shall be required of any applicant who has been granted a certificate of need until the project has been completed. The committee may order the forfeiture of the certificate of need upon failure of the applicant to file any such report.

9. A certificate of need shall be subject to forfeiture for failure to incur a capital expenditure on any approved project within six months after the date of the order. The applicant may request an extension from the committee of not more than six additional months based upon substantial expenditure made.

10. Each application for a certificate of need must be accompanied by an application fee. The time of filing commences with the receipt of the application and the application fee. The application fee is one thousand dollars, or one-tenth of one percent of the total cost of the proposed project, whichever is greater. All application fees shall be deposited in the state treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the Missouri health facilities review committee.

11. In determining whether a certificate of need should be granted, no consideration shall be given to the facilities or equipment of any other health care facility located more than a fifteen-mile radius from the applying facility.

12. When a nursing facility shifts from a skilled to an intermediate level of nursing care, it may return to the higher level of care if it meets the licensure requirements, without obtaining a certificate of need.

13. In no event shall a certificate of need be denied because the applicant refuses to provide abortion services or information.

14. A certificate of need shall not be required for the transfer of ownership of an existing and operational health facility in its entirety.

15. A certificate of need may be granted to a facility for an expansion, an addition of services, a new institutional service, or for a new hospital facility which provides for something less than that which was sought in the application.

16. The provisions of this section shall not apply to facilities operated by the state, and appropriation of funds to such facilities by the general assembly shall be deemed in compliance with this section, and such facilities shall be deemed to have received an appropriate certificate of need without payment of any fee or charge. **The provisions of this subsection shall not apply to hospitals operated by the state and licensed under chapter 197, except for department of mental health state-operated psychiatric hospitals.**

17. Notwithstanding other provisions of this section, a certificate of need may be issued after July 1, 1983, for an intermediate care facility operated exclusively for the intellectually disabled.

18. To assure the safe, appropriate, and cost-effective transfer of new medical technology throughout the state, a certificate of need shall not be required for the purchase and operation of**:**

(1) Research equipment that is to be used in a clinical trial that has received written approval from a duly constituted institutional review board of an accredited school of medicine or osteopathy located in Missouri to establish its safety and efficacy and does not increase the bed complement of the institution in which the equipment is to be located. After the clinical trial has been completed, a certificate of need must be obtained for continued use in such facility; or

(2) Equipment that is to be used by an academic health center operated by the state in furtherance of its research or teaching missions.

324.001. DIVISION OF PROFESSIONAL REGISTRATION ESTABLISHED, DUTIES — BOARDS AND COMMISSIONS ASSIGNED TO — REFERENCE TO DIVISION IN STATUTES — WORKFORCE DATA ANALYSIS, REQUIREMENTS. — 1. For the purposes of this section, the following terms mean:

(1) "Department", the department of insurance, financial institutions and professional registration;

(2) "Director", the director of the division of professional registration; and

(3) "Division", the division of professional registration.

2. There is hereby established a "Division of Professional Registration" assigned to the department of insurance, financial institutions and professional registration as a type III transfer, headed by a director appointed by the governor with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its divisions, agencies, and personnel.

3. The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. Each board or commission shall have the authority to collect and analyze information required to support workforce planning and policy development. Such information shall not be publicly disclosed so as to identify a specific health care provider, as defined in section 376.1350. Each board or commission shall issue the original license or certificate.

4. The division shall provide clerical and other staff services relating to the issuance and renewal of licenses for all the professional licensing and regulating boards and commissions assigned to the division. The division shall perform the financial management and clerical functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of licenses and certificates" means the ministerial function of preparing and delivering licenses or certificates, and obtaining material and information for the board or commission in connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

5. The director of the division shall maintain a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

6. For accounting purposes, the appropriation to the division and to the office of administration for the payment of rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subsection 5 of this section. The fund shall consist of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of accounting and budgeting established by the director of the division as provided in subsection 5 of this section. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue.

7. The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

8. All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

9. Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

10. A compelling governmental interest shall be deemed to exist for the purposes of section 536.025 for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the division of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue.

11. (1) The following boards and commissions are assigned by specific type transfers to the division of professional registration: Missouri state board of accountancy, chapter 326; board of cosmetology and barber examiners, chapters 328 and 329; Missouri board for architects,

professional engineers, professional land surveyors and landscape architects, chapter 327; Missouri state board of chiropractic examiners, chapter 331; state board of registration for the healing arts, chapter 334; Missouri dental board, chapter 332; state board of embalmers and funeral directors, chapter 333; state board of optometry, chapter 336; Missouri state board of nursing, chapter 335; board of pharmacy, chapter 338; state board of podiatric medicine, chapter 330; Missouri real estate appraisers commission, chapter 339; and Missouri veterinary medical board, chapter 340. The governor shall appoint members of these boards by and with the advice and consent of the senate.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration, and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of insurance, financial institutions and professional registration. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

12. All the powers, duties, and functions of the division of athletics, chapter 317, and others, are assigned by type I transfer to the division of professional registration.

13. Wherever the laws, rules, or regulations of this state make reference to the "division of professional registration of the department of economic development", such references shall be deemed to refer to the division of professional registration.

14. (1) The state board of nursing, board of pharmacy, Missouri dental board, state committee of psychologists, state board of chiropractic examiners, state board of optometry, Missouri board of occupational therapy, or state board of registration for the healing arts may individually or collectively enter into a contractual agreement with the

department of health and senior services, a public institution of higher education, or a nonprofit entity for the purpose of collecting and analyzing workforce data from its licensees, registrants, or permit holders for future workforce planning and to assess the accessibility and availability of qualified health care services and practitioners in Missouri. The boards shall work collaboratively with other state governmental entities to ensure coordination and avoid duplication of efforts.

(2) The boards may expend appropriated funds necessary for operational expenses of the program formed under this subsection. Each board is authorized to accept grants to fund the collection or analysis authorized in this subsection. Any such funds shall be deposited in the respective board's fund.

(3) Data collection shall be controlled and approved by the applicable state board conducting or requesting the collection. Notwithstanding the provisions of section 334.001, the boards may release identifying data to the contractor to facilitate data analysis of the health care workforce including, but not limited to, geographic, demographic, and practice or professional characteristics of licensees. The state board shall not request or be authorized to collect income or other financial earnings data.

(4) Data collected under this subsection shall be deemed the property of the state board requesting the data. Data shall be maintained by the state board in accordance with chapter 610, provided that any information deemed closed or confidential under subsection 8 of this section or any other provision of state law shall not be disclosed without consent of the applicable licensee or entity or as otherwise authorized by law. Data shall only be released in an aggregate form by geography, profession or professional specialization, or population characteristic in a manner that cannot be used to identify a specific individual or entity. Data suppression standards shall be addressed and established in the contractual agreement.

(5) Contractors shall maintain the security and confidentiality of data received or collected under this subsection and shall not use, disclose, or release any data without approval of the applicable state board. The contractual agreement between the applicable state board and contractor shall establish a data release and research review policy to include legal and institutional review board, or agency equivalent, approval.

(6) Each board may promulgate rules subject to the provisions of this subsection and chapter 536 to effectuate and implement the workforce data collection and analysis authorized by this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this 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, 2016, shall be invalid and void.

334.1200. PURPOSE.—PURPOSE

The purpose of this compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

2. Enhance the states' ability to protect the public's health and safety;

3. Encourage the cooperation of member states in regulating multistate physical therapy practice;

4. Support spouses of relocating military members;

5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and

6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

334.1203. DEFINITIONS.—DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions shall apply:

1. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

2. "Adverse Action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

3. "Alternative Program" means a nondisciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

4. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

5. "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

6. "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.

7. "Encumbered license" means a license that a physical therapy licensing board has limited in any way.

8. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

9. "Home state" means the member state that is the licensee's primary state of residence.

10. "Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

11. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

12. "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

13. "Member state" means a state that has enacted the compact.

14. "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

15. "Physical therapist" means an individual who is licensed by a state to practice physical therapy.

16. "Physical therapist assistant" means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.

17. "Physical therapy", "physical therapy practice", and "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist.

18. "Physical therapy compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

19. "Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

20. "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

21. "Rule" means a regulation, principle, or directive promulgated by the commission that has the force of law.

22. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.

334.1206. STATE PARTICIPATION IN THE COMPACT. — STATE PARTICIPATION IN THE COMPACT

A. To participate in the compact, a state must:

1. Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

2. Have a mechanism in place for receiving and investigating complaints about licensees;

3. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with section 334.1206.B.;

5. Comply with the rules of the commission;

6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

7. Have continuing competence requirements as a condition for license renewal.

B. Upon adoption of sections 334.1200 to 334.1233, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. Section 534 and 42 U.S.C. Section 14616.

C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

D. Member states may charge a fee for granting a compact privilege.

334.1209. COMPACT PRIVILEGE. — COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

1. Hold a license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with section 334.1209D, G and H;

4. Have not had any adverse action against any license or compact privilege within the previous 2 years;

5. Notify the commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

8. Report to the commission adverse action taken by any nonmember state within thirty days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of section 334.1209.A. to maintain the compact privilege in the remote state.

C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date of the adverse action.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of section 334.1209A to obtain a compact privilege in any remote state.

G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;

2. All fines have been paid; and

3. Two years have elapsed from the date of the adverse action.

H. Once the requirements of section 334.1209G have been met, the license must meet the requirements in section 334.1209A to obtain a compact privilege in a remote state.

334.1212. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES. — ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

A. Home of record;

B. Permanent change of station (PCS); or

C. State of current residence if it is different than the PCS state or home of record.

334.1215. ADVERSE ACTIONS. — ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.

B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

C. Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

E. A remote state shall have the authority to:

1. Take adverse actions as set forth in section 334.1209.D. against a licensee's compact privilege in the state;

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

F. Joint Investigations

1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

334.1218. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION. — ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION.

A. The compact member states hereby create and establish a joint public agency known as the physical therapy compact commission:

1. The commission is an instrumentality of the compact states.

2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one delegate selected by that member state's licensing board.

2. The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring in the commission.

5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The commission shall have the following powers and duties:

1. Establish the fiscal year of the commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

6. Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an executive board; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physical therapy licensure and practice.

D. The Executive Board

The executive board shall have the power to act on behalf of the commission according to the terms of this compact.

1. The executive board shall be comprised of nine members:

a. Seven voting members who are elected by the commission from the current membership of the commission;

b. One ex officio, nonvoting member from the recognized national physical therapy professional association; and

c. One ex officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

2. The ex officio members will be selected by their respective organizations.

3. The commission may remove any member of the executive board as provided in bylaws.

4. The executive board shall meet at least annually.

5. The executive board shall have the following duties and responsibilities:

a. Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

b. Ensure compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the commission;

e. Monitor compact compliance of member states and provide compliance reports to the commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 334.1224.

2. The commission or the executive board or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive board or other committees of the commission must discuss:

a. Noncompliance of a member state with its obligations under the compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

334.1221. DATA SYSTEM.—DATA SYSTEM

A. The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Nonconfidential information related to alternative program participation;

5. Any denial of application for licensure, and the reason(s) for such denial; and

6. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

C. Investigative information pertaining to a licensee in any member state will only be available to other party states.

D. The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

334.1224. RULEMAKING.—RULEMAKING

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

D. Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the website of the commission or other publicly accessible platform; and

2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least twenty-five members.

H. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

K. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

334.1227. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT. — OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

3. The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

334.1230. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT. — DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and

the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

E. This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

334.1233. CONSTRUCTION AND SEVERABILITY. — CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

335.360. FINDINGS AND DECLARATION OF PURPOSE. — 1. The party states find that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states; and

(6) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

2. The general purposes of this compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety;

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction;

(5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(6) Decrease redundancies in the consideration and issuance of nurse licenses; and

(7) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

335.365. DEFINITIONS.—As used in this compact, the following terms shall mean:

(1) "Adverse action", any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action;

(2) "Alternative program", a nondisciplinary monitoring program approved by a licensing board;

(3) "Coordinated licensure information system", an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards;

(4) "Current significant investigative information":

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety, regardless of whether the nurse has been notified and had an opportunity to respond;

(5) "Encumbrance", a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board;

(6) "Home state", the party state which is the nurse's primary state of residence;

(7) "Licensing board", a party state's regulatory body responsible for issuing nurse licenses;

(8) "Multistate license", a license to practice as a registered nurse, "RN", or a licensed practical or vocational nurse, "LPN" or "VN", issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege;

(9) "Multistate licensure privilege", a legal authorization associated with a multistate license permitting the practice of nursing as either an RN, LPN, or VN in a remote state;

(10) "Nurse", an RN, LPN, or VN, as those terms are defined by each party state's practice laws;

(11) "Party state", any state that has adopted this compact;

(12) "Remote state", a party state, other than the home state;

(13) "Single-state license", a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state;

(14) "State", a state, territory, or possession of the United States and the District of Columbia;

(15) "State practice laws", a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. State practice laws do not include requirements

necessary to obtain and retain a license, except for qualifications or requirements of the home state.

335.370. GENERAL PROVISIONS AND JURISDICTION. — 1. A multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a nurse to practice as a registered nurse, "RN", or as a licensed practical or vocational nurse, "LPN" or "VN", under a multistate licensure privilege, in each party state.

2. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

3. Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(1) Meets the home state's qualifications for licensure or renewal of licensure as well as all other applicable state laws;

(2) (a) Has graduated or is eligible to graduate from a licensing board-approved RN or LPN or VN prelicensure education program; or

(b) Has graduated from a foreign RN or LPN or VN prelicensure education program that has been approved by the authorized accrediting body in the applicable country and has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

(3) Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;

(4) Has successfully passed an NCLEX-RN or NCLEX-PN examination or recognized predecessor, as applicable;

(5) Is eligible for or holds an active, unencumbered license;

(6) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

(7) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(8) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(9) Is not currently enrolled in an alternative program;

(10) Is subject to self-disclosure requirements regarding current participation in an alternative program; and

(11) Has a valid United States Social Security number.

4. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

5. A nurse practicing in a party state shall comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing

is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege shall subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

6. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

7. Any nurse holding a home state multistate license on the effective date of this compact may retain and renew the multistate license issued by the nurse's then current home state, provided that:

(1) A nurse who changes primary state of residence after this compact's effective date shall meet all applicable requirements as provided in subsection 3 of this section to obtain a multistate license from a new home state;

(2) A nurse who fails to satisfy the multistate licensure requirements in subsection 3 of this section due to a disqualifying event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators, commission.

335.375. APPLICATIONS FOR LICENSURE IN A PARTY STATE. — 1. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

2. A nurse shall hold a multistate license, issued by the home state, in only one party state at a time.

3. If a nurse changes primary state of residence by moving between two party states, the nurse shall apply for licensure in the new home state, and the multistate license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the commission.

(1) The nurse may apply for licensure in advance of a change in primary state of residence.

(2) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

4. If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state shall convert to a single-state license, valid only in the former home state.

335.380. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS. — 1. In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(1) Take adverse action against a nurse's multistate licensure privilege to practice within that party state;

(a) Only the home state shall have the power to take adverse action against a nurse's license issued by the home state;

(b) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action;

(2) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state;

(3) Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions;

(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located;

(5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks, and use the results in making licensure decisions;

(6) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse; and

(7) Take adverse action based on the factual findings of the remote state; provided that, the licensing board follows its own procedures for taking such adverse action.

2. If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

3. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

335.385. COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE OF INFORMATION. — 1. All party states shall participate in a coordinated licensure information system of all licensed registered nurses, "RNs", and licensed practical or vocational nurses, "LPNs" or "VNs". This system shall include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

2. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

3. All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications with the reasons for such denials, and nurse participation in alternative

programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

4. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

5. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that shall not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

6. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

7. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

8. The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

(1) Identifying information;

(2) Licensure data;

(3) Information related to alternative program participation; and

(4) Other information that may facilitate the administration of this compact, as determined by commission rules.

9. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

335.390. ESTABLISHMENT OF THE INTERSTATE COMMISSION OF NURSE LICENSURE COMPACT ADMINISTRATORS. — 1. The party states hereby create and establish a joint public entity known as the "Interstate Commission of Nurse Licensure Compact Administrators".

(1) The commission is an instrumentality of the party states.

(2) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

2. (1) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(2) Each administrator shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 335.395.

(5) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(a) Noncompliance of a party state with its obligations under this compact;

(b) The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures;

(c) Current, threatened, or reasonably anticipated litigation;

(d) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

(e) Accusing any person of a crime or formally censuring any person;

(f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) Disclosure of investigatory records compiled for law enforcement purposes;

(i) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(j) Matters specifically exempted from disclosure by federal or state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to subdivision (5) of this subsection, the commission's legal counsel or designee shall certify that the meeting shall be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

3. The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact including, but not limited to:

(1) Establishing the fiscal year of the commission;

(2) Providing reasonable standards and procedures:

(a) For the establishment and meetings of other committees; and

(b) Governing any general or specific delegation of any authority or function of the commission;

(3) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

(4) Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;

(5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission; and

(6) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

4. The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission.

5. The commission shall maintain its financial records in accordance with the bylaws.

6. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

7. The commission shall have the following powers:

(1) To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states;

(2) To bring and prosecute legal proceedings or actions in the name of the commission; provided that, the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(3) To purchase and maintain insurance and bonds;

(4) To borrow, accept, or contract for services of personnel including, but not limited to, employees of a party state or nonprofit organizations;

(5) To cooperate with other organizations that administer state compacts related to the regulation of nursing including, but not limited to, sharing administrative or staff expenses, office space, or other resources;

(6) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(7) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that, at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed; provided that, at all times the commission shall avoid any appearance of impropriety;

(9) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

(10) To establish a budget and make expenditures;

(11) To borrow money;

(12) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives, and other such interested persons;

(13) To provide and receive information from, and to cooperate with, law enforcement agencies;

(14) To adopt and use an official seal; and

(15) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

8. (1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

(3) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the party states, except by and with the authority of such party state.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and

disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

9. (1) The administrators, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property, personal injury, or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided that, nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

(2) The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that, nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

(3) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

335.395. RULEMAKING. — 1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

2. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

3. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule shall be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission; and

(2) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

4. The notice of proposed rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

(2) The text of the proposed rule or amendment, and the reason for the proposed rule;

(3) A request for comments on the proposed rule from any interested person;

(4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

5. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

6. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

7. The commission shall publish the place, time, and date of the scheduled public hearing.

(1) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings shall be recorded, and a copy shall be made available upon request.

(2) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

8. If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

9. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

10. The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

11. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing; provided that, the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that shall be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare;

(2) Prevent a loss of commission or party state funds; or

(3) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

12. The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision shall be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision shall not take effect without the approval of the commission.

335.400. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT. — 1. (1) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(2) The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

2. (1) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(a) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission; and

(b) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state's membership in this compact shall be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact shall be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state, to the executive officer of the defaulting state's licensing board, and each of the party states.

(4) A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

3. (1) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and non-party states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(3) In the event the commission cannot resolve disputes among party states arising under this compact:

(a) The party states shall submit the issues in dispute to an arbitration panel, which shall be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(b) The decision of a majority of the arbitrators shall be final and binding.

4. (1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

335.405. EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT. — 1. This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six states or December 31, 2018. All party states to this compact that also were parties to the prior Nurse Licensure Compact superseded by this compact "prior compact" shall be deemed to have withdrawn from said prior compact within six months after the effective date of this compact.

2. Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

3. Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six months after enactment of the repealing statute.

4. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

5. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

6. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

7. Representatives of non-party states to this compact shall be invited to participate in the activities of the commission on a nonvoting basis prior to the adoption of this compact by all states.

335.410. CONSTRUCTION AND SEVERABILITY. — This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

335.415. HEAD OF THE NURSE LICENSING BOARD DEFINED. — 1. The term "head of the nurse licensing board" as referred to in section 335.390 of this compact shall mean the executive director of the Missouri state board of nursing.

2. This compact is designed to facilitate the regulation of nurses, and does not relieve employers from complying with statutorily imposed obligations.

3. This compact does not supersede existing state labor laws.

338.200. PHARMACIST MAY DISPENSE EMERGENCY PRESCRIPTION, WHEN, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. In the event a pharmacist is unable to obtain refill authorization from the prescriber due to death, incapacity, or when the pharmacist is unable to obtain refill authorization from the prescriber, a pharmacist may dispense an emergency supply of medication if:

(1) In the pharmacist's professional judgment, interruption of therapy might reasonably produce undesirable health consequences;

(2) The pharmacy previously dispensed or refilled a prescription from the applicable prescriber for the same patient and medication;

(3) The medication dispensed is not a controlled substance;

(4) The pharmacist informs the patient or the patient's agent either verbally, electronically, or in writing at the time of dispensing that authorization of a prescriber is required for future refills; and

(5) The pharmacist documents the emergency dispensing in the patient's prescription record, as provided by the board by rule.

2. (1) If the pharmacist is unable to obtain refill authorization from the prescriber, the amount dispensed shall be limited to the amount determined by the pharmacist within his or her

professional judgment as needed for the emergency period, provided the amount dispensed shall not exceed a seven-day supply.

(2) In the event of prescriber death or incapacity or inability of the prescriber to provide medical services, the amount dispensed shall not exceed a thirty-day supply.

3. Pharmacists or permit holders dispensing an emergency supply pursuant to this section shall promptly notify the prescriber or the prescriber's office of the emergency dispensing, as required by the board by rule.

4. An emergency supply may not be dispensed pursuant to this section if the pharmacist has knowledge that the prescriber has otherwise prohibited or restricted emergency dispensing for the applicable patient.

5. **The determination to dispense an emergency supply of medication under this section shall only be made by a pharmacist licensed by the board.**

6. The board 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, 2013, shall be invalid and void.

376.388. MAXIMUM ALLOWABLE COSTS — DEFINITIONS — CONTRACT REQUIREMENTS — REIMBURSEMENT — APPEALS PROCESS REQUIRED. — 1. As used in this section, unless the context requires otherwise, the following terms shall mean:

(1) "Contracted pharmacy" or "pharmacy", a pharmacy located in Missouri participating in the network of a pharmacy benefits manager through a direct or indirect contract;

(2) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services, except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy;

(3) "Maximum allowable cost", the per unit amount that a pharmacy benefits manager reimburses a pharmacist for a prescription drug, excluding a dispensing or professional fee;

(4) "Maximum allowable cost list" or "MAC list", a listing of drug products that meet the standard described in this section;

(5) "Pharmacy", as such term is defined in chapter 338;

(6) "Pharmacy benefits manager", an entity that contracts with pharmacies on behalf of health carriers or any health plan sponsored by the state or a political subdivision of the state.

2. Upon each contract execution or renewal between a pharmacy benefits manager and a pharmacy or between a pharmacy benefits manager and a pharmacy's contracting representative or agent, such as a pharmacy services administrative organization, a pharmacy benefits manager shall, with respect to such contract or renewal:

(1) Include in such contract or renewal the sources utilized to determine maximum allowable cost and update such pricing information at least every seven days; and

(2) Maintain a procedure to eliminate products from the maximum allowable cost list of drugs subject to such pricing or modify maximum allowable cost pricing at least

every seven days, if such drugs do not meet the standards and requirements of this section, in order to remain consistent with pricing changes in the marketplace.

3. A pharmacy benefits manager shall reimburse pharmacies for drugs subject to maximum allowable cost pricing that has been updated to reflect market pricing at least every seven days as set forth under subdivision (1) of subsection 2 of this section.

4. A pharmacy benefits manager shall not place a drug on a maximum allowable cost list unless there are at least two therapeutically equivalent multisource generic drugs, or at least one generic drug available from at least one manufacturer, generally available for purchase by network pharmacies from national or regional wholesalers.

5. All contracts between a pharmacy benefits manager and a contracted pharmacy or between a pharmacy benefits manager and a pharmacy's contracting representative or agent, such as a pharmacy services administrative organization, shall include a process to internally appeal, investigate, and resolve disputes regarding maximum allowable cost pricing. The process shall include the following:

(1) The right to appeal shall be limited to fourteen calendar days following the reimbursement of the initial claim; and

(2) A requirement that the pharmacy benefits manager shall respond to an appeal described in this subsection no later than fourteen calendar days after the date the appeal was received by such pharmacy benefits manager.

6. For appeals that are denied, the pharmacy benefits manager shall provide the reason for the denial and identify the national drug code of a drug product that may be purchased by contracted pharmacies at a price at or below the maximum allowable cost and, when applicable, may be substituted lawfully.

7. If the appeal is successful, the pharmacy benefits manager shall:

(1) Adjust the maximum allowable cost price that is the subject of the appeal effective on the day after the date the appeal is decided;

(2) Apply the adjusted maximum allowable cost price to all similarly situated pharmacies as determined by the pharmacy benefits manager; and

(3) Allow the pharmacy that succeeded in the appeal to reverse and rebill the pharmacy benefits claim giving rise to the appeal.

8. Appeals shall be upheld if:

(1) The pharmacy being reimbursed for the drug subject to the maximum allowable cost pricing in question was not reimbursed as required under subsection 3 of this section; or

(2) The drug subject to the maximum allowable cost pricing in question does not meet the requirements set forth under subsection 4 of this section.

376.1235. NO CO-PAYMENTS OR COINSURANCE FOR PHYSICAL OR OCCUPATIONAL THERAPY SERVICES, WHEN — ACTUARIAL ANALYSIS OF COST, WHEN. — 1. No health carrier or health benefit plan, as defined in section 376.1350, shall impose a co-payment or coinsurance percentage charged to the insured for services rendered for each date of service by a physical therapist licensed under chapter 334 **or an occupational therapist licensed under chapter 324**, for services that require a prescription, that is greater than the co-payment or coinsurance percentage charged to the insured for the services of a primary care physician licensed under chapter 334 for an office visit.

2. A health carrier or health benefit plan shall clearly state the availability of physical therapy **and occupational therapy** coverage under its plan and all related limitations, conditions, and exclusions.

3. Beginning September 1, **[**2013**]** **2016**, the oversight division of the joint committee on legislative research shall perform an actuarial analysis of the cost impact to health carriers, insureds with a health benefit plan, and other private and public payers if the provisions of this section **regarding occupational therapy coverage** were enacted. By December 31, **[**2013,**]** **2016,** the director of the oversight division of the joint committee on legislative research shall

submit a report of the actuarial findings prescribed by this section to the speaker, the president pro tem, and the chairpersons of both the house of representatives and senate standing committees having jurisdiction over health insurance matters. If the fiscal note cost estimation is less than the cost of an actuarial analysis, the actuarial analysis requirement shall be waived.

376.1237. REFILLS FOR PRESCRIPTION EYE DROPS, REQUIRED, WHEN — DEFINITIONS — TERMINATION DATE. — 1. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2014, and that provides coverage for prescription eye drops shall provide coverage for the refilling of an eye drop prescription prior to the last day of the prescribed dosage period without regard to a coverage restriction for early refill of prescription renewals as long as the prescribing health care provider authorizes such early refill, and the health carrier or the health benefit plan is notified.

2. For the purposes of this section, health carrier and health benefit plan shall have the same meaning as defined in section 376.1350.

3. The coverage required by this section shall not be subject to any greater deductible or co-payment than other similar health care services provided by the health benefit plan.

4. The provisions of this section shall not apply to 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 policies of six months' or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

5. The provisions of this section shall terminate on January 1, **[**2017**]** **2020**.

536.031. CODE TO BE PUBLISHED — TO BE REVISED MONTHLY — INCORPORATION BY REFERENCE AUTHORIZED, COURTS TO TAKE JUDICIAL NOTICE — INCORPORATION BY REFERENCE OF CERTAIN RULES, HOW. — 1. There is established a publication to be known as the "Code of State Regulations", which shall be published in a format and medium as prescribed and in writing upon request by the secretary of state as soon as practicable after ninety days following January 1, 1976, and may be republished from time to time thereafter as determined by the secretary of state.

2. The code of state regulations shall contain the full text of all rules of state agencies in force and effect upon the effective date of the first publication thereof, and effective September 1, 1990, it shall be revised no less frequently than monthly thereafter so as to include all rules of state agencies subsequently made, amended or rescinded. The code may also include citations, references, or annotations, prepared by the state agency adopting the rule or by the secretary of state, to any intraagency ruling, attorney general's opinion, determination, decisions, order, or other action of the administrative hearing commission, or any determination, decision, order, or other action of a court interpreting, applying, discussing, distinguishing, or otherwise affecting any rule published in the code.

3. The code of state regulations shall be published in looseleaf form in one or more volumes upon request and a format and medium as prescribed by the secretary of state with an appropriate index, and revisions in the text and index may be made by the secretary of state as necessary and provided in written format upon request.

4. An agency may incorporate by reference rules, regulations, standards, and guidelines of an agency of the United States or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date in order to specify how a copy of the material may be obtained, and shall state that the referenced rule, regulation, standard, or guideline does not include any later amendments or additions**; except that, hospital licensure regulations governing life safety code standards promulgated under this chapter and**

chapter 197 to implement section 197.065 may incorporate, by reference, later additions or amendments to such rules, regulations, standards, or guidelines as needed to consistently apply current standards of safety and practice. The agency adopting a rule, regulation, standard, or guideline under this section shall maintain a copy of the referenced rule, regulation, standard, or guideline at the headquarters of the agency and shall make it available to the public for inspection and copying at no more than the actual cost of reproduction. The secretary of state may omit from the code of state regulations such material incorporated by reference in any rule the publication of which would be unduly cumbersome or expensive.

5. The courts of this state shall take judicial notice, without proof, of the contents of the code of state regulations.

633.420. DYSLEXIA DEFINED — TASK FORCE CREATED, MEMBERS, DUTIES, RECOMMENDATIONS — EXPIRATION DATE. — 1. For the purposes of this section, the term "dyslexia" means a disorder that is neurological in origin, characterized by difficulties with accurate and fluent word recognition, and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language, often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, and of which secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge. Nothing in this section shall prohibit a district from assessing students for dyslexia and offering students specialized reading instruction if a determination is made that a student suffers from dyslexia. Unless required by federal law, nothing in this definition shall require a student with dyslexia to be automatically determined eligible as a student with a disability.

2. There is hereby created the "Legislative Task Force on Dyslexia". The joint committee on education shall provide technical and administrative support as required by the task force to fulfill its duties; any such support involving monetary expenses shall first be approved by the chairman of the joint committee on education. The task force shall meet at least quarterly and may hold meetings by telephone or video conference. The task force shall advise and make recommendations to the governor, joint committee on education, and relevant state agencies regarding matters concerning individuals with dyslexia, including education and other adult and adolescent services.

3. The task force shall be comprised of twenty members consisting of the following:

(1) Two members of the senate appointed by the president pro tempore of the senate, with one member appointed from the minority party and one member appointed from the majority party;

(2) Two members of the house of representatives appointed by the speaker of the house of representatives, with one member appointed from the minority party and one member appointed from the majority party;

(3) The commissioner of education, or his or her designee;

(4) One representative from an institution of higher education located in this state with specialized expertise in dyslexia and reading instruction;

(5) A representative from a state teachers association or the Missouri National Education Association;

(6) A representative from the International Dyslexia Association of Missouri;

(7) A representative from Decoding Dyslexia of Missouri;

(8) A representative from the Missouri Association of Elementary School Principals;

(9) A representative from the Missouri Council of Administrators of Special Education;

(10) A professional licensed in the state of Missouri with experience diagnosing dyslexia including, but not limited to, a licensed psychologist, school psychologist, or neuropsychologist;

(11) A speech-language pathologist with training and experience in early literacy development and effective research-based intervention techniques for dyslexia, including an Orton-Gillingham remediation program recommended by the Missouri Speech-Language Hearing Association;

(12) A certified academic language therapist recommended by the Academic Language Therapists Association who is a resident of this state;

(13) A representative from an independent private provider or nonprofit organization serving individuals with dyslexia;

(14) An assistive technology specialist with expertise in accessible print materials and assistive technology used by individuals with dyslexia recommended by the Missouri assistive technology council;

(15) One private citizen who has a child who has been diagnosed with dyslexia;

(16) One private citizen who has been diagnosed with dyslexia;

(17) A representative of the Missouri State Council of the International Reading Association; and

(18) A pediatrician with knowledge of dyslexia.

4. The members of the task force, other than the members from the general assembly and ex officio members, shall be appointed by the president pro tempore of the senate or the speaker of the house of representatives by September 1, 2016, by alternating appointments beginning with the president pro tempore of the senate. A chairperson shall be selected by the members of the task force. Any vacancy on the task force shall be filled in the same manner as the original appointment. Members shall serve on the task force without compensation.

5. The task force shall make recommendations for a statewide system for identification, intervention, and delivery of supports for students with dyslexia, including the development of resource materials and professional development activities. These recommendations shall be included in a report to the governor and joint committee on education and shall include findings and proposed legislation and shall be made available no longer than twelve months from the task force's first meeting.

6. The recommendations and resource materials developed by the task force shall:

(1) Identify valid and reliable screening and evaluation assessments and protocols that can be used and the appropriate personnel to administer such assessments in order to identify children with dyslexia or the characteristics of dyslexia as part of an ongoing reading progress monitoring system, multi-tiered system of supports, and special education eligibility determinations in schools;

(2) Recommend an evidence-based reading instruction, with consideration of the National Reading Panel Report and Orton-Gillingham methodology principles for use in all Missouri schools, and intervention system, including a list of effective dyslexia intervention programs, to address dyslexia or characteristics of dyslexia for use by schools in multi-tiered systems of support and for services as appropriate for special education eligible students;

(3) Develop and implement preservice and inservice professional development activities to address dyslexia identification and intervention, including utilization of accessible print materials and assistive technology, within degree programs such as education, reading, special education, speech-language pathology, and psychology;

(4) Review teacher certification and professional development requirements as they relate to the needs of students with dyslexia;

(5) Examine the barriers to accurate information on the prevalence of students with dyslexia across the state and recommend a process for accurate reporting of demographic data; and

(6) Study and evaluate current practices for diagnosing, treating, and educating children in this state and examine how current laws and regulations affect students with

dyslexia in order to present recommendations to the governor and joint committee on education.

7. The task force shall hire or contract for hire specialist services to support the work of the task force as necessary with appropriations made by the general assembly for that purpose or from other available funding.

8. The task force authorized under this section shall expire on August 31, 2018.

[335.300. FINDINGS AND DECLARATION OF PURPOSE. — 1. The party states find that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

2. The general purposes of this compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety;

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction;

(5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.**]**

[335.305. DEFINITIONS. — As used in this compact, the following terms shall mean:

(1) "Adverse action", a home or remote state action;

(2) "Alternative program", a voluntary, nondisciplinary monitoring program approved by a nurse licensing board;

(3) "Coordinated licensure information system", an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards;

(4) "Current significant investigative information":

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond;

(5) "Home state", the party state that is the nurse's primary state of residence;

(6) "Home state action", any administrative, civil, equitable, or criminal action permitted by the home state's laws that are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation, or any other action affecting a nurse's authorization to practice;

(7) "Licensing board", a party state's regulatory body responsible for issuing nurse licenses;

(8) "Multistate licensing privilege", current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation, or any other action that affects a nurse's authorization to practice;

(9) "Nurse", a registered nurse or licensed/vocational nurse, as those terms are defined by each state's practice laws;

(10) "Party state", any state that has adopted this compact;

(11) "Remote state", a party state, other than the home state:

(a) Where a patient is located at the time nursing care is provided; or

(b) In the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located;

(12) "Remote state action":

(a) Any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state; and

(b) Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof;

(13) "State", a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

(14) "State practice laws", those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. State practice laws does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.**]**

[335.310. GENERAL PROVISIONS AND JURISDICTION. — 1. A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

2. Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

3. Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

4. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

5. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state.

However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.**]**

[335.315. APPLICATIONS FOR LICENSURE IN A PARTY STATE. — 1. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

2. A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

3. A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

4. When a nurse changes primary state of residence by:

(1) Moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;

(2) Moving from a nonparty state to a party state, and obtains a license from the new home state, the individual state license issued by the nonparty state is not affected and will remain in full force if so provided by the laws of the nonparty state;

(3) Moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.**]**

[335.320. ADVERSE ACTIONS. — In addition to the general provisions described in article III of this compact, the following provisions apply:

(1) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports;

(2) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate actions, and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of

the coordinated licensure information system shall promptly notify the new home state of any such actions;

(3) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state;

(4) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state, in so doing, it shall apply its own state laws to determine appropriate action;

(5) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action;

(6) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.**]**

[335.325. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE LICENSING BOARDS.— Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

(1) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(2) Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and evidence are located;

(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;

(4) Promulgate uniform rules and regulations as provided for in subsection 3 of section 335.335.**]**

[335.330. COORDINATED LICENSURE INFORMATION SYSTEM. — 1. All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

2. Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials to the coordinated licensure information system.

3. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

4. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

5. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

6. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

7. The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.**]**

[335.335. COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION.— 1. The head of the nurse licensing board, or his/her designee, of each party state shall be the administrator of this compact for his/her state.

2. The compact administrator of each party shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

3. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under subsection 4 of section 335.325.**]**

[335.340. IMMUNITY. — No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.**]**

[335.345. ENTRY INTO FORCE, WITHDRAWAL AND AMENDMENT. — 1. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

2. No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

3. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

4. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.**]**

[335.350. CONSTRUCTION AND SEVERABILITY. CONSTRUCTION AND SEVERABILITY. — 1. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

2. In the event party states find a need for settling disputes arising under this compact:

(1) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote states involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute;

(2) The decision of a majority of the arbitrators shall be final and binding.**]**

[335.355. APPLICABILITY OF COMPACT. — 1. The term "head of the nurse licensing board" as referred to in article VIII of this compact shall mean the executive director of the Missouri state board of nursing.

2. A person who is extended the privilege to practice in this state pursuant to the nurse licensure compact is subject to discipline by the board, as set forth in this chapter, for violation of this chapter or the rules and regulations promulgated herein. A person extended the privilege to practice in this state pursuant to the nurse licensure compact shall be subject to adhere to all requirements of this chapter, as if such person were originally licensed in this state.

3. Sections 335.300 to 335.355 are applicable only to nurses whose home states are determined by the Missouri state board of nursing to have licensure requirements that are substantially equivalent or more stringent than those of Missouri.

4. This compact is designed to facilitate the regulation of nurses, and does not relieve employers from complying with statutorily imposed obligations.

5. This compact does not supercede existing state labor laws.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to preserve access to quality health care facilities for the citizens of Missouri, the repeal and reenactment of section 197.315 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 197.315 of section A of this act shall be in full force and effect upon its passage and approval.

SECTION C. CONTINGENT EFFECTIVE DATE. — The repeal of sections 335.300 to 335.355 and the enactment of sections 335.360 to 335.415 of this act shall become effective on December 31, 2018, or upon the enactment of sections 335.360 to 335.415 of this act by no less than twenty-six states and notification of such enactment to the revisor of statutes by the Interstate Commission of Nurse Licensure Compact Administrators, whichever occurs first.

Approved July 5, 2016

SB 638 [CCS SCS SB 638]

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 "Missouri Civics Education Initiative"

AN ACT to repeal sections 160.400, 160.403, 160.405, 160.410, 160.415, 160.417, 160.545, 161.216, 162.073, 162.261, 162.531, 162.541, 162.720, 163.031, 167.131, 167.241, 170.011, 170.310, 171.021, and 173.750, RSMo, and to enact in lieu thereof twenty-nine new sections relating to elementary and secondary education, with an effective date for a certain section.

SECTION

A. Enacting clause.
160.400. Charter schools, defined, St. Louis City and Kansas City school districts — sponsors — use of public school buildings — organization of charter schools — affiliations with college or university — criminal background check required.
160.403. Sponsoring a charter school, annual application and approval, contents of application, approval requirements.
160.405. Proposed charter, how submitted, requirements, submission to state board, powers and duties — approval, revocation, termination — definitions — lease of public school facilities, when — unlawful reprisal, defined, prohibited — performance report.
160.408. High-quality school, defined, replication in unaccredited districts.
160.410. Admission, preferences for admission permitted, when — information to be made publicly available — move out of school district, effect of.
160.415. Distribution of state school aid for charter schools — powers and duties of governing body of charter schools.
160.417. Financial stress, review of report information by charter school sponsor, when — criteria for financial stress.
160.545. A+ school program established — purpose — rules — variable fund match requirement — waiver of rules and regulations, requirement — reimbursement for higher education costs for students — evaluation — reimbursement for two-year schools.
161.217. Early learning quality assurance report — sunset provision.
161.1050. Initiative established, department duties — definitions.
161.1055. Pilot program established, selection of schools — fund created — definitions.
162.073. Definitions.
162.261. Seven-director district, board of, terms — vacancies — prohibition on hiring spouse of board member, when — constitutional prohibition on nepotism applies to districts.
162.531. Duties of the secretary — bond.
162.541. Bond of treasurer.
162.720. Gifted children, district may establish programs for — state board to approve.
163.031. State aid — amount, how determined — categorical add-on revenue, determination of amount — waiver of rules — deposits to teachers' fund and incidental fund, when — state adequacy target adjustment, when.
167.131. District not accredited shall pay tuition and transportation, when — amount charged.
167.241. Transportation of pupils to another district.
167.903. Personal plan of study for certain students, contents — waiver.
167.905. At-risk students to be identified, district policy required.
167.950. Dyslexia screening guidelines — screenings required, when — definitions — rulemaking authority.
170.011. Courses in the constitutions, American history and Missouri government, required, penalty — waiver, when — student awards — requirements not applicable to foreign exchange students.
170.310. Cardiopulmonary resuscitation instruction and training, grades nine through twelve, requirements — rulemaking authority.
170.345. Missouri civics education initiative — examination required — waiver, when.
170.350. Constitution Project of the Missouri Supreme Court, participation in, effect of.
171.021. Schools receiving public moneys to display United States flag — requirement to recite Pledge of Allegiance once per school day — students not required to recite.
173.750. Annual reporting of performance of graduates, furnishing of report — procedure — data included — review of policies.
633.420. Dyslexia defined — task force created, members, duties, recommendations — expiration date.
161.216. Quality rating system for early childhood education, prohibition on certain incentives and mandates to participate without statutory authority — taxpayer standing, when — definitions.
B. Delayed effective date

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

SECTION A. ENACTING CLAUSE. — Sections 160.400, 160.403, 160.405, 160.410, 160.415, 160.417, 160.545, 161.216, 162.073, 162.261, 162.531, 162.541, 162.720, 163.031, 167.131, 167.241, 170.011, 170.310, 171.021, and 173.750, RSMo, is repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 160.400, 160.403, 160.405, 160.408, 160.410, 160.415, 160.417, 160.545, 161.217, 161.1050, 161.1055, 162.073, 162.261, 162.531, 162.541, 162.720, 163.031, 167.131, 167.241, 167.903, 167.905, 167.950, 170.011, 170.310, 170.345, 170.350, 171.021, 173.750, and 633.420, to read as follows:

160.400. CHARTER SCHOOLS, DEFINED, ST. LOUIS CITY AND KANSAS CITY SCHOOL DISTRICTS — SPONSORS — USE OF PUBLIC SCHOOL BUILDINGS — ORGANIZATION OF CHARTER SCHOOLS — AFFILIATIONS WITH COLLEGE OR UNIVERSITY — CRIMINAL BACKGROUND CHECK REQUIRED. — 1. A charter school is an independent public school.

2. Except as further provided in subsection 4 of this section, charter schools may be operated only:

(1) In a metropolitan school district;

(2) In an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants;

(3) In a school district that has been **[**declared**]** **classified as** unaccredited **by the state board of education**;

(4) In a school district that has been classified as provisionally accredited by the state board of education and has received scores on its annual performance report consistent with a classification of provisionally accredited or unaccredited for three consecutive school years beginning with the 2012-13 accreditation year under the following conditions:

(a) The eligibility for charter schools of any school district whose provisional accreditation is based in whole or in part on financial stress as defined in sections 161.520 to 161.529, or on financial hardship as defined by rule of the state board of education, shall be decided by a vote of the state board of education during the third consecutive school year after the designation of provisional accreditation; and

(b) The sponsor is limited to the local school board or a sponsor who has met the standards of accountability and performance as determined by the department based on sections 160.400 to 160.425 and section 167.349 and properly promulgated rules of the department; or

(5) In a school district that has been accredited without provisions, sponsored only by the local school board; provided that no board with a current year enrollment of one thousand five hundred fifty students or greater shall permit more than thirty-five percent of its student enrollment to enroll in charter schools sponsored by the local board under the authority of this subdivision, except that this restriction shall not apply to any school district that subsequently becomes eligible under subdivision (3) or (4) of this subsection or to any district accredited without provisions that sponsors charter schools prior to having a current year student enrollment of one thousand five hundred fifty students or greater.

3. Except as further provided in subsection 4 of this section, the following entities are eligible to sponsor charter schools:

(1) The school board of the district in any district which is sponsoring a charter school as of August 27, 2012, as permitted under subdivision (1) or (2) of subsection 2 of this section, the special administrative board of a metropolitan school district during any time in which powers granted to the district's board of education are vested in a special administrative board, or if the state board of education appoints a special administrative board to retain the authority granted to the board of education of an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants, the special administrative board of such school district;

(2) A public four-year college or university with an approved teacher education program that meets regional or national standards of accreditation;

(3) A community college, the service area of which encompasses some portion of the district;

(4) Any private four-year college or university with an enrollment of at least one thousand students, with its primary campus in Missouri, and with an approved teacher preparation program;

(5) Any two-year private vocational or technical school designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended, **[**which is a member of the North Central Association**]** and accredited by the Higher Learning Commission, with its primary campus in Missouri; **[**or**]**

(6) The Missouri charter public school commission created in section 160.425.

4. Changes in a school district's accreditation status that affect charter schools shall be addressed as follows, except for the districts described in subdivisions (1) and (2) of subsection 2 of this section:

(1) As a district transitions from unaccredited to provisionally accredited, the district shall continue to fall under the requirements for an unaccredited district until it achieves three consecutive full school years of provisional accreditation;

(2) As a district transitions from provisionally accredited to full accreditation, the district shall continue to fall under the requirements for a provisionally accredited district until it achieves three consecutive full school years of full accreditation;

(3) In any school district classified as unaccredited or provisionally accredited where a charter school is operating and is sponsored by an entity other than the local school board, when the school district becomes classified as accredited without provisions, a charter school may continue to be sponsored by the entity sponsoring it prior to the classification of accredited without provisions and shall not be limited to the local school board as a sponsor.

A charter school operating in a school district identified in subdivision (1) or (2) of subsection 2 of this section may be sponsored by any of the entities identified in subsection 3 of this section, irrespective of the accreditation classification of the district in which it is located. A charter school in a district described in this subsection whose charter provides for the addition of grade levels in subsequent years may continue to add levels until the planned expansion is complete to the extent of grade levels in comparable schools of the district in which the charter school is operated.

5. The mayor of a city not within a county may request a sponsor under subdivision (2), (3), (4), (5), or (6) of subsection 3 of this section to consider sponsoring a "workplace charter school", which is defined for purposes of sections 160.400 to 160.425 as a charter school with the ability to target prospective students whose parent or parents are employed in a business district, as defined in the charter, which is located in the city.

6. No sponsor shall receive from an applicant for a charter school any fee of any type for the consideration of a charter, nor may a sponsor condition its consideration of a charter on the promise of future payment of any kind.

7. The charter school shall be organized as a Missouri nonprofit corporation incorporated pursuant to chapter 355. The charter provided for herein shall constitute a contract between the sponsor and the charter school.

8. As a nonprofit corporation incorporated pursuant to chapter 355, the charter school shall select the method for election of officers pursuant to section 355.326 based on the class of corporation selected. Meetings of the governing board of the charter school shall be subject to the provisions of sections 610.010 to 610.030.

9. A sponsor of a charter school, its agents and employees are not liable for any acts or omissions of a charter school that it sponsors, including acts or omissions relating to the charter submitted by the charter school, the operation of the charter school and the performance of the charter school.

10. A charter school may affiliate with a four-year college or university, including a private college or university, or a community college as otherwise specified in subsection 3 of this

section when its charter is granted by a sponsor other than such college, university or community college. Affiliation status recognizes a relationship between the charter school and the college or university for purposes of teacher training and staff development, curriculum and assessment development, use of physical facilities owned by or rented on behalf of the college or university, and other similar purposes. A university, college or community college may not charge or accept a fee for affiliation status.

11. The expenses associated with sponsorship of charter schools shall be defrayed by the department of elementary and secondary education retaining one and five-tenths percent of the amount of state and local funding allocated to the charter school under section 160.415, not to exceed one hundred twenty-five thousand dollars, adjusted for inflation. The department of elementary and secondary education shall remit the retained funds for each charter school to the school's sponsor, provided the sponsor remains in good standing by fulfilling its sponsorship obligations under sections 160.400 to 160.425 and 167.349 with regard to each charter school it sponsors, including appropriate demonstration of the following:

(1) Expends no less than ninety percent of its charter school sponsorship funds in support of its charter school sponsorship program, or as a direct investment in the sponsored schools;

(2) Maintains a comprehensive application process that follows fair procedures and rigorous criteria and grants charters only to those developers who demonstrate strong capacity for establishing and operating a quality charter school;

(3) Negotiates contracts with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences **based on the annual performance report**, and other material terms;

(4) Conducts contract oversight that evaluates performance, monitors compliance, informs intervention and renewal decisions, and ensures autonomy provided under applicable law; and

(5) Designs and implements a transparent and rigorous process that uses comprehensive data to make merit-based renewal decisions.

12. Sponsors receiving funds under subsection 11 of this section shall be required to submit annual reports to the joint committee on education demonstrating they are in compliance with subsection 17 of this section.

13. No university, college or community college shall grant a charter to a nonprofit corporation if an employee of the university, college or community college is a member of the corporation's board of directors.

14. No sponsor shall grant a charter under sections 160.400 to 160.425 and 167.349 without ensuring that a criminal background check and family care safety registry check are conducted for all members of the governing board of the charter schools or the incorporators of the charter school if initial directors are not named in the articles of incorporation, nor shall a sponsor renew a charter without ensuring a criminal background check and family care **safety** registry check are conducted for each member of the governing board of the charter school.

15. No member of the governing board of a charter school shall hold any office or employment from the board or the charter school while serving as a member, nor shall the member have any substantial interest, as defined in section 105.450, in any entity employed by or contracting with the board. No board member shall be an employee of a company that provides substantial services to the charter school. All members of the governing board of the charter school shall be considered decision-making public servants as defined in section 105.450 for the purposes of the financial disclosure requirements contained in sections 105.483, 105.485, 105.487, and 105.489.

16. A sponsor shall develop the policies and procedures for:

(1) The review of a charter school proposal including an application that provides sufficient information for rigorous evaluation of the proposed charter and provides clear documentation that the education program and academic program are aligned with the state standards and grade-level expectations, and provides clear documentation of effective governance and management structures, and a sustainable operational plan;

(2) The granting of a charter;

(3) The performance **[**framework**]** **contract** that the sponsor will use to evaluate the performance of charter schools**. Charter schools shall meet current state academic performance standards as well as other standards agreed upon by the sponsor and the charter school in the performance contract**;

(4) The sponsor's intervention, renewal, and revocation policies, including the conditions under which the charter sponsor may intervene in the operation of the charter school, along with actions and consequences that may ensue, and the conditions for renewal of the charter at the end of the term, consistent with subsections 8 and 9 of section 160.405;

(5) Additional criteria that the sponsor will use for ongoing oversight of the charter; and

(6) Procedures to be implemented if a charter school should close, consistent with the provisions of subdivision (15) of subsection 1 of section 160.405.

The department shall provide guidance to sponsors in developing such policies and procedures.

17. (1) A sponsor shall provide timely submission to the state board of education of all data necessary to demonstrate that the sponsor is in material compliance with all requirements of sections 160.400 to 160.425 and section 167.349. The state board of education shall ensure each sponsor is in compliance with all requirements under sections 160.400 to 160.425 and 167.349 for each charter school sponsored by any sponsor. The state board shall notify each sponsor of the standards for sponsorship of charter schools, delineating both what is mandated by statute and what best practices dictate. The state board shall evaluate sponsors to determine compliance with these standards every three years. The evaluation shall include a sponsor's policies and procedures in the areas of charter application approval; required charter agreement terms and content; sponsor performance evaluation and compliance monitoring; and charter renewal, intervention, and revocation decisions. Nothing shall preclude the department from undertaking an evaluation at any time for cause.

(2) If the department determines that a sponsor is in material noncompliance with its sponsorship duties, the sponsor shall be notified and given reasonable time for remediation. If remediation does not address the compliance issues identified by the department, the commissioner of education shall conduct a public hearing and thereafter provide notice to the charter sponsor of corrective action that will be recommended to the state board of education. Corrective action by the department may include withholding the sponsor's funding and suspending the sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional school until the sponsor is reauthorized by the state board of education under section 160.403.

(3) The charter sponsor may, within thirty days of receipt of the notice of the commissioner's recommendation, provide a written statement and other documentation to show cause as to why that action should not be taken. Final determination of corrective action shall be determined by the state board of education based upon a review of the documentation submitted to the department and the charter sponsor.

(4) If the state board removes the authority to sponsor a currently operating charter school under any provision of law, the Missouri charter public school commission shall become the sponsor of the school.

18. If a sponsor notifies a charter school of closure under subsection 8 of section 160.405, the department of elementary and secondary education shall exercise its financial withholding authority under subsection 12 of section 160.415 to assure all obligations of the charter school shall be met. The state, charter sponsor, or resident district shall not be liable for any outstanding liability or obligations of the charter school.

160.403. SPONSORING A CHARTER SCHOOL, ANNUAL APPLICATION AND APPROVAL, CONTENTS OF APPLICATION, APPROVAL REQUIREMENTS. — 1. The department of elementary and secondary education shall establish an annual application and approval process for all entities eligible to sponsor charters as set forth in section 160.400 which are not sponsoring a charter

school as of August 28, 2012**, except that the Missouri charter public school commission shall not be required to undergo the application and approval process**. No later than November 1, 2012, the department shall make available information and guidelines for all eligible sponsors concerning the opportunity to apply for sponsoring authority under this section.

2. The application process for sponsorship shall require each interested eligible sponsor**, except for the Missouri charter public school commission,** to submit an application by February first that includes the following:

(1) Written notification of intent to serve as a charter school sponsor in accordance with sections 160.400 to 160.425 and section 167.349;

(2) Evidence of the applicant sponsor's budget and personnel capacity;

(3) An outline of the request for proposal that the applicant sponsor would, if approved as a charter sponsor, issue to solicit charter school applicants consistent with sections 160.400 to 160.425 **and section 167.349**;

(4) The performance **[**framework**]** **contract** that the applicant sponsor would, if approved as a charter sponsor, use to **[**guide the establishment of a charter contract and for ongoing oversight and a description of how it would**]** evaluate the charter schools it sponsors; and

(5) The applicant sponsor's renewal, revocation, and nonrenewal processes consistent with section 160.405.

3. By April first of each year, the department shall decide whether to grant or deny a sponsoring authority to a sponsor applicant. This decision shall be made based on the applicant **[**charter's**]** **sponsor's** compliance with sections 160.400 to 160.425 **and section 167.349** and properly promulgated rules of the department.

4. Within thirty days of the department's decision, the department shall execute a renewable sponsoring contract with each entity it has approved as a sponsor. The term of each authorizing contract shall be six years and renewable. **[**No eligible sponsor which is not currently sponsoring a charter school as of August 28, 2012, shall commence charter sponsorship without approval from the state board of education and a sponsor contract with the state board of education in effect.**]**

160.405. PROPOSED CHARTER, HOW SUBMITTED, REQUIREMENTS, SUBMISSION TO STATE BOARD, POWERS AND DUTIES — APPROVAL, REVOCATION, TERMINATION — DEFINITIONS — LEASE OF PUBLIC SCHOOL FACILITIES, WHEN — UNLAWFUL REPRISAL, DEFINED, PROHIBITED — PERFORMANCE REPORT. — 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a school board, the applicant shall give a copy of its application to the school board of the district in which the charter school is to be located and to the state board of education, within five business days of the date the application is filed with the proposed sponsor. The school board may file objections with the proposed sponsor, and, if a charter is granted, the school board may file objections with the state board of education. The charter shall **[**be**]** **include** a legally binding performance contract that describes the obligations and responsibilities of the school and the sponsor as outlined in sections 160.400 to 160.425 and section 167.349 and shall **[**also include**]** **address the following**:

(1) A mission and vision statement for the charter school;

(2) A description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy, financial management, and operational decisions of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(3) A financial plan for the first three years of operation of the charter school including provisions for annual audits;

(4) A description of the charter school's policy for securing personnel services, its personnel policies, personnel qualifications, and professional development plan;

(5) A description of the grades or ages of students being served;

(6) The school's calendar of operation, which shall include at least the equivalent of a full school term as defined in section 160.011;

(7) A description of the charter school's pupil performance standards and academic program performance standards, which shall meet the requirements of subdivision (6) of subsection 4 of this section. The charter school program shall be designed to enable each pupil to achieve such standards and shall contain a complete set of indicators, measures, metrics, and targets for academic program performance, including specific goals on graduation rates and standardized test performance and academic growth;

(8) A description of the charter school's educational program and curriculum;

(9) The term of the charter, which shall be five years and **[**shall**]** **may** be **[**renewable**]** **renewed**;

(10) Procedures, consistent with the Missouri financial accounting manual, for monitoring the financial accountability of the charter, which shall meet the requirements of subdivision (4) of subsection 4 of this section;

(11) Preopening requirements for applications that require that charter schools meet all health, safety, and other legal requirements prior to opening;

(12) A description of the charter school's policies on student discipline and student admission, which shall include a statement, where applicable, of the validity of attendance of students who do not reside in the district but who may be eligible to attend under the terms of judicial settlements and procedures that ensure admission of students with disabilities in a nondiscriminatory manner;

(13) A description of the charter school's grievance procedure for parents or guardians;

(14) A description of the agreement **and time frame for implementation** between the charter school and the sponsor as to when a sponsor shall intervene in a charter school, when a sponsor shall revoke a charter for failure to comply with subsection 8 of this section, and when a sponsor will not renew a charter under subsection 9 of this section;

(15) Procedures to be implemented if the charter school should close, as provided in subdivision (6) of subsection 16 of section 160.400 including:

(a) Orderly transition of student records to new schools and archival of student records;

(b) Archival of business operation and transfer or repository of personnel records;

(c) Submission of final financial reports;

(d) Resolution of any remaining financial obligations; **[**and**]**

(e) Disposition of the charter school's assets upon closure; **and**

(f) A notification plan to inform parents or guardians of students, the local school district, the retirement system in which the charter school's employees participate, and the state board of education within thirty days of the decision to close;

(16) A description of the special education and related services that shall be available to meet the needs of students with disabilities; and

(17) For all new or revised charters, procedures to be used upon closure of the charter school requiring that unobligated assets of the charter school be returned to the department of elementary and secondary education for their disposition, which upon receipt of such assets shall return them to the local school district in which the school was located, the state, or any other entity to which they would belong.

Charter schools operating on August 27, 2012, shall have until August 28, 2015, to meet the requirements of this subsection.

2. Proposed charters shall be subject to the following requirements:

(1) A charter shall be submitted to the sponsor, and follow the sponsor's policies and procedures for review and granting of a charter approval, and be approved by the state board of education by **[**December first of the year**]** **January thirty-first** prior to **the school year of** the proposed opening date of the charter school;

(2) A charter may be approved when the sponsor determines that the requirements of this section are met, determines that the applicant is sufficiently qualified to operate a charter school,

and that the proposed charter is consistent with the sponsor's charter sponsorship goals and capacity. The sponsor's decision of approval or denial shall be made within ninety days of the filing of the proposed charter;

(3) If the charter is denied, the proposed sponsor shall notify the applicant in writing as to the reasons for its denial and forward a copy to the state board of education within five business days following the denial;

(4) If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor's written reasons for its denial. If the state board determines that the applicant meets the requirements of this section, that the applicant is sufficiently qualified to operate the charter school, and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school. The state board shall review the proposed charter and make a determination of whether to deny or grant the proposed charter within sixty days of receipt of the proposed charter, provided that any charter to be considered by the state board of education under this subdivision shall be submitted no later than March first prior to the school year in which the charter school intends to begin operations. The state board of education shall notify the applicant in writing as the reasons for its denial, if applicable; and

(5) The sponsor of a charter school shall give priority to charter school applicants that propose a school oriented to high-risk students and to the reentry of dropouts into the school system. If a sponsor grants three or more charters, at least one-third of the charters granted by the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their proposed mission, curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk" student is one who is at least one year behind in satisfactory completion of course work or obtaining high school credits for graduation, has dropped out of school, is at risk of dropping out of school, needs drug and alcohol treatment, has severe behavioral problems, has been suspended from school three or more times, has a history of severe truancy, is a pregnant or parenting teen, has been referred for enrollment by the judicial system, is exiting incarceration, is a refugee, is homeless or has been homeless sometime within the preceding six months, has been referred by an area school district for enrollment in an alternative program, or qualifies as high risk under department of elementary and secondary education guidelines. "Dropout" shall be defined through the guidelines of the school core data report. The provisions of this subsection do not apply to charters sponsored by the state board of education.

3. If a charter is approved by a sponsor, the charter application shall be submitted to the state board of education, along with a statement of finding **by the sponsor** that the application meets the requirements of sections 160.400 to 160.425 and section 167.349 and a monitoring plan under which the charter sponsor shall evaluate the academic performance**, including annual performance reports,** of students enrolled in the charter school. The state board of education **[**may, within sixty days, disapprove the granting of the charter**] shall approve or deny a charter application within sixty days of receipt of the application**. The state board of education may **[**disapprove**]** **deny** a charter on grounds that the application fails to meet the requirements of sections 160.400 to 160.425 and section 167.349 or that a charter sponsor previously failed to meet the statutory responsibilities of a charter sponsor. **Any denial of a charter application made by the state board of education shall be in writing and shall identify the specific failures of the application to meet the requirements of sections 160.400 to 160.425 and section 167.349, and the written denial shall be provided within ten business days to the sponsor.**

4. A charter school shall, as provided in its charter:

(1) Be nonsectarian in its programs, admission policies, employment practices, and all other operations;

(2) Comply with laws and regulations of the state, county, or city relating to health, safety, and state minimum educational standards, as specified by the state board of education, including

the requirements relating to student discipline under sections 160.261, 167.161, 167.164, and 167.171, notification of criminal conduct to law enforcement authorities under sections 167.115 to 167.117, academic assessment under section 160.518, transmittal of school records under section 167.020, the minimum **[**number of school days and hours**]** **amount of school time** required under section **[**160.041**]** **171.031**, and the employee criminal history background check and the family care safety registry check under section 168.133;

(3) Except as provided in sections 160.400 to 160.425 **and as specifically provided in other sections**, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, publish audit reports and annual financial reports as provided in chapter 165, provided that the annual financial report may be published on the department of elementary and secondary education's internet website in addition to other publishing requirements, and provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. A charter school that receives local educational agency status under subsection 6 of this section shall meet the requirements imposed by the Elementary and Secondary Education Act for audits of such agencies and comply with all federal audit requirements for charters with local **[**education**]** **educational** agency status. For purposes of an audit by petition under section 29.230, a charter school shall be treated as a political subdivision on the same terms and conditions as the school district in which it is located. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700. A charter school that incurs debt shall include a repayment plan in its financial plan;

(5) Provide a comprehensive program of instruction for at least one grade or age group from **[**kindergarten**]** **early childhood** through grade twelve, **[**which may include early childhood education if funding for such programs is established by statute,**]** as specified in its charter;

(6) (a) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, establish baseline student performance in accordance with the performance contract during the first year of operation, collect student performance data as defined by the annual performance report throughout the duration of the charter to annually monitor student academic performance, and to the extent applicable based upon grade levels offered by the charter school, participate in the statewide system of assessments, comprised of the essential skills tests and the nationally standardized norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, which shall also include a statement that background checks have been completed on the charter school's board members, **and** report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof **[**, and provide data required for the study of charter schools pursuant to subsection 4 of section 160.410**]**. No charter school shall be considered in the Missouri school improvement program review of the district in which it is located for the resource or process standards of the program.

(b) For proposed **[**high risk**]** **high-risk** or alternative charter schools, sponsors shall approve performance measures based on mission, curriculum, teaching methods, and services. Sponsors shall also approve comprehensive academic and behavioral measures to determine whether students are meeting performance standards on a different time frame as specified in that school's charter. Student performance shall be assessed comprehensively to determine whether a **[**high risk**]** **high-risk** or alternative charter school has documented adequate student progress. Student performance shall be based on sponsor-approved comprehensive measures as well as standardized public school measures. Annual presentation of charter school report card data to the department of elementary and secondary education, the state board, and the public shall include comprehensive measures of student progress.

(c) Nothing in this subdivision shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter. The performance standards for alternative and special purpose charter schools that target high-risk students as defined in subdivision (5) of subsection 2 of this section shall be based on measures defined in the school's performance contract with its sponsors;

(7) Comply with all applicable federal and state laws and regulations regarding students with disabilities, including sections 162.670 to 162.710, the Individuals with Disabilities Education Act (20 U.S.C. Section 1400) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) or successor legislation;

(8) Provide along with any request for review by the state board of education the following:

(a) Documentation that the applicant has provided a copy of the application to the school board of the district in which the charter school is to be located, except in those circumstances where the school district is the sponsor of the charter school; and

(b) A statement outlining the reasons for approval or **[**disapproval**]** **denial** by the sponsor, specifically addressing the requirements of sections 160.400 to 160.425 and 167.349.

5. (1) Proposed or existing high-risk or alternative charter schools may include alternative arrangements for students to obtain credit for satisfying graduation requirements in the school's charter application and charter. Alternative arrangements may include, but not be limited to, credit for off-campus instruction, embedded credit, work experience through an internship arranged through the school, and independent studies. When the state board of education approves the charter, any such alternative arrangements shall be approved at such time.

(2) The department of elementary and secondary education shall conduct a study of any charter school granted alternative arrangements for students to obtain credit under this subsection after three years of operation to assess student performance, graduation rates, educational outcomes, and entry into the workforce or higher education.

6. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor. The sponsor and the governing board and staff of the charter school shall jointly review the school's performance, management and operations during the first year of operation and then every other year after the most recent review or at any point where the operation or management of the charter school is changed or transferred to another entity, either public or private. The governing board of a charter school may amend the charter, if the sponsor approves such amendment, or the sponsor and the governing board may reach an agreement in writing to reflect the charter school's decision to become a local educational agency. In such case the sponsor shall give the department of elementary and secondary education written notice no later than March first of any year, with the agreement to become effective July first. The department may waive the March first notice date in its discretion. The department shall identify and furnish a list of its regulations that pertain to local educational agencies to such schools within thirty days of receiving such notice.

7. Sponsors shall annually review the charter school's compliance with statutory standards including:

(1) Participation in the statewide system of assessments, as designated by the state board of education under section 160.518;

(2) Assurances for the completion and distribution of an annual report card as prescribed in section 160.522;

(3) The collection of baseline data during the first three years of operation to determine the longitudinal success of the charter school;

(4) A method to measure pupil progress toward the pupil academic standards adopted by the state board of education under section 160.514; and

(5) Publication of each charter school's annual performance report.

8. (1) (a) A sponsor's **[**intervention**]** policies shall give schools clear, adequate, evidence-based, and timely notice of contract violations or performance deficiencies and mandate intervention based upon findings of the state board of education of the following:

a. The charter school provides a high school program which fails to maintain a graduation rate of at least seventy percent in three of the last four school years unless the school has dropout recovery as its mission;

b. The charter school's annual performance report results are below the district's annual performance report results based on the performance standards that are applicable to the grade level configuration of both the charter school and the district in which the charter school is located in three of the last four school years; and

c. The charter school is identified as a persistently lowest achieving school by the department of elementary and secondary education.

(b) A sponsor shall have a policy to revoke a charter during the charter term if there is:

a. Clear evidence of underperformance as demonstrated in the charter school's annual performance report in three of the last four school years; or

b. A violation of the law or the public trust that imperils students or public funds.

(c) A sponsor shall revoke a charter or take other appropriate remedial action, which may include placing the charter school on probationary status for no more than **[**twelve**]** **twenty-four** months, provided that no more than one designation of probationary status shall be allowed for the duration of the charter contract, at any time if the charter school commits a serious breach of one or more provisions of its charter or on any of the following grounds: failure to meet the performance contract as set forth in its charter, failure to meet generally accepted standards of fiscal management, failure to provide information necessary to confirm compliance with all provisions of the charter and sections 160.400 to 160.425 and 167.349 within forty-five days following receipt of written notice requesting such information, or violation of law.

(2) The sponsor may place the charter school on probationary status to allow the implementation of a remedial plan, which may require a change of methodology, a change in leadership, or both, after which, if such plan is unsuccessful, the charter may be revoked.

(3) At least sixty days before acting to revoke a charter, the sponsor shall notify the governing board of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action. The school's governing board may request in writing a hearing before the sponsor within two weeks of receiving the notice.

(4) The sponsor of a charter school shall establish procedures to conduct administrative hearings upon determination by the sponsor that grounds exist to revoke a charter. Final decisions of a sponsor from hearings conducted pursuant to this subsection are subject to an appeal to the state board of education, which shall determine whether the charter shall be revoked.

(5) A termination shall be effective only at the conclusion of the school year, unless the sponsor determines that continued operation of the school presents a clear and immediate threat to the health and safety of the children.

(6) A charter sponsor shall make available the school accountability report card information as provided under section 160.522 and the results of the academic monitoring required under subsection 3 of this section.

9. (1) A sponsor shall take all reasonable steps necessary to confirm that each charter school sponsored by such sponsor is in material compliance and remains in material compliance with all material provisions of the charter and sections 160.400 to 160.425 and 167.349. Every charter school shall provide all information necessary to confirm ongoing compliance with all provisions of its charter and sections 160.400 to 160.425 and 167.349 in a timely manner to its sponsor.

(2) The sponsor's renewal process of the charter school shall be based on the thorough analysis of a comprehensive body of objective evidence and consider if:

(a) The charter school has maintained results on its annual performance report that meet or exceed the district in which the charter school is located based on the performance standards that are applicable to the grade-level configuration of both the charter school and the district in which the charter school is located in three of the last four school years;

(b) The charter school is organizationally and fiscally viable determining at a minimum that the school does not have:

a. A negative balance in its operating funds;

b. A combined balance of less than three percent of the amount expended for such funds during the previous fiscal year; or

c. Expenditures that exceed receipts for the most recently completed fiscal year;

(c) The charter is in compliance with its legally binding performance contract and sections 160.400 to 160.425 and section 167.349**; and**

(d) The charter school has an annual performance report consistent with a classification of accredited for three of the last four years and is fiscally viable as described in paragraph (b) of this subdivision. If such is the case, the charter school may have an expedited renewal process as defined by rule of the department of elementary and secondary education.

(3) (a) Beginning August first during the year in which a charter is considered for renewal, a charter school sponsor shall demonstrate to the state board of education that the charter school is in compliance with federal and state law as provided in sections 160.400 to 160.425 and section 167.349 and the school's performance contract including but not limited to those requirements specific to academic performance.

(b) Along with data reflecting the academic performance standards indicated in paragraph (a) of this subdivision, the sponsor shall submit a revised charter application to the state board of education for review.

(c) Using the data requested and the revised charter application under paragraphs (a) and (b) of this subdivision, the state board of education shall determine if compliance with all standards enumerated in this subdivision has been achieved. The state board of education at its next regularly scheduled meeting shall vote on the revised charter application.

(d) If a charter school sponsor demonstrates the objectives identified in this subdivision, the state board of education shall renew the school's charter.

10. A school district may enter into a lease with a charter school for physical facilities.

11. A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee at the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. As used in this subsection, "unlawful reprisal" means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an educational program.

12. Charter school board members shall be subject to the same liability for acts while in office as if they were regularly and duly elected members of school boards in any other public school district in this state. The governing board of a charter school may participate, to the same extent as a school board, in the Missouri public entity risk management fund in the manner provided under sections 537.700 to 537.756.

13. Any entity, either public or private, operating, administering, or otherwise managing a charter school shall be considered a quasi-public governmental body and subject to the provisions of sections 610.010 to 610.035.

14. The chief financial officer of a charter school shall maintain:

(1) A surety bond in an amount determined by the sponsor to be adequate based on the cash flow of the school; or

(2) An insurance policy issued by an insurance company licensed to do business in Missouri on all employees in the amount of five hundred thousand dollars or more that provides coverage in the event of employee theft.

15. The department of elementary and secondary education shall calculate an annual performance report for each charter school and shall publish it in the same manner as annual performance reports are calculated and published for districts and attendance centers.

16. The joint committee on education shall create a committee to investigate facility access and affordability for charter schools. The committee shall be comprised of equal numbers of the charter school sector and the public school sector and shall report its findings to the general assembly by December 31, 2016.

160.408. HIGH-QUALITY SCHOOL, DEFINED, REPLICATION IN UNACCREDITED DISTRICTS. — 1. For purposes of this section, "high-quality charter school" means a charter school operating in the state of Missouri that meets the following requirements:

(1) Receives eighty-five percent or more of the total points on the annual performance report for three out of the last four school years by comparing points earned to the points possible on the annual performance report for three of the last four school years;

(2) Maintains a graduation rate of at least eighty percent for three of the last four school years, if the charter school provides a high school program;

(3) Is in material compliance with its legally binding performance contract and sections 160.400 to 160.425 and section 167.349; and

(4) Is organizationally and fiscally viable as described in paragraph (b) of subdivision (2) of subsection 9 of section 160.405.

2. Notwithstanding any other provision of law, high-quality charter schools shall be provided expedited opportunities to replicate and expand into unaccredited districts, a metropolitan district, or an urban school district containing most or all of a home rule city with more than four hundred thousand inhabitants and located in more than one county. Such replication and expansion shall be subject to the following:

(1) The school seeking to replicate or expand shall submit its proposed charter to a proposed sponsor. The charter shall include a legally binding performance contract that meets the requirements of sections 160.400 to 160.425 and section 167.349;

(2) The sponsor's decision to approve or deny shall be made within sixty days of the filing of the proposed charter with the proposed sponsor;

(3) If a charter is approved by a sponsor, the charter application shall be filed with the state board of education with a statement of finding from the sponsor that the application meets the requirements of sections 160.400 to 160.425 and section 167.349 and a monitoring plan under which the sponsor shall evaluate the academic performance of students enrolled in the charter school. Such filing shall be made by January thirty-first prior to the school year in which the charter school intends to begin operations.

3. The term of the charter for schools operating under this section shall be five years, and the charter may be renewed for terms of up to ten years. Renewal shall be subject to the provisions of paragraphs (a) to (d) of subdivision (3) of subsection 9 of section 160.405.

160.410. ADMISSION, PREFERENCES FOR ADMISSION PERMITTED, WHEN — INFORMATION TO BE MADE PUBLICLY AVAILABLE — MOVE OUT OF SCHOOL DISTRICT, EFFECT OF. — 1. A charter school shall enroll:

(1) All pupils resident in the district in which it operates;

(2) Nonresident pupils eligible to attend a district's school under an urban voluntary transfer program;

(3) **Nonresident pupils who transfer from an unaccredited district under section 167.131, provided that the charter school is an approved charter school, as defined in section 167.131, and subject to all other provisions of section 167.131;**

(4) In the case of a charter school whose mission includes student drop-out prevention or recovery, any nonresident pupil from the same or an adjacent county who

resides in a residential care facility, a transitional living group home, or an independent living program whose last school of enrollment is in the school district where the charter school is established, who submits a timely application; and

[(4)**]** **(5)** In the case of a workplace charter school, any student eligible to attend under subdivision (1) or (2) of this subsection whose parent is employed in the business district, who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. The configuration of a business district shall be set forth in the charter and shall not be construed to create an undue advantage for a single employer or small number of employers.

2. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission **and does not discriminate based on parents' ability to pay fees or tuition** except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education;

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school or in the case of a workplace charter school, a child whose parent is employed in the business district or at the business site of such school; and

(3) Charter alternative and special purpose schools may also give a preference for admission to high-risk students, as defined in subdivision (5) of subsection 2 of section 160.405, when the school targets these students through its proposed mission, curriculum, teaching methods, and services.

3. A charter school shall not limit admission based on race, ethnicity, national origin, disability, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level. Charter schools may limit admission based on gender only when the school is a single-gender school. Students of a charter school **[**that are present for the January membership count as defined in section 163.011**]** **who have been enrolled for a full academic year** shall be counted in the performance of the charter school on the statewide assessments in that calendar year, unless otherwise exempted as English language learners. **For purposes of this subsection, "full academic year" means the last Wednesday in September through the administration of the Missouri assessment program test without transferring out of the school and re-enrolling.**

[4. The department of elementary and secondary education shall commission a study of the performance of students at each charter school in comparison with an equivalent group of district students representing an equivalent demographic and geographic population and a study of the impact of charter schools upon the constituents they serve in the districts in which they are located, to be conducted by the joint committee on education. The charter school study shall include analysis of the administrative and instructional practices of each charter school and shall include findings on innovative programs that illustrate best practices and lend themselves to replication or incorporation in other schools. The joint committee on education shall coordinate with individuals representing charter schools and the districts in which charter schools are located in conducting the study. The study of a charter school's student performance in relation to a comparable group shall be designed to provide information that would allow parents and educators to make valid comparisons of academic performance between the charter school's students and an equivalent group of district students representing an equivalent demographic and geographic population. The student performance assessment and comparison shall include, but may not be limited to:

(1) Missouri assessment program test performance and aggregate growth over several years;

(2) Student reenrollment rates;

(3) Educator, parent, and student satisfaction data;

(4) Graduation rates in secondary programs; and

(5) Performance of students enrolled in the same public school for three or more consecutive years. The impact study shall be undertaken every two years to determine the impact of charter schools on the constituents they serve in the districts where charter schools are operated. The impact study shall include, but is not limited to, determining if changes have been made in district policy or procedures attributable to the charter school and to perceived changes in attitudes and expectations on the part of district personnel, school board members, parents, students, the business community and other education stakeholders. The department of elementary and secondary education shall make the results of the studies public and shall deliver copies to the governing boards of the charter schools, the sponsors of the charter schools, the school board and superintendent of the districts in which the charter schools are operated.**]**

[5.**]** **4.** A charter school shall make available for public inspection, and provide upon request, to the parent, guardian, or other custodian of any school-age pupil resident in the district in which the school is located the following information:

(1) The school's charter;

(2) The school's most recent annual report card published according to section 160.522;

(3) The results of background checks on the charter school's board members; and

(4) If a charter school is operated by a management company, a copy of the written contract between the governing board of the charter school and the educational management organization or the charter management organization for services. The charter school may charge reasonable fees, not to exceed the rate specified in section 610.026 for furnishing copies of documents under this subsection.

[6.**]** **5.** When a student attending a charter school who is a resident of the school district in which the charter school is located moves out of the boundaries of such school district, the student may complete the current semester and shall be considered a resident student. The student's parent or legal guardian shall be responsible for the student's transportation to and from the charter school.

[7.**]** **6.** If a change in school district boundary lines occurs under section 162.223, 162.431, 162.441, or 162.451, or by action of the state board of education under section 162.081, including attachment of a school district's territory to another district or dissolution, such that a student attending a charter school prior to such change no longer resides in a school district in which the charter school is located, then the student may complete the current academic year at the charter school. The student shall be considered a resident student. The student's parent or legal guardian shall be responsible for the student's transportation to and from the charter school.

[8.**]** **7.** The provisions of sections 167.018 and 167.019 concerning foster children's educational rights are applicable to charter schools.

160.415. DISTRIBUTION OF STATE SCHOOL AID FOR CHARTER SCHOOLS — POWERS AND DUTIES OF GOVERNING BODY OF CHARTER SCHOOLS. — 1. For the purposes of calculation and distribution of state school aid under section 163.031, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district within which each pupil resides. Each charter school shall report the names, addresses, and eligibility for free and reduced **price** lunch, special education, or limited English proficiency status, as well as eligibility for categorical aid, of pupils resident in a school district who are enrolled in the charter school to the school district in which those pupils reside. The charter school shall report the average daily attendance data, free and reduced **price** lunch count, special education pupil count, and limited English proficiency pupil count to the state department of elementary and secondary education. Each charter school shall promptly notify the state department of elementary and secondary education and the pupil's school district when a student discontinues enrollment at a charter school.

2. Except as provided in subsections 3 and 4 of this section, the aid payments for charter schools shall be as described in this subsection.

(1) A school district having one or more resident pupils attending a charter school shall pay to the charter school an annual amount equal to the product of the charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, plus local tax revenues per weighted average daily attendance from the incidental and teachers' funds in excess of the performance levy as defined in section 163.011 plus all other state aid attributable to such pupils.

(2) The district of residence of a pupil attending a charter school shall also pay to the charter school any other federal or state aid that the district receives on account of such child.

(3) If the department overpays or underpays the amount due to the charter school, such overpayment or underpayment shall be repaid by the public charter school or credited to the public charter school in twelve equal payments in the next fiscal year.

(4) The amounts provided pursuant to this subsection shall be prorated for partial year enrollment for a pupil.

(5) A school district shall pay the amounts due pursuant to this subsection as the disbursal agent and no later than twenty days following the receipt of any such funds. The department of elementary and secondary education shall pay the amounts due when it acts as the disbursal agent within five days of the required due date.

3. A workplace charter school shall receive payment for each eligible pupil as provided under subsection 2 of this section, except that if the student is not a resident of the district and is participating in a voluntary interdistrict transfer program, the payment for such pupils shall be the same as provided under section 162.1060.

4. A charter school that has declared itself as a local educational agency shall receive from the department of elementary and secondary education an annual amount equal to the product of the charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, plus local tax revenues per weighted average daily attendance from the incidental and teachers funds in excess of the performance levy as defined in section 163.011 plus all other state aid attributable to such pupils. If a charter school declares itself as a local **[**education**]** **educational** agency, the department of elementary and secondary education shall, upon notice of the declaration, reduce the payment made to the school district by the amount specified in this subsection and pay directly to the charter school the annual amount reduced from the school district's payment.

5. If a school district fails to make timely payments of any amount for which it is the disbursal agent, the state department of elementary and secondary education shall authorize payment to the charter school of the amount due pursuant to subsection 2 of this section and shall deduct the same amount from the next state school aid apportionment to the owing school district. If a charter school is paid more or less than the amounts due pursuant to this section, the amount of overpayment or underpayment shall be adjusted equally in the next twelve payments by the school district or the department of elementary and secondary education, as appropriate. Any dispute between the school district and a charter school as to the amount owing to the charter school shall be resolved by the department of elementary and secondary education, and the department's decision shall be the final administrative action for the purposes of review pursuant to chapter 536. During the period of dispute, the department of elementary and secondary education shall make every administrative and statutory effort to allow the continued education of children in their current public charter school setting.

6. The charter school and a local school board may agree by contract for services to be provided by the school district to the charter school. The charter school may contract with any other entity for services. Such services may include but are not limited to food service, custodial service, maintenance, management assistance, curriculum assistance, media services and libraries and shall be subject to negotiation between the charter school and the local school board or other entity. Documented actual costs of such services shall be paid for by the charter school.

7. In the case of a proposed charter school that intends to contract with an education service provider for substantial educational services**[**,**]** **or** management services, the request for proposals shall additionally require the charter school applicant to:

(1) Provide evidence of the education service provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;

(2) Provide a term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and time lines; compensation structure, including clear identification of all fees to be paid to the service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract;

(3) Disclose any known conflicts of interest between the school governing board and proposed service provider or any affiliated business entities;

(4) Disclose and explain any termination or nonrenewal of contracts for equivalent services for any other charter school in the United States within the past five years;

(5) Ensure that the legal counsel for the charter school shall report directly to the charter school's governing board; and

(6) Provide a process to ensure that the expenditures that the **[**educational**]** **education** service provider intends to bill to the charter school shall receive prior approval of the governing board or its designee.

8. A charter school may enter into contracts with community partnerships and state agencies acting in collaboration with such partnerships that provide services to children and their families linked to the school.

9. A charter school shall be eligible for transportation state aid pursuant to section 163.161 and shall be free to contract with the local district, or any other entity, for the provision of transportation to the students of the charter school.

10. (1) The proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be paid in full to charter schools enrolling those students by their school district where such enrollment is through a contract for services described in this section. The proportionate share of money generated under other federal or state categorical aid programs shall be directed to charter schools serving such students eligible for that aid.

(2) A charter school shall provide the special services provided pursuant to section 162.705 and may provide the special services pursuant to a contract with a school district or any provider of such services.

11. A charter school may not charge tuition**[**, nor may it**]** **or** impose fees that a school district is prohibited from **charging or** imposing**, except that a charter school may receive tuition payments from districts in the same or an adjoining county for nonresident students who transfer to an approved charter school, as defined in section 167.131, from an unaccredited district**.

12. A charter school is authorized to incur debt in anticipation of receipt of funds. A charter school may also borrow to finance facilities and other capital items. A school district may incur bonded indebtedness or take other measures to provide for physical facilities and other capital items for charter schools that it sponsors or contracts with. **Except as otherwise specifically provided in sections 160.400 to 160.425,** upon the dissolution of a charter school, any liabilities of the corporation will be satisfied through the procedures of chapter 355. **A charter school shall satisfy all its financial obligations within twelve months of notice from the sponsor of the charter school's closure under subsection 8 of section 160.405. After satisfaction of all its financial obligations, a charter school shall return any remaining state and federal funds to the department of elementary and secondary education for disposition as stated in subdivision (17) of subsection 1 of section 160.405.** The department of elementary and secondary education may withhold funding at a level the department

determines to be adequate during a school's last year of operation until the department determines that school records, liabilities, and reporting requirements, including a full audit, are satisfied.

13. Charter schools shall not have the power to acquire property by eminent domain.

14. The governing body of a charter school is authorized to accept grants, gifts or donations of any kind and to expend or use such grants, gifts or donations. A grant, gift or donation may not be accepted by the governing body if it is subject to any condition contrary to law applicable to the charter school or other public schools, or contrary to the terms of the charter.

160.417. FINANCIAL STRESS, REVIEW OF REPORT INFORMATION BY CHARTER SCHOOL SPONSOR, WHEN — CRITERIA FOR FINANCIAL STRESS. — 1. By October 1, 2012, and by each October first thereafter, the sponsor of each charter school shall review the information submitted on the report required by section 162.821 to identify charter schools experiencing financial stress. The department of elementary and secondary education shall be authorized to obtain such additional information from a charter school as may be necessary to determine the financial condition of the charter school. Annually, a listing of charter schools identified as experiencing financial stress according to the provisions of this section shall be provided to the governor, speaker of the house of representatives, and president pro tempore of the senate by the department of elementary and secondary education.

2. For the purposes of this section, a charter school shall be identified as experiencing financial stress if it:

(1) At the end of its most recently completed fiscal year:

(a) Has a negative balance in its operating funds; or

(b) Has a combined balance of less than three percent of the amount expended from such funds during the previous fiscal year; **[**or**]**

(2) For the most recently completed fiscal year expenditures, exceeded receipts for any of its funds because of recurring costs**; or**

(3) Due to insufficient fund balances or reserves, incurred debt after January thirty-first and before July first during the most recently completed fiscal year in order to meet expenditures of the charter school.

3. The sponsor shall notify by November first the governing board of the charter school identified as experiencing financial stress. Upon receiving the notification, the governing board shall develop, or cause to have developed, and shall approve a budget and education plan on forms provided by the sponsor. The budget and education plan shall be submitted to the sponsor, signed by the officers of the charter school, within forty-five calendar days of notification that the charter school has been identified as experiencing financial stress. Minimally, the budget and education plan shall:

(1) Give assurances that adequate educational services to students of the charter school shall continue uninterrupted for the remainder of the current school year and that the charter school can provide the minimum **[**number of school days and hours**]** **amount of school time** required by section **[**160.041**]** **171.031**;

(2) Outline a procedure to be followed by the charter school to report to charter school patrons about the financial condition of the charter school; and

(3) Detail the expenditure reduction measures, revenue increases, or other actions to be taken by the charter school to address its condition of financial stress.

4. Upon receipt and following review of any budget and education plan, the sponsor may make suggestions to improve the plan. Nothing in sections 160.400 to 160.425 or section 167.349 shall exempt a charter school from submitting a budget and education plan to the sponsor according to the provisions of this section following each such notification that a charter school has been identified as experiencing financial stress, except that the sponsor may permit a charter school's governing board to make amendments to or update a budget and education plan previously submitted to the sponsor.

5. The department may withhold any payment of financial aid otherwise due to the charter school until such time as the sponsor and the charter school have fully complied with this section.

160.545. A+ SCHOOL PROGRAM ESTABLISHED — PURPOSE — RULES — VARIABLE FUND MATCH REQUIREMENT — WAIVER OF RULES AND REGULATIONS, REQUIREMENT — REIMBURSEMENT FOR HIGHER EDUCATION COSTS FOR STUDENTS — EVALUATION — REIMBURSEMENT FOR TWO-YEAR SCHOOLS. — 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

(1) All students be graduated from school;

(2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and

(3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

(1) Establish measurable districtwide performance standards for the goals of the program outlined in subsection 1 of this section; and

(2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and

(3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and

(4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

(5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. **Any nonpublic school in this state may apply to the state board of education for certification that it meets the requirements of this section subject to the same criteria as public high schools. Every nonpublic school that applies and has met the requirements of this section shall have its students eligible for reimbursement of postsecondary education under subsection 8 of this section on an equal basis to students who graduate from public schools that meet the requirements of this section. Any nonpublic school that applies shall not be eligible for any grants under this section. Students of certified nonpublic schools shall be eligible for reimbursement of postsecondary education under subsection 8 of this section so long as they meet the other requirements of such subsection. For purposes of subdivision (5) of subsection 2 of this section, the nonpublic school shall be included in the partnership plan developed by the public school district in which the nonpublic school is located. For purposes of subdivision (1) of subsection 2 of this section, the nonpublic school shall establish measurable performance standards for the goals of the program for every school and grade level over which the nonpublic school maintains control.**

4. A school district may participate in the program irrespective of its accreditation classification by the state board of education, provided it meets all other requirements.

[4.**]** **5.** By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

[5.**]** **6.** For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092 and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

[6.**]** **7.** For any school year, grants authorized by subsections 1, 2, and **[**4**]** **5** of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection **[**7**]** **8** of this section.

[7.**]** **8.** The department of higher education shall, by rule, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or vocational or technical school or within the limits established in subsection **[**9**]** **10** of this section for any two-year private vocational or technical school for any student:

(1) Who has attended a **[**public**]** high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section; except that, students who are active duty military dependents, and students who are dependants of retired military who relocate to Missouri within one year of the date of the parent's retirement from active duty, who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision; and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the department of higher education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of the department; and

(4) Who is a citizen or permanent resident of the United States.

[8.**]** **9.** The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted annually with the results of the evaluation provided to the governor, speaker of the house, and president pro tempore of the senate.

[9.**]** **10.** For a two-year private vocational or technical school to obtain reimbursements under subsection **[**7**]** **8** of this section, the following requirements shall be satisfied:

(1) Such two-year private vocational or technical school shall be a member of the North Central Association and be accredited by the Higher Learning Commission as of July 1, 2008, and maintain such accreditation;

(2) Such two-year private vocational or technical school shall be designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

(3) No two-year private vocational or technical school shall receive tuition reimbursements in excess of the tuition rate charged by a public community college for course work offered by the private vocational or technical school within the service area of such college; and

(4) The reimbursements provided to any two-year private vocational or technical school shall not violate the provisions of Article IX, Section 8, or Article I, Section 7, of the Missouri Constitution or the first amendment of the United States Constitution.

161.217. EARLY LEARNING QUALITY ASSURANCE REPORT — SUNSET PROVISION. — 1. The department of elementary and secondary education, in collaboration with the Missouri Head Start State Collaboration Office and the departments of health and senior services, mental health, and social services, shall develop, as a three-year pilot program, a voluntary early learning quality assurance report. The early learning quality assurance report shall be developed based on evidence-based practices.

2. Participation in the early learning quality assurance report pilot program shall be voluntary for any licensed or license-exempt early learning providers that are center-based or home-based and are providing services for children from any ages from birth up to kindergarten.

3. The early learning quality assurance report may include, but is not limited to, information regarding staff qualifications, instructional quality, professional development, health and safety standards, parent engagement, and community engagement.

4. The early learning quality assurance report shall not be used for enforcement of compliance with any law or for any punitive purposes.

5. The department of elementary and secondary education 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, 2016, shall be invalid and void.

6. Under section 23.253 of the Missouri sunset act:

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

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

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

161.1050. INITIATIVE ESTABLISHED, DEPARTMENT DUTIES — DEFINITIONS. — 1. There is hereby established within the department of elementary and secondary education the "Trauma-Informed Schools Initiative".

2. The department of elementary and secondary education shall consult the department of mental health and the department of social services for assistance in fulfilling the requirements of this section.

3. The department of elementary and secondary education shall:

(1) Provide information regarding the trauma-informed approach to all school districts;

(2) Offer training on the trauma-informed approach to all school districts, which shall include information on how schools can become trauma-informed schools; and

(3) Develop a website about the trauma-informed schools initiative that includes information for schools and parents regarding the trauma-informed approach and a guide for schools on how to become trauma-informed schools.

4. Each school district shall provide the address of the website described under subdivision (3) of subsection 3 of this section to all parents of the students in its district before October first of each school year.

5. For purposes of this section, the following terms mean:

(1) "Trauma-informed approach", an approach that involves understanding and responding to the symptoms of chronic interpersonal trauma and traumatic stress across the lifespan;

(2) "Trauma-informed school", a school that:

(a) Realizes the widespread impact of trauma and understands potential paths for recovery;

(b) Recognizes the signs and symptoms of trauma in students, teachers, and staff;

(c) Responds by fully integrating knowledge about trauma into its policies, procedures, and practices; and

(d) Seeks to actively resist re-traumatization.

161.1055. PILOT PROGRAM ESTABLISHED, SELECTION OF SCHOOLS — FUND CREATED — DEFINITIONS. — 1. Subject to appropriations, the department of elementary and secondary education shall establish the "Trauma-Informed Schools Pilot Program".

2. Under the trauma-informed schools pilot program, the department of elementary and secondary education shall choose five schools to receive intensive training on the trauma-informed approach.

3. The five schools chosen for the pilot program shall be located in the following areas:

(1) One public school located in a metropolitan school district;

(2) One public school located in a home rule city with more than four hundred thousand inhabitants and located in more than one county;

(3) One public school located in a school district that has most or all of its land area located in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants;

(4) One public school located in a school district that has most or all of its land area located in a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants; and

(5) One public school located in any one of the following counties:

(a) A county of the third classification without a township form of government and with more than forty-one thousand but fewer than forty-five thousand inhabitants;

(b) A county of the third classification without a township form of government and with more than six thousand but fewer than seven thousand inhabitants and with a city of the fourth classification with more than eight hundred but fewer than nine hundred inhabitants as the county seat;

(c) A county of the third classification with a township form of government and with more than thirty-one thousand but fewer than thirty-five thousand inhabitants;

(d) A county of the third classification without a township form of government and with more than fourteen thousand but fewer than sixteen 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;

(e) A county of the third classification without a township form of government and with more than eighteen thousand but fewer than twenty thousand inhabitants and with a city of the fourth classification with more than three thousand but fewer than three thousand seven hundred inhabitants as the county seat;

(f) A county of the third classification without a township form of government and with more than eighteen thousand but fewer than twenty thousand inhabitants and with a city of the third classification with more than six thousand but fewer than seven thousand inhabitants as the county seat;

(g) A county of the third classification without a township form of government and with more than fourteen thousand but fewer than sixteen thousand inhabitants and with a city of the fourth classification with more than one thousand nine hundred but fewer than two thousand one hundred inhabitants as the county seat;

(h) A county of the third classification without a township form of government and with more than thirty-seven thousand but fewer than forty-one thousand inhabitants and with a city of the fourth classification with more than eight hundred but fewer than nine hundred inhabitants as the county seat;

(i) A county of the third classification with a township form of government and with more than twenty-eight thousand but fewer than thirty-one thousand inhabitants; or

(j) A county of the third classification without a township form of government and with more than twelve thousand but fewer than fourteen thousand inhabitants and with a city of the fourth classification with more than five hundred but fewer than five hundred fifty inhabitants as the county seat.

4. The department of elementary and secondary education shall:

(1) Train the teachers and administrators of the five schools chosen for the pilot program regarding the trauma-informed approach and how to become trauma-informed schools;

(2) Provide the five schools with funds to implement the trauma-informed approach; and

(3) Closely monitor the progress of the five schools in becoming trauma-informed schools and provide further assistance if necessary.

5. The department of elementary and secondary education shall terminate the trauma-informed schools pilot program on August 28, 2019. Before December 31, 2019, the department of elementary and secondary education shall submit a report to the general assembly that contains the results of the pilot program, including any benefits experienced by the five schools chosen for the program.

6. (1) There is hereby created in the state treasury the "Trauma-Informed Schools Pilot Program Fund". The fund shall consist of any appropriations to such 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 of public moneys in accordance with distribution requirements and procedures developed by the department of elementary and secondary education. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely for the administration of this section.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

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

7. For purposes of this section, the following terms mean:

(1) "Trauma-informed approach", an approach that involves understanding and responding to the symptoms of chronic interpersonal trauma and traumatic stress across the lifespan;

(2) "Trauma-informed school", a school that:

(a) Realizes the widespread impact of trauma and understands potential paths for recovery;

(b) Recognizes the signs and symptoms of trauma in students, teachers, and staff;

(c) Responds by fully integrating knowledge about trauma into its policies, procedures, and practices; and

(d) Seeks to actively resist re-traumatization.

8. The provisions of this section shall expire December 31, 2019.

162.073. DEFINITIONS. — For the purposes of sections 162.071, 162.073, 162.152, 162.171, 162.181, 162.191, 162.201, 162.241, **[**162.261,**]** 162.301, 162.311, 162.821 and 167.121, in those counties without a county commission, the following words shall have the following meaning:

(1) "County clerk" shall mean the vice-chairman of the county legislature or county council;

(2) "County commission" shall mean the county legislature or county council;

(3) "Presiding commissioner of the county commission" shall mean the chairman of the county legislature or county council.

162.261. SEVEN-DIRECTOR DISTRICT, BOARD OF, TERMS — VACANCIES — PROHIBITION ON HIRING SPOUSE OF BOARD MEMBER, WHEN — CONSTITUTIONAL PROHIBITION ON NEPOTISM APPLIES TO DISTRICTS. — 1. The government and control of a seven-director school district, other than an urban district, is vested in a board of education of seven members, who hold their office for three years, except as provided in section 162.241, and until their successors are duly elected and qualified. Any vacancy occurring in the board shall be filled by the remaining members of the board; except that if there are more than two vacancies at any one time, the county commission upon receiving written notice of the vacancies shall fill the vacancies by appointment. **If there are more than two vacancies at any one time in a county without a county commission, the county executive upon receiving written notice of the vacancies shall fill the vacancies, with the advice and consent of the county council, by appointment.** The person appointed shall hold office until the next municipal election, when a director shall be elected for the unexpired term.

2. No seven-director, urban, or metropolitan school district board of education shall hire a spouse of any member of such board for a vacant or newly created position unless the position has been advertised pursuant to board policy and the superintendent of schools submits a written recommendation for the employment of the spouse to the board of education. The names of all applicants as well as the name of the applicant hired for the position are to be included in the board minutes.

3. The provisions of article VII, section 6 of the Missouri Constitution apply to school districts.

162.531. DUTIES OF THE SECRETARY — BOND. — The secretary of the board of each urban district shall keep a record of the proceedings of the board; he shall also keep a record of all warrants drawn upon the treasurer, showing the date and amount of each, in whose favor and upon what account it was drawn, and shall also keep a register of the bonded indebtedness of the school district; he shall also perform other duties required of him by the board, and shall safely keep all bonds or other papers entrusted to his care. He shall, before entering upon his duties, execute a bond to the school district in the penal sum of not less than five thousand dollars, the amount thereof to be fixed by the board, with at least **[**two sureties**] one surety**, to be approved by the board.

162.541. BOND OF TREASURER. — The treasurer of each urban district, before entering upon the discharge of his duties as such, shall enter into a bond to the state of Missouri with

[two**] one** or more sureties, approved by the board, conditioned that he will render a faithful and just account of all moneys that come into his hands as treasurer, and otherwise perform the duties of his office according to law and shall file the bond with the secretary of the board. On breach of any of the conditions of the bond, the board, or the president or the secretary thereof, or any resident of the school district, may cause suit to be brought thereon, in the name of the state of Missouri, at the relation and to the use of the school district.

162.720. GIFTED CHILDREN, DISTRICT MAY ESTABLISH PROGRAMS FOR — STATE BOARD TO APPROVE. — 1. Where a sufficient number of children are determined to be gifted and their development requires programs or services beyond the level of those ordinarily provided in regular public school programs, districts may establish special programs for such gifted children.

2. The state board of education shall determine standards for such programs. Approval of such programs shall be made by the state department of elementary and secondary education based upon project applications submitted by July fifteenth of each year.

3. No district shall make a determination as to whether a child is gifted based on the child's participation in an advanced placement course or international baccalaureate course. Districts shall determine a child is gifted only if the child meets the definition of "gifted children" as provided in section 162.675.

163.031. STATE AID — AMOUNT, HOW DETERMINED — CATEGORICAL ADD-ON REVENUE, DETERMINATION OF AMOUNT — WAIVER OF RULES — DEPOSITS TO TEACHERS' FUND AND INCIDENTAL FUND, WHEN — STATE ADEQUACY TARGET ADJUSTMENT, WHEN. — 1. The department of elementary and secondary education shall calculate and distribute to each school district qualified to receive state aid under section 163.021 an amount determined by multiplying the district's weighted average daily attendance by the state adequacy target, multiplying this product by the dollar value modifier for the district, and subtracting from this product the district's local effort and subtracting payments from the classroom trust fund under section 163.043.

2. Other provisions of law to the contrary notwithstanding:

(1) For districts with an average daily attendance of more than three hundred fifty in the school year preceding the payment year:

(a) For the 2008-09 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(b) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (a) of this subdivision, multiplied by the weighted average daily attendance pursuant to section 163.036, less any increase in revenue received from the classroom trust fund under section 163.043;

(2) For districts with an average daily attendance of three hundred fifty or less in the school year preceding the payment year:

(a) For the 2008-09 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier;

(b) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (a) of this subdivision;

(3) The department of elementary and secondary education shall make an addition in the payment amount specified in subsection 1 of this section to assure compliance with the provisions contained in this subsection.

3. School districts that meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. The categorical add-on for the district shall be the sum of: seventy-five percent of the district allowable transportation costs under section 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515; the vocational education entitlement for the district, as provided for in section 167.332; and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate available appropriations.

4. For any school district meeting the eligibility criteria for state aid as established in section 163.021, but which is considered an option district under section 163.042 and therefore receives no state aid, the commissioner of education shall present a plan to the superintendent of the school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services as provided in section 163.042.

5. (1) No less than seventy-five percent of the state revenue received under the provisions of subsections 1 and 2 of this section shall be placed in the teachers' fund, and the remaining percent of such moneys shall be placed in the incidental fund. No less than seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of revenue received under the provisions of section 163.161 shall be placed in the incidental fund. One hundred percent of revenue received under the provisions of sections 168.500 to 168.515 shall be placed in the teachers' fund.

(2) A school district shall spend for certificated compensation and tuition expenditures each year:

(a) An amount equal to at least seventy-five percent of the state revenue received under the provisions of subsections 1 and 2 of this section;

(b) An amount equal to at least seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 during the preceding school year; and

(c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's weighted average daily attendance for certificated compensation and tuition expenditures the previous year from revenue produced by local and county tax sources in the teachers' fund, plus the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax sources by dividing local and county tax sources in the incidental fund by total revenue in the incidental fund.

In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's state revenue received under the provisions of subsections 1 and 2 of this section for the following year, provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption.

6. **(1)** If a school district's annual audit discloses that students were inappropriately identified as eligible for free and reduced **price** lunch, special education, or limited English proficiency and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of aid paid pursuant to the weighting for free and reduced **price** lunch, special education, or limited English proficiency in the weighted average daily attendance on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of such aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

(2) In the 2017-18 school year and in each subsequent school year, if a district experiences a decrease in its gifted program enrollment of twenty percent or more from the previous school year, an amount equal to the product of the difference between the number of students enrolled in the gifted program in the current school year and the number of students enrolled in the gifted program in the previous school year multiplied by six hundred eighty dollars shall be subtracted from the district's current year payment amount. The provisions of this subdivision shall apply to districts entitled to receive state aid payments under both subsections 1 and 2 of this section but shall not apply to any school district with an average daily attendance of three hundred fifty or less.

7. Notwithstanding any provision of law to the contrary, in any fiscal year during which the total formula appropriation is insufficient to fully fund the entitlement calculation of this section, the department of elementary and secondary education shall adjust the state adequacy target in order to accommodate the appropriation level for the given fiscal year. In no manner shall any payment modification be rendered for any district qualified to receive payments under subsection 2 of this section based on insufficient appropriations.

167.131. DISTRICT NOT ACCREDITED SHALL PAY TUITION AND TRANSPORTATION, WHEN — AMOUNT CHARGED. — 1. The board of education of each district in this state that does not maintain an accredited school pursuant to the authority of the state board of education to classify schools as established in section 161.092 shall pay the tuition of and provide transportation consistent with the provisions of section 167.241 for each pupil resident therein who attends an accredited school in another district of the same or an adjoining county **or who attends an approved charter school in the same or an adjoining county**.

2. The rate of tuition to be charged by the district attended and paid by the sending district is the per pupil cost of maintaining the district's grade level grouping which includes the school attended. **The rate of tuition to be charged by the approved charter school attended and paid by the sending district is the per pupil cost of maintaining the approved charter school's grade level grouping. For a district,** the cost of maintaining a grade level grouping shall be determined by the board of education of the district but in no case shall it exceed all amounts spent for teachers' wages, incidental purposes, debt service, maintenance and replacements. **For an approved charter school, the cost of maintaining a grade level grouping shall be determined by the approved charter school but in no case shall it exceed all amounts spent by the district in which the approved charter school is located for teachers' wages, incidental purposes, debt service, maintenance, and replacements.** The term "debt service", as used in this section, means expenditures for the retirement of bonded indebtedness and expenditures for interest on bonded indebtedness. Per pupil cost of the grade level grouping shall be determined by dividing the cost of maintaining the grade level grouping by the average daily pupil attendance. If there is disagreement as to the amount of tuition to be paid, the facts shall be submitted to the state board of education, and its decision in the matter shall be final. Subject to the limitations of this section, each pupil shall be free to attend the public school of his or her choice.

3. For purposes of this section, "approved charter school" means a charter school that has existed for less than three years or a charter school with a three-year average score of seventy percent or higher on its annual performance report.

167.241. TRANSPORTATION OF PUPILS TO ANOTHER DISTRICT. — Transportation for pupils whose tuition the district of residence is required to pay by section 167.131 or who are assigned as provided in section 167.121 shall be provided by the district of residence; however, in the case of pupils covered by section 167.131, the district of residence shall be required to provide transportation only to **approved charter schools as defined in section 167.131,** school districts accredited by the state board of education pursuant to the authority of the state board of education to classify schools as established in section 161.092**,** and those school districts designated by the board of education of the district of residence.

167.903. PERSONAL PLAN OF STUDY FOR CERTAIN STUDENTS, CONTENTS — WAIVER. — 1. Each student prior to his or her ninth grade year at a public school, including a charter school, may develop with help from the school's guidance counselors a personal plan of study, which shall be reviewed regularly, as needed by school personnel and the student's parent or guardian and updated based upon the needs of the student. Each plan shall present a sequence of courses and experiences that conclude with the student reaching his or her postsecondary goals, with implementation of the plan of study transferring to the program of postsecondary education or training upon the student's high school graduation. The plan shall include, but not be limited to:

(1) Requirements for graduation from the school district or charter school;

(2) Career or postsecondary goals;

(3) Coursework or program of study related to career and postsecondary goals, which shall include, if relevant, opportunities that the district or school may not directly offer;

(4) Grade-appropriate and career-related experiences, as outlined in the grade-level expectations of the Missouri comprehensive guidance program; and

(5) Student assessments, interest inventories, or academic results needed to develop, review, and revise the personal plan of study, which shall include, if relevant, assessments, inventories, or academic results that the school district or charter school may not offer.

2. Each school district shall adopt a policy to permit the waiver of the requirements of this section for any student with a disability if recommended by the student's IEP committee. For purposes of this subsection, "IEP" means individualized education program.

167.905. AT-RISK STUDENTS TO BE IDENTIFIED, DISTRICT POLICY REQUIRED. — 1. By July 1, 2018, each school district shall develop a policy and implement a measurable system for identifying students in their ninth grade year, or students who transfer into the school subsequent to their ninth grade year, who are at risk of not being ready for college-level work or for entry-level career positions. Districts shall include, but are not limited to, the following sources of information:

(1) A student's performance on the Missouri assessment program test in eighth grade in English language arts and mathematics;

(2) A student's comparable statewide assessment performance if such student transferred from another state;

(3) The district's overall reported remediation rate under section 173.750; and

(4) A student's attendance rate.

2. The district policy shall require academic and career counseling to take place prior to graduation so that the school may attempt to provide sufficient opportunities to the student to graduate college-ready or career-ready and on time.

3. Each school district shall adopt a policy to permit the waiver of the requirements of this section for any student with a disability if recommended by the student's IEP committee. For purposes of this subsection, "IEP" means individualized education program.

167.950. DYSLEXIA SCREENING GUIDELINES — SCREENINGS REQUIRED, WHEN — DEFINITIONS — RULEMAKING AUTHORITY. — 1. (1) By December 31, 2017, the department of elementary and secondary education shall develop guidelines for the appropriate screening of students for dyslexia and related disorders and the necessary classroom support for students with dyslexia and related disorders. Such guidelines shall be consistent with the findings and recommendations of the task force created under section 633.420.

(2) In the 2018-19 school year and subsequent years, each public school, including each charter school, shall conduct dyslexia screenings for students in the appropriate year

consistent with the guidelines developed by the Department of Elementary and Secondary Education.

(3) In the 2018-19 school year and subsequent years, the school board of each district and the governing board of each charter school shall provide reasonable classroom support consistent with the guidelines developed by the Department of Elementary and Secondary Education.

2. In the 2018-19 school year and subsequent years, the practicing teacher assistance programs established under section 168.400 shall include two hours of in-service training provided by each local school district for all practicing teachers in such district regarding dyslexia and related disorders. Each charter school shall also offer all of its teachers two hours of training on dyslexia and related disorders. Districts and charter schools may seek assistance from the department of elementary and secondary education in developing and providing such training. Completion of such training shall count as two contact hours of professional development under section 168.021.

3. For purposes of this section, the following terms mean:

(1) "Dyslexia", a disorder that is neurological in origin, characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language, often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, and of which secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge. Nothing in this definition shall require a student with dyslexia to obtain an individualized education program (IEP) unless the student has otherwise met the federal conditions necessary;

(2) "Dyslexia screening", a short test conducted by a teacher or school counselor to determine whether a student likely has dyslexia or a related disorder in which a positive result does not represent a medical diagnosis but indicates that the student could benefit from approved support;

(3) "Related disorders", disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability;

(4) "Support", low-cost and effective best practices, such as oral examinations and extended test-taking periods, used to support students who have dyslexia or any related disorder.

4. The state board of education shall promulgate rules and regulations for each public school to screen students for dyslexia and related disorders and to provide the necessary classroom support for students with dyslexia and related disorders. 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, 2016, shall be invalid and void.

5. Nothing in this section shall require the MO HealthNet program to expand the services that it provides.

170.011. COURSES IN THE CONSTITUTIONS, AMERICAN HISTORY AND MISSOURI GOVERNMENT, REQUIRED, PENALTY — WAIVER, WHEN — STUDENT AWARDS — REQUIREMENTS NOT APPLICABLE TO FOREIGN EXCHANGE STUDENTS. — 1. Regular courses of instruction in the Constitution of the United States and of the state of Missouri and in American history and institutions shall be given in all public and private schools in the state of

Missouri, except **[**privately operated trade**]** **proprietary** schools, and shall begin not later than the seventh grade and continue in high school to an extent determined by the state commissioner of education, and shall continue in college and university courses to an extent determined by the state commissioner of higher education. In the 1990-91 school year and each year thereafter, local school districts maintaining high schools shall comply with the provisions of this section by offering in grade nine, ten, eleven, or twelve a course of instruction in the institutions, branches and functions of the government of the state of Missouri, including local governments, and of the government of the United States, and in the electoral process. A local school district maintaining such a high school shall require that prior to the completion of the twelfth grade each pupil who receives a high school diploma or certificate of graduation on or after January 1, 1994, shall satisfactorily complete such a course of study. Such course shall be of at least one semester in length and may be two semesters in length. The department of elementary and secondary education may provide assistance in developing such a course if the district requests assistance. A school district may elect to waive the requirements of this subsection for any student who transfers from outside the state to a Missouri high school if the student can furnish documentation deemed acceptable by the school district of the student's successful completion in any year from the ninth through the twelfth grade of a course of instruction in the institutions, branches, and functions of state government, including local governments, and of the government of the United States, and in the electoral process.

2. American history courses at the elementary and secondary levels shall include in their proper time-line sequence specific referrals to the details and events of the racial equality movement that have caused major changes in United States and Missouri laws and attitudes.

3. No pupil shall receive a certificate of graduation from any public or private school other than private trade schools unless he has satisfactorily passed an examination on the provisions and principles of the Constitution of the United States and of the state of Missouri, and in American history **[**and**],** American institutions**, and American civics**. A school district may elect to waive the requirements of this subsection for any student who transfers from outside the state to a Missouri high school if the student can furnish documentation deemed acceptable by the school district of the student's successful completion in any year from the ninth through the twelfth grade of a course of instruction in the institutions, branches, and functions of state government, including local governments, and of the government of the United States, and in the electoral process. A student of a college or university, who, after having completed a course of instruction prescribed in this section and successfully passed an examination on the United States Constitution, and in American history and American institutions required hereby, transfers to another college or university, is not required to complete another such course or pass another such examination as a condition precedent to his graduation from the college or university.

4. In the 1990-91 school year and each year thereafter, each school district maintaining a high school may annually nominate to the state board of education a student who has demonstrated knowledge of the principles of government and citizenship through academic achievement, participation in extracurricular activities, and service to the community. Annually, the state board of education shall select fifteen students from those nominated by the local school districts and shall recognize and award them for their academic achievement, participation and service.

5. The provisions of this section shall not apply to students from foreign countries who are enrolled in public or private high schools in Missouri, if such students are foreign exchange students sponsored by a national organization recognized by the department of elementary and secondary education.

170.310. CARDIOPULMONARY RESUSCITATION INSTRUCTION AND TRAINING, GRADES NINE THROUGH TWELVE, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. **For school year 2017-18 and each school year thereafter, upon graduation from high school, pupils in public schools and charter schools shall have received thirty minutes of**

cardiopulmonary resuscitation instruction and training in the proper performance of the Heimlich maneuver or other first aid for choking given any time during a pupil's four years of high school.

2. Beginning in school year 2017-18, any public school or charter school serving grades nine through twelve **[**may**]** **shall** provide enrolled students instruction in cardiopulmonary resuscitation. Students with disabilities may participate to the extent appropriate as determined by the provisions of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. **[**Instruction may be embedded in any health education course**]** **Instruction shall be included in the district's existing health or physical education curriculum**. Instruction shall be based on a program established by the American Heart Association or the American Red Cross, or through a nationally recognized program based on the most current national evidence-based emergency cardiovascular care guidelines, and psychomotor skills development shall be incorporated into the instruction. For purposes of this section, "psychomotor skills" means the use of hands-on practicing and skills testing to support cognitive learning.

[2.**]** **3.** The teacher of the cardiopulmonary resuscitation course or unit shall not be required to be a certified trainer of cardiopulmonary resuscitation if the instruction is not designed to result in certification of students. Instruction that is designed to result in certification being earned shall be required to be taught by an authorized cardiopulmonary instructor. Schools may develop agreements with any local chapter of a voluntary organization of first responders to provide the required hands-on practice and skills testing.

[3.**]** **4.** The department of elementary and secondary education may promulgate rules 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, 2012, shall be invalid and void.

170.345. MISSOURI CIVICS EDUCATION INITIATIVE — EXAMINATION REQUIRED — WAIVER, WHEN. — 1. This section shall be known as the "Missouri Civics Education Initiative".

2. Any student entering ninth grade after July 1, 2017, who is attending any public, charter, or private school, except private trade schools, as a condition of high school graduation shall pass an examination on the provisions and principles of American civics.

3. The examination shall consist of one hundred questions similar to the one hundred questions used by the United States Citizenship and Immigration Services that are administered to applicants for United States citizenship.

4. The examination required under this section may be included in any other examination that is administered on the provisions and principles of the Constitution of the United States and of the state of Missouri, and in American history and American institutions, as required in subsection 3 of section 170.011.

5. School districts may use any online test to comply with the provisions of this section.

6. Each school district shall adopt a policy to permit the waiver of the requirements of this section for any student with a disability if recommended by the student's IEP committee. For purposes of this subsection, "IEP" means individualized education program.

170.350. CONSTITUTION PROJECT OF THE MISSOURI SUPREME COURT, PARTICIPATION IN, EFFECT OF. — A school district may develop a policy that allows student participation in the Constitution Project of the Missouri Supreme Court to be recognized by:

(1) The granting of credit for some portion of, or in collaboration with:

(a) Inclusion in the student's record of good citizenship as required by the A+ tuition reimbursement program under section 160.545; or

(b) The Missouri and United States Constitution course required under section 170.011; or

(c) Any relevant course or instructional unit in American government or a similar subject; or

(2) District or school-level awards including, but not limited to, certificates or assemblies.

171.021. SCHOOLS RECEIVING PUBLIC MONEYS TO DISPLAY UNITED STATES FLAG — REQUIREMENT TO RECITE PLEDGE OF ALLEGIANCE ONCE PER SCHOOL DAY — STUDENTS NOT REQUIRED TO RECITE. — 1. Every school in this state which is supported in whole or in part by public moneys, during the hours while school is in session, shall display in some prominent place either upon the outside of the school building or upon a pole erected in the school yard the flag of the United States of America.

2. Every school in this state which is supported in whole or in part by public moneys shall ensure that the Pledge of Allegiance to the flag of the United States of America is recited in at least one scheduled class of every pupil enrolled in that school no less often than once per **[**week**]** **school day. Flags for display in individual classrooms may be provided by voluntary donation by any person**. No student shall be required to recite the Pledge of Allegiance.

173.750. ANNUAL REPORTING OF PERFORMANCE OF GRADUATES, FURNISHING OF REPORT — PROCEDURE — DATA INCLUDED — REVIEW OF POLICIES. — 1. By July 1, 1995, the coordinating board for higher education, within existing resources provided to the department of higher education and by rule and regulation, shall have established and implemented a procedure for annually reporting the performance of graduates of public high schools in the state during the student's initial year in the public colleges and universities of the state. The purpose of such reports shall be to assist in determining how high schools are preparing students for successful college and university performance. The report produced pursuant to this subsection shall annually be furnished to the state board of education for reporting pursuant to subsection 4 of section 161.610 and shall not be used for any other purpose **until such time that a standard process and consistent, specific criteria for determining a student's need for remedial coursework is agreed upon by the coordinating board for higher education, higher education institutions, and the state board of education**.

2. The procedures shall be designed so that the reporting is made by the name of each high school in the state, with individual student data to be grouped according to the high school from which the students graduated. The data in the reports shall be disaggregated by race and sex. The procedures shall not be designed so that the reporting contains the name of any student. No grade point average shall be disclosed under subsection 3 of this section in any case where three or fewer students from a particular high school attend a particular college or university.

3. The data reported shall include grade point averages after the initial college year, calculated on, or adjusted to, a four point grade scale; the percentage of students returning to college after the first and second half of the initial college year, or after each trimester of the initial college year; the percentage of students taking noncollege level classes in basic academic courses during the first college year, or remedial courses in basic academic subjects of English, mathematics, or reading; and other such data as determined by rule and regulation of the coordinating board for higher education.

4. The department of elementary and secondary education shall conduct a review of its policies and procedures relating to remedial education in light of the best practices in remediation identified as required by subdivision (6) of subsection 2 of section 173.005 to ensure that school districts are informed about best practices to reduce the need for

remediation. The department shall present its results to the joint committee on education by October 31, 2017.

633.420. DYSLEXIA DEFINED — TASK FORCE CREATED, MEMBERS, DUTIES, RECOMMENDATIONS — EXPIRATION DATE. — 1. For the purposes of this section, the term "dyslexia" means a disorder that is neurological in origin, characterized by difficulties with accurate and fluent word recognition, and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language, often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, and of which secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge. Nothing in this section shall prohibit a district from assessing students for dyslexia and offering students specialized reading instruction if a determination is made that a student suffers from dyslexia. Unless required by federal law, nothing in this definition shall require a student with dyslexia to be automatically determined eligible as a student with a disability.

2. There is hereby created the "Legislative Task Force on Dyslexia". The joint committee on education shall provide technical and administrative support as required by the task force to fulfill its duties; any such support involving monetary expenses shall first be approved by the chairman of the joint committee on education. The task force shall meet at least quarterly and may hold meetings by telephone or video conference. The task force shall advise and make recommendations to the governor, joint committee on education, and relevant state agencies regarding matters concerning individuals with dyslexia, including education and other adult and adolescent services.

3. The task force shall be comprised of twenty members consisting of the following:

(1) Two members of the senate appointed by the president pro tempore of the senate, with one member appointed from the minority party and one member appointed from the majority party;

(2) Two members of the house of representatives appointed by the speaker of the house of representatives, with one member appointed from the minority party and one member appointed from the majority party;

(3) The commissioner of education, or his or her designee;

(4) One representative from an institution of higher education located in this state with specialized expertise in dyslexia and reading instruction;

(5) A representative from a state teachers association or the Missouri National Education Association;

(6) A representative from the International Dyslexia Association of Missouri;

(7) A representative from Decoding Dyslexia of Missouri;

(8) A representative from the Missouri Association of Elementary School Principals;

(9) A representative from the Missouri Council of Administrators of Special Education;

(10) A professional licensed in the state of Missouri with experience diagnosing dyslexia including, but not limited to, a licensed psychologist, school psychologist, or neuropsychologist;

(11) A speech-language pathologist with training and experience in early literacy development and effective research-based intervention techniques for dyslexia, including an Orton-Gillingham remediation program recommended by the Missouri Speech-Language Hearing Association;

(12) A certified academic language therapist recommended by the Academic Language Therapists Association who is a resident of this state;

(13) A representative from an independent private provider or nonprofit organization serving individuals with dyslexia;

(14) An assistive technology specialist with expertise in accessible print materials and assistive technology used by individuals with dyslexia recommended by the Missouri assistive technology council;

(15) One private citizen who has a child who has been diagnosed with dyslexia;

(16) One private citizen who has been diagnosed with dyslexia;

(17) A representative of the Missouri State Council of the International Reading Association; and

(18) A pediatrician with knowledge of dyslexia.

4. The members of the task force, other than the members from the general assembly and ex officio members, shall be appointed by the president pro tempore of the senate or the speaker of the house of representatives by September 1, 2016, by alternating appointments beginning with the president pro tempore of the senate. A chairperson shall be selected by the members of the task force. Any vacancy on the task force shall be filled in the same manner as the original appointment. Members shall serve on the task force without compensation.

5. The task force shall make recommendations for a statewide system for identification, intervention, and delivery of supports for students with dyslexia, including the development of resource materials and professional development activities. These recommendations shall be included in a report to the governor and joint committee on education and shall include findings and proposed legislation and shall be made available no longer than twelve months from the task force's first meeting.

6. The recommendations and resource materials developed by the task force shall:

(1) Identify valid and reliable screening and evaluation assessments and protocols that can be used and the appropriate personnel to administer such assessments in order to identify children with dyslexia or the characteristics of dyslexia as part of an ongoing reading progress monitoring system, multi-tiered system of supports, and special education eligibility determinations in schools;

(2) Recommend an evidence-based reading instruction, with consideration of the National Reading Panel Report and Orton-Gillingham methodology principles for use in all Missouri schools, and intervention system, including a list of effective dyslexia intervention programs, to address dyslexia or characteristics of dyslexia for use by schools in multi-tiered systems of support and for services as appropriate for special education eligible students;

(3) Develop and implement preservice and inservice professional development activities to address dyslexia identification and intervention, including utilization of accessible print materials and assistive technology, within degree programs such as education, reading, special education, speech-language pathology, and psychology;

(4) Review teacher certification and professional development requirements as they relate to the needs of students with dyslexia;

(5) Examine the barriers to accurate information on the prevalence of students with dyslexia across the state and recommend a process for accurate reporting of demographic data; and

(6) Study and evaluate current practices for diagnosing, treating, and educating children in this state and examine how current laws and regulations affect students with dyslexia in order to present recommendations to the governor and joint committee on education.

7. The task force shall hire or contract for hire specialist services to support the work of the task force as necessary with appropriations made by the general assembly for that purpose or from other available funding.

8. The task force authorized under this section shall expire on August 31, 2018.

[161.216. QUALITY RATING SYSTEM FOR EARLY CHILDHOOD EDUCATION, PROHIBITION ON CERTAIN INCENTIVES AND MANDATES TO PARTICIPATE WITHOUT STATUTORY AUTHORITY — TAXPAYER STANDING, WHEN — DEFINITIONS. — 1. No public institution of higher education, political subdivision, governmental entity, or quasi-governmental entity receiving state funds shall operate, establish, or maintain, offer incentives to participate in, or mandate participation in a quality rating system for early childhood education, a training quality assurance system, any successor system, or any substantially similar system for early childhood education, unless the authority to operate, establish, or maintain such a system is enacted into law through:

(1) A bill as prescribed by Article III of the Missouri Constitution;

(2) An initiative petition as prescribed by Section 50 of Article III of the Missouri Constitution; or

(3) A referendum as prescribed by Section 52(a) of Article III of the Missouri Constitution.

2. No public institution of higher education, political subdivision, governmental entity or quasi-governmental entity receiving state funds shall promulgate any rule or establish any program, policy, guideline, or plan or change any rule, program, policy, guideline, or plan to operate, establish, or maintain a quality rating system for early childhood education, a training quality assurance system, any successor system, or any substantially similar system for early childhood education unless such public institution of higher education, political subdivision, governmental entity or quasi-governmental entity receiving state funds has received statutory authority to do so in a manner consistent with subsection 1 of this section.

3. Any taxpayer of this state or any member of the general assembly shall have standing to bring suit against any public institution of higher education, political subdivision, governmental entity or quasi-governmental entity which is in violation of this section in any court with jurisdiction to enforce the provisions of this section.

4. This section shall not be construed to limit the content of early childhood education courses, research, or training carried out by any public institution of higher education. A course on quality rating systems or training quality assurance systems shall not be a requirement for certification by the state as an individual child care provider or any licensing requirement that may be established for an individual child care provider.

5. For purposes of this section:

(1) "Early childhood education" shall mean education programs that are both centered and home-based and providing services for children from birth to kindergarten;

(2) "Quality rating system" or "training quality assurance system" shall include the model from the Missouri quality rating system pilots developed by the University of Missouri center for family policy and research, any successor model, or substantially similar model. "Quality rating system" or "training quality assurance system" shall also include but not be limited to a tiered rating system that provides a number of tiers or levels to set benchmarks for quality that build upon each other, leading to a top tier that includes program accreditation. "Quality rating system" or "training quality assurance system" may also include a tiered reimbursement system that may be tied to a tiered rating system;

(3) "Tiered reimbursement system" or "training quality assurance system" shall include but not be limited to a system that links funding to a quality rating system, a system to award higher child care subsidy payments to programs that attain higher quality levels, or a system that offers other incentives through tax policy or professional development opportunities for child care providers.**]**

SECTION B. DELAYED EFFECTIVE DATE. — The repeal and reenactment of section 161.1050 of this act shall become effective July 1, 2017.

Approved June 22, 2016

SB 655 [SB 655]

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

Repeals the Advisory Council to the Director of the Missouri Agriculture Experiment Station and establishes the Fertilizer Control Board

AN ACT to repeal sections 266.301, 266.311, 266.331, 266.336, 266.341, 266.343, and 266.347, RSMo, and to enact in lieu thereof six new sections relating to the establishment of the fertilizer control board, with existing penalty provisions.

SECTION
A. Enacting clause.
266.301. Permit required to sell fertilizer — application.
266.311. Sale of misbranded fertilizer prohibited.
266.331. Sales to be reported — fees.
266.336. Fertilizer control board created — appointment, qualifications — meetings — duties — authorized agents, duties — terms — expenses, how paid.
266.343. Penalties for deficiency in fertilizer.
266.347. Penalties payable to purchaser or director, collection procedure.
266.341. Powers of director in administering law — rules, procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 266.301, 266.311, 266.331, 266.336, 266.341, 266.343, and 266.347, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 266.301, 266.311, 266.331, 266.336, 266.343, and 266.347, to read as follows:

266.301. PERMIT REQUIRED TO SELL FERTILIZER — APPLICATION. — It shall be unlawful for any distributor to sell, offer for sale or expose for sale for consumption or use in this state any fertilizer without first securing a permit from the **[**director**]** **fertilizer control board**. Such permit shall expire on the thirtieth day of June of each year. Application for such permit shall be on forms furnished by the **[**director**]** **fertilizer control board**.

266.311. SALE OF MISBRANDED FERTILIZER PROHIBITED. — It shall be unlawful for any person to sell, offer for sale or expose for sale any fertilizer for use or consumption in this state which is misbranded. Any fertilizer shall be deemed to be misbranded if it fails to carry the printed statement required under section 266.321, or if the chemical composition of such fertilizer does not meet the guarantee expressed on said statement within allowable tolerances fixed by the **[**director**]** **fertilizer control board**, or if the container for such fertilizer or any statement accompanying the same carries any false or misleading statement, or if false or misleading statements concerning its agricultural value are made on any advertising matter accompanying or associated with such fertilizer.

266.331. SALES TO BE REPORTED — FEES. — Every distributor shall, within thirty days after each six-months' period ending June thirtieth and December thirty-first, file with the

[director] **fertilizer control board** on forms supplied by [him] **the fertilizer control board** a sworn certificate setting forth the information required [by the director] by rule. At the time of filing said certificate, each distributor of fertilizer, excluding manipulated animal or vegetable manure, shall pay to the director the fee prescribed [by the director] by rule, which fee shall not exceed one dollar per ton and one dollar ten cents per metric ton; except that, sales to fertilizer manufacturers or exchanges between them are hereby exempted. Each distributor of fertilizer consisting of manipulated animal or vegetable manure shall pay to the director a fee paid for each ton of manure as prescribed [by the director] by rule, which fee shall not exceed two cents for each percent nitrogen for manure containing less than five percent nitrogen; or which fee shall not exceed four cents for each percent nitrogen for manure containing at least five but less than ten percent nitrogen; or which fee shall not exceed six cents for each percent nitrogen for manure containing ten or more percent nitrogen. In the event that the [director] **fertilizer control board** has not prescribed a fee under this section, each distributor required to pay a fee under this section shall pay a fee of one and one-half cents for each one hundred pounds of fertilizer sold [by him] during the period covered by the certificate filed under this section. [The fees so paid to the director shall be used for defraying the expenses in administering sections 266.291 to 266.351 and the rules promulgated under sections 266.291 to 266.351, and for practical and scientific experiments by the Missouri agricultural experiment station in the value and proper use of fertilizers. Such fees may also be used to support such related research and methodology, publications, and educational programs extending the results of the fertilizer experiments as may be of practical use to the farmers of this state.] **The director is hereby authorized to collect fees and hold all fees in a separate fund that shall be utilized by the fertilizer control board to administer sections 266.291 to 266.351**.

266.336. FERTILIZER CONTROL BOARD CREATED — APPOINTMENT, QUALIFICATIONS — MEETINGS — DUTIES — AUTHORIZED AGENTS, DUTIES — TERMS — EXPENSES, HOW PAID. — 1. There is hereby created [an advisory council to the director, which] **a "Fertilizer Control Board". The fertilizer control board** shall be composed of [fifteen] **thirteen** members [appointed by the director pursuant to this section]. Of the [fifteen] **thirteen** members [so appointed], five shall be actively employed as fertilizer manufacturers or distributors[,] **and** five shall be actively engaged in the business of farming[, and five shall be chosen from the residents at large of this state. The five members chosen from the residents at large of this state]**. The nonprofit corporation organized under Missouri law to promote the interests of the fertilizer industry shall nominate persons employed as fertilizer manufacturers or distributors, and Missouri not-for-profit organizations that represent farmers shall nominate persons engaged in the business of farming. Such nominations shall be submitted to the director, and the director shall select members from these nominations. Three at large members** shall be selected by the director with the approval of a majority of the other ten members of the [advisory council] **fertilizer control board**.

2. The [advisory council] **fertilizer control board** shall:

(1) Meet at least [once] **twice** each year **with meetings conducted according to bylaws**;

(2) [Annually] Review [with the director] **and approve** the income received and expenditures made under sections 266.291 to 266.351;

(3) [Review and approve all rules, and revisions or rescissions thereof, to be promulgated by the director] **In accordance with this section and chapter 536, adopt, amend, promulgate, or repeal after due notice and hearing rules and regulations to enforce, implement, and effectuate the powers and duties of sections 266.291 to 266.351. 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, 2016, shall be invalid and void;

(4) **[**Consider all information and advise the director in determining**] Revoke or suspend a permit, or refuse to issue a permit, to any distributor who has knowingly violated any of the provisions of sections 266.291 to 266.351, or has failed or neglected to pay the fees or penalties provided for in sections 266.291 to 266.351. The board shall conduct a hearing if requested by the distributor to review all penalties assessed and permit decisions made by the board. Upon completion of a hearing, the board shall determine if penalty modifications are warranted giving consideration to the history of previous violations, the seriousness of the violation, any overage in any other ingredients, demonstrated good faith of the distributor, and any other factors deemed appropriate. Any penalty modification must comply with section 266.343;**

(5) Determine the method and amount of fees to be assessed. In performing its duties under this subdivision, the **[**advisory council**] fertilizer control board** shall represent the best interests of the Missouri farmers **and Missouri agribusinesses**;

[(5) Serve in an advisory capacity in all matters pertaining to the administration of sections 266.291 to 266.351**]**

(6) Secure access to a laboratory with necessary equipment, and employees as may be necessary, to aid in the administration of sections 266.291 to 266.351;

(7) Pursue nutrient research, educational, and outreach programs to ensure the adoption and implementation of practices that optimize nutrient use efficiency, ensure soil fertility, and address environmental concerns with regard to fertilizer use extending the results of the fertilizer experiments that may be of practical use to the farmers and agribusinesses of this state;

(8) Exercise general supervision of the administration and enforcement of sections 266.291 to 266.351, and all rules and regulations and orders promulgated under such sections;

(9) Institute and prosecute through the attorney general of the state suits to collect any fees due under sections 266.301 to 266.347 which are not promptly paid.

3. Authorized agents of the fertilizer control board are hereby authorized and empowered to:

(1) Only to the extent necessary to determine general compliance, collect samples, inspect, and make analysis of fertilizer sold, offered, or exposed for sale within this state; except that, samples taken of fertilizer sold in bulk shall be taken from the bulk container immediately after mixing on the premises of the mixing facility or, when not possible, to be sampled from the bulk container wherever found. All samples shall have a preliminary analysis completed within five business days of the sample being obtained. If requested, a portion of any sample found subject to penalty or other legal action shall be provided to the distributor liable for the penalty;

(2) Only to the extent necessary to determine general compliance, inspect and audit the books of every distributor who sells, offers for sale, or exposes for sale fertilizer for consumption or use in this state to determine whether or not the provisions of sections 266.291 to 266.351 are being fully complied with;

(3) Require every distributor to file documentation as prescribed by rules promulgated under sections 266.291 to 266.351. Such documents shall not be required more often than six-month intervals, and all such documents shall be returned to the distributor upon request;

(4) Enter upon any public or private premises during regular business hours in order to have access to fertilizer subject to sections 266.291 to 266.351 and the rules and regulations promulgated under sections 266.291 to 266.351, and to take samples and inspect such fertilizer;

(5) Issue and enforce a written or printed "stop-sale, use, or removal" order to the owner or custodian of any fertilizer that is found to be in violation of any of the provisions of sections 266.291 to 266.351, which such order prohibiting the further sale of such fertilizer until sections 266.291 to 266.351 have been complied with or otherwise disposed of;

(6) Publish each year the full and detailed report giving the names and addresses of all distributors registered under sections 266.291 to 266.351, the analytical results of all samples collected, and a statement of all fees and penalties received and expenditures made under sections 266.291 to 266.351;

(7) Establish from information secured from manufacturers and other reliable sources, the market value of fertilizer and fertilizer materials for the purpose of determining the amount of damages due when the official analysis shows an excessive deficiency from the guaranteed analysis;

(8) Retain, employ, provide for, and compensate such consultants, assistants, and other employees on a full- or part-time basis and contract for goods and services as may be necessary to carry out the provisions of sections 266.291 to 266.351, and prescribe the times at which they shall be appointed and their powers and duties.

[3.**]** **4. The filling of vacancies, the selection of officers, the conduct of its meetings, and all other matters concerning the fertilizer control board shall be outlined in the bylaws established by the fertilizer control board.** All members of the **[**advisory council**]** **fertilizer control board** shall serve for terms of three years and until their successors are duly appointed and qualified; except that, of the members first appointed:

(1) Two members who are actively employed as fertilizer manufacturers or distributors, two members actively engaged in the business of farming, and **[**two members chosen from the residents of this state**]** **one** at large **member** shall serve for terms of three years;

(2) Two members who are actively employed as fertilizer manufacturers or distributors, two members actively engaged in the business of farming, and **[**two members chosen from the residents of this state**]** **one** at large **member** shall serve for terms of two years; and

(3) The remaining three members shall serve for terms of one year.

[4.**]** **5.** All members shall be residents of this state. No member may serve more than two consecutive terms on the **[**advisory council**]** **fertilizer control board**, but any member may be reappointed after he has not been a member of the advisory council for a period of at least three years.

[5.**]** **6.** All members shall be reimbursed for reasonable expenses incurred in the performance of their official duties in accordance with the reimbursement policy set by the **[**director**]** **fertilizer control board bylaws**. All reimbursements paid under this section shall be paid from fees collected under sections 266.291 to 266.351.

[6. Every vacancy on the advisory council shall be filled by the director with the approval of a majority of the remaining members of the council. The person selected to fill any such vacancy shall possess the same qualifications required by this section as the member he replaces and shall serve until the end of the unexpired term of his predecessor.**]**

266.343. PENALTIES FOR DEFICIENCY IN FERTILIZER. — If any fertilizer offered for sale in this state shall upon official analysis prove deficient from its guarantee as stated on the bag or other container, penalties shall be assessed as follows:

(1) For a single ingredient fertilizer containing nitrogen or available phosphate or soluble potash:

(a) When the value of this ingredient is found to be deficient from the guarantee to the extent of three percent and not over five percent, the distributor shall be liable for the actual deficiency;

(b) When the deficiency exceeds five percent of the total value, the penalty shall be three times the actual value of the shortage;

(2) For multiple ingredient fertilizers containing two or more of the single ingredients: Nitrogen or available phosphate or soluble potash, penalties shall be assessed according to (a), (b) or (c) as herein stated. When a multiple ingredient fertilizer is subject to a penalty under (a), (b) and (c) only the larger penalty shall be assessed.

(a) When the total combined values of the nitrogen or available phosphate or soluble potash is found to be deficient to the extent of three percent and not over five percent, the distributor shall be liable for the actual deficiency in total value.

(b) When the deficiency exceeds five percent of the total value, the penalty shall be three times the actual value of the shortage.

(c) When either the nitrogen, available phosphate or soluble potash value is found deficient from the guarantee to the extent of ten percent up to the maximum of two units (two percent plant food), the distributors shall be liable for the value of such shortages**;**

(3) Total penalties assessed upon a distributor shall not exceed five thousand dollars per calendar year or the amount of the current value of the plant food deficiency, whichever is greater. A distributor who knowingly violates the provisions of sections 266.291 to 266.351 shall be assessed a penalty of not more than twenty-five thousand dollars for each offense.

266.347. PENALTIES PAYABLE TO PURCHASER OR DIRECTOR, COLLECTION PROCEDURE. — 1. The penalties assessed **[**by the director**]** under section 266.343 shall be paid by the distributor to the purchaser of such fertilizer, and in the event such purchaser cannot be ascertained, then said penalty shall be paid **[**to the director and used for the purposes specified in section 266.321, except the maximum paid the purchaser will approximate the actual value of the deficiency**] to the director under section 266.331 and shall be used in accordance with the provisions of such section**.

2. **[**The director shall prepare**] Where the preliminary analysis shows that a fertilizer has a potential plant food deficiency, the distributor shall be provided preliminary notification within two business days by telephone or email in addition to a notification letter delivered by mail. Once the analysis is certified,** a written certification of penalties assessed under section 266.343 **[**addressed to the distributor. A copy of such certification of assessment**]** shall be mailed to the distributor liable for the penalty.

3. Any decision, finding, order or ruling of the **[**director**] fertilizer control board** made pursuant to the provisions of sections 266.291 through 266.351 shall be subject to judicial review in the manner provided by chapter 536.

4. If any distributor shall fail to pay any penalty assessed **[**by the director**]** after the time for judicial review has expired, or after any judgment or decree approving such assessment has become final, the person entitled to such penalty under the provisions of subsection 1 shall be entitled to bring a civil action to recover the same, and in such civil action such persons shall be entitled to recover from the distributor the amount of the penalty, a reasonable attorney's fee and costs of the action.

[266.341. POWERS OF DIRECTOR IN ADMINISTERING LAW — RULES, PROCEDURE. — 1. The duty of enforcing and administering sections 266.291 to 266.351 shall be vested in the director. The director shall, in accordance with this section and chapter 536, promulgate all rules necessary to provide for the efficient administration and enforcement of sections 266.291 to 266.351; except that, no rule, nor revision or rescission thereof, may be filed with the secretary of state until it has been approved by a majority of the members of the advisory council created in section 266.336. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

2. The director or his authorized agents are hereby authorized and empowered to:

(1) Collect samples, inspect, and make analysis of fertilizer sold, offered or exposed for sale within this state; except that, samples taken of fertilizer sold in bulk shall be taken from the bulk container immediately after mixing on the premises of the mixing facility or, when not possible, to be sampled from the bulk container wherever found;

(2) Inspect and audit the books of every distributor who sells, offers for sale, or exposes for sale fertilizer for consumption or use in this state, to determine whether or not the provisions of sections 266.291 to 266.351 are being fully complied with;

(3) Require every distributor to file with the director documentation as prescribed by rules promulgated under sections 266.291 to 266.351. Such documents shall not be required more often than two-week intervals, and all such documents shall be returned to the distributor upon his request;

(4) Enter upon any public or private premises during the regular business hours in order to have access to fertilizer subject to sections 266.291 to 266.351 and the rules and regulations promulgated under sections 266.291 to 266.351, and to take samples and inspect such fertilizer;

(5) Issue and enforce a written or printed "stop-sale, use, or removal" order to the owner or custodian of any fertilizer which is found to be in violation of any of the provisions of sections 266.291 to 266.351, which order shall prohibit the further sale of such fertilizer until sections 266.291 to 266.351 have been complied with or such violation has been otherwise legally disposed of by written authority of the director;

(6) Maintain a laboratory with necessary equipment and employ such employees as may be necessary to aid in the administration of sections 266.291 to 266.351;

(7) Publish each year the full and detailed report giving the names and addresses of all distributors registered under sections 266.291 to 266.351, the analytical results of all samples collected, and a statement of all fees and penalties received and expenditures made under sections 266.291 to 266.351;

(8) Revoke or suspend the permit, or refuse to issue a permit, to any distributor who has willfully violated any of the provisions of sections 266.291 to 266.351 or failed or neglected to pay the fees or penalties provided for in sections 266.291 to 266.351;

(9) Institute and prosecute through the attorney general of this state suits to collect any fees due under the provisions of sections 266.291 to 266.351 which are not promptly paid;

(10) Establish from information secured from manufacturers and other reliable sources the market value of fertilizer and fertilizer materials for the purpose of determining the amount of damages due when the official analysis shows an excessive deficiency from the guaranteed analysis.]

Approved June 24, 2016

SB 657 [HCS SS SCS SB 657]

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 vehicles

AN ACT to repeal sections 302.440, 319.114, 414.036, 414.082, and 414.255, RSMo, and to enact in lieu thereof six new sections relating to motor vehicles.

SECTION
A. Enacting clause.
302.440. Beginning January 1, 2017 — Devices, use of, when.
302.441. Employment exemption variance, permitted when — restrictions.
319.114. Evidence of financial responsibility required to cover certain damages — rules to be established by department.
414.036. Financial responsibility to be maintained, when — aboveground storage tank defined — rules.
414.082. Inspection fees, rate determined by director of revenue — petroleum inspection fund created, fees deposited, uses, investment of moneys.
414.255. Definitions — ethanol-blended gasoline required, when — exemptions — rulemaking authority — immunity from liability, when.

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

SECTION A. ENACTING CLAUSE. — Sections 302.440, 319.114, 414.036, 414.082, and 414.255, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 302.440, 302.441, 319.114, 414.036, 414.082, and 414.255, to read as follows:

302.440. BEGINNING JANUARY 1, 2017 — DEVICES, USE OF, WHEN. — In addition to any other provisions of law, a court may require that any person who is found guilty of a first intoxication-related traffic offense, as defined in section 577.001, and a court shall require that any person who is found guilty of a second or subsequent intoxication-related traffic offense, as defined in section 577.001, shall not operate any motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device for a period of not less than six months from the date of reinstatement of the person's driver's license. In addition, any court authorized to grant a limited driving privilege under section 302.309 to any person who is found guilty of a second or subsequent intoxication-related traffic offense shall require the use of an ignition interlock device on all vehicles operated by the person as a required condition of the limited driving privilege**, except as provided in section 302.441**. These requirements shall be in addition to any other provisions of this chapter or chapter 577 requiring installation and maintenance of an ignition interlock device. Any person required to use an ignition interlock device shall comply with such requirement subject to the penalties provided by section 577.599.

302.441. EMPLOYMENT EXEMPTION VARIANCE, PERMITTED WHEN — RESTRICTIONS. — **1. If a person is required to have an ignition interlock device installed on such person's vehicle, he or she may apply to the court for an employment exemption variance to allow him or her to drive an employer-owned vehicle not equipped with an ignition interlock device for employment purposes only. Such exemption shall not be granted to a person who is self-employed or who wholly or partially owns an entity that owns an employer-owned vehicle.**

2. A person who is granted an employment exemption variance under subsection 1 of this section shall not drive, operate, or be in physical control of an employer-owned vehicle used for transporting children under eighteen years of age or vulnerable persons, as defined in section 630.005, or an employer-owned vehicle for personal use.

319.114. EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED TO COVER CERTAIN DAMAGES — RULES TO BE ESTABLISHED BY DEPARTMENT. — 1. The department shall establish rules requiring the owner or operator to maintain evidence of financial responsibility in an amount and form sufficient for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of an underground storage tank.

2. The form of the evidence of financial responsibility required by this section may be by any one, or any combination, of the following methods: cash trust fund, guarantee, insurance, surety or performance bond, letter of credit, qualification as a self-insurer, or any other method satisfactory to the department. In adopting requirements under this section, the department may

specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing the evidence of financial responsibility.

3. The amount of financial responsibility required shall not exceed the amount required for compliance with section 9003 of subtitle I of the federal Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended.

4. The total liability of a guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other state or federal statutory, contractual, or common law liability of a guarantor to its owner or operator, including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (P.L. 96-510), as amended, or other applicable law.

5. Except in cases of fraud or misrepresentation on the application for coverage, no owner or operator shall be denied benefits by the petroleum storage tank insurance fund or other provider of financial responsibility required by this section solely because the owner or operator's claim arises from a release of a regulated petroleum substance deemed incompatible with the underground storage tank system.

414.036. FINANCIAL RESPONSIBILITY TO BE MAINTAINED, WHEN — ABOVEGROUND STORAGE TANK DEFINED — RULES. — 1. After December 31, 2010, the owner or operator of an aboveground storage tank defined in subsection 2 of this section shall maintain evidence of financial responsibility in an amount equal to or greater than one million dollars per occurrence and two million dollars annual aggregate for the costs of taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the tank.

2. For the purposes of this section, "aboveground storage tank" is defined as any one or a combination of tanks, including pipes connected thereto, used to contain an accumulation of petroleum and the volume of which, including the volume of the aboveground pipes connected thereto, is ninety percent or more above the surface of the ground, which is utilized for the sale of products regulated by this chapter. The term does not include those tanks described in paragraphs (a) to (k) of subdivision (16) of section 319.100, nor does it include aboveground storage tanks at refineries, petroleum pipeline terminals, or marine terminals.

3. Owners and operators may meet the requirements of this section by participating in the petroleum storage tank insurance fund created in section 319.129 or by any other method approved by the department.

4. 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, 2008, shall be invalid and void.

5. Except in cases of fraud or misrepresentation on the application for coverage, no owner or operator shall be denied benefits by the petroleum storage tank insurance fund or other provider of financial responsibility required by this section solely because the owner or operator's claim arises from a release of motor fuel deemed incompatible with the aboveground storage tank system.

414.082. INSPECTION FEES, RATE DETERMINED BY DIRECTOR OF REVENUE — PETROLEUM INSPECTION FUND CREATED, FEES DEPOSITED, USES, INVESTMENT OF MONEYS. — 1. The fee for the inspection of gasoline, gasoline-alcohol blends, kerosene, diesel fuel, heating oil, aviation turbine fuel, and other motor fuels under this chapter shall be fixed by the director of revenue at a rate per barrel which will approximately yield revenue equal to the expenses of administering this chapter; except that, until December 31, **[**1993, the rate shall be one and one-half cents per barrel and beginning January 1, 1994, the fee shall not be less than one and one-half cents per barrel nor exceed two and one-half**] 2016, the rate shall not exceed two and one-half cents per barrel, from January 1, 2017, through December 31, 2021, the rate shall not exceed four cents per barrel, and after January 1, 2022, the rate shall not exceed five** cents per barrel.

2. Annually the director of the department of agriculture shall ascertain the total expenses for administering sections 414.012 to 414.152 during the preceding year, and shall forward a copy of such expenses to the director of revenue. The director of revenue shall fix the inspection fee for the ensuing calendar year at such rate per barrel, within the limits established by subsection 1 of this section, as will approximately yield revenue equal to the expenses of administering sections 414.012 to 414.152 during the preceding calendar year and shall collect the fees and deposit them in the state treasury to the credit of the "Petroleum Inspection Fund" which is hereby created. Beginning July 1, 1988, all expenses of administering sections 414.012 to 414.152 shall be paid from appropriations made out of the petroleum inspection fund.

3. The unexpended balance in the fund at the end of each fiscal year shall not be transferred to the general revenue fund of the state, and the provisions of section 33.080 relating to the transfer of funds to the general revenue fund of the state by the state treasurer shall not apply to this fund.

4. The state treasurer shall invest all sums in the petroleum inspection fund not needed for current operating expenses in interest-bearing banking accounts or United States government obligations in the manner provided by law. All yield, increment, gain, interest or income derived from the investment of these sums shall accrue to the benefit of, and be deposited within the state treasury to the credit of, the petroleum inspection fund.

414.255. DEFINITIONS — ETHANOL-BLENDED GASOLINE REQUIRED, WHEN — EXEMPTIONS — RULEMAKING AUTHORITY — IMMUNITY FROM LIABILITY, WHEN. — 1. This section shall be known and may be cited as the "Missouri Renewable Fuel Standard Act".

2. For purposes of this section, the following terms shall mean:

(1) "Aviation fuel", any motor fuel specifically compounded for use in reciprocating aircraft engines;

(2) "Distributor", a person who either produces, refines, blends, compounds or manufactures motor fuel, imports motor fuel into a state or exports motor fuel out of a state, or who is engaged in distribution of motor fuel;

(3) "Fuel ethanol-blended gasoline", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the fuel ethanol meets ASTM International Specification D4806, as amended. The ten percent fuel ethanol portion may be derived from any agricultural source;

(4) "Position holder", the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal;

(5) "Premium gasoline", gasoline with an antiknock index number of ninety-one or greater;

(6) "Price", the cost of the fuel ethanol plus fuel taxes and transportation expenses less tax credits, if any; or the cost of the fuel ethanol-blended gasoline plus fuel taxes and transportation expenses less tax credits, if any; or the cost of the unblended gasoline plus fuel taxes and transportation expenses less tax credits, if any;

(7) "Qualified terminal", a terminal that has been assigned a terminal control number (tcn) by the Internal Revenue Service;

(8) "Supplier", a person that is:

(a) Registered or required to be registered pursuant to 26 U.S.C., Section 4101, for transactions in motor fuels in the bulk transfer/terminal distribution system; and

(b) One or more of the following:

a. The position holder in a terminal or refinery in this state;

b. Imports motor fuel into this state from a foreign country;

c. Acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

d. The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to this state into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

(9) "Terminal", a bulk storage and distribution facility which includes:

(a) For the purposes of motor fuel, is a qualified terminal;

(b) For the purposes of fuel grade alcohol, is supplied by truck, rail car, boat, barge or pipeline and the products are removed at a rack; and

(10) "Unblended gasoline", gasoline that has not been blended with fuel ethanol.

3. Except as otherwise provided under subsections 4 and 5 of this section, on and after January 1, 2008, all gasoline sold or offered for sale in Missouri at retail shall be fuel ethanol-blended gasoline.

4. If a distributor is unable to obtain fuel ethanol or fuel ethanol-blended gasoline from a position holder or supplier at the terminal at the same or lower price as unblended gasoline, then the purchase of unblended gasoline by the distributor and the sale of the unblended gasoline at retail shall not be deemed a violation of this section. The position holder, supplier, distributor, and ultimate vendor shall, upon request, provide the required documentation regarding the sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline to the department of agriculture and the department of revenue. All information obtained by the departments from such sources shall be confidential and not disclosed except by court order or as otherwise provided by law.

5. The following shall be exempt from the provisions of this section:

(1) Aviation fuel and automotive gasoline used in aircraft;

(2) Premium gasoline;

(3) E75-E85 fuel ethanol;

(4) Any specific exemptions declared by the United States Environmental Protection Agency; and

(5) Bulk transfers between terminals. The director of the department of agriculture may by rule exempt or rescind additional gasoline uses from the requirements of this section. The governor may by executive order waive the requirements of this section or any part thereof in part or in whole for all or any portion of this state for reasons related to air quality. Any regional waiver shall be issued and implemented in such a way as to minimize putting any region of the state at a competitive advantage or disadvantage with any other region of the state.

6. The provisions of section 414.152 shall apply for purposes of enforcement of this section.

7. The department of agriculture is hereby authorized to promulgate rules to ensure implementation of, and compliance and consistency with, 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. All terminals in Missouri that sell gasoline shall offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline. Terminals that only offer for sale federal reformulated gasolines, in cooperation with position holders and suppliers, shall not be required to offer for sale unblended gasoline.

9. Notwithstanding any other law to the contrary, all fuel retailers, wholesalers, distributors, and marketers shall be allowed to purchase fuel ethanol from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler, or supplier. In the event a court of competent jurisdiction finds that this subsection does not apply to or improperly impairs existing contractual relationships, then this subsection shall only apply to and impact future contractual relationships.

10. No refiner, supplier, terminal, wholesaler, distributor, retailer, or other vendor of motor fuel that contains or is blended with any amount of ethanol, biodiesel, or other renewable fuel or biofuel and that complies with labeling and motor fuel quality laws shall be liable for any property damages related to a customer's purchase of such motor fuel from the vendor so long as the selection of the motor fuel was made by the customer and not the vendor. No motor fuel that contains or is blended with any amount of ethanol, biodiesel, or other renewable fuel or biofuel shall be considered a defective product for the purposes of a claim for property damage if such motor fuel complies with motor fuel quality laws.

11. No motor vehicle manufacturer or motor vehicle dealer, including all dealers required to be licensed under sections 301.550 to 301.580, and no manufacturer or dealer of internal combustion engines or a product powered by an internal combustion engine except in cases of fraud or misrepresentation, shall be liable for any property damages related to a customer's purchase of a motor fuel containing or blended with any amount of ethanol, biodiesel, or other renewable fuel or biofuel from the fuel refiner, supplier, terminal, wholesaler, distributor, retailer, or other vendor of motor fuel if the selection and purchase of the motor fuel was made by the customer and does not comply with specific fuel recommendations found in the vehicle or products owner manual.

Approved June 24, 2016

SB 660 [SB 660]

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 bidding procedures for county depositaries

AN ACT to repeal section 110.140, RSMo, and to enact in lieu thereof one new section relating to bidding procedures for county depositaries, with a penalty provision.

SECTION
A. Enacting clause.
110.140. Procedure for bidders — disclosure of bids a misdemeanor.

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

SECTION A. ENACTING CLAUSE. — Section 110.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 110.140, to read as follows:

110.140. PROCEDURE FOR BIDDERS — DISCLOSURE OF BIDS A MISDEMEANOR. — 1. Any banking corporation or association in the county desiring to bid shall deliver to the clerk of the commission, on or before the first Monday of July at which the selection of depositaries is to be made, a sealed proposal, stating the rate of interest that the banking corporation, or association offers to pay on the funds of the county for the term of two or four years next ensuing the date of the bid, or, if the selection is made for a less term than two or four years, as provided in sections 110.180 and 110.190, then for the time between the date of the bid and the next regular time for the selection of depositaries as fixed by section 110.130.

2. Each bid shall be accompanied by a certified check for not less than **[**the proportion of one and one-half percent of the county general revenue of the preceding year as the sum of the part or parts of funds bid for bears to the whole number of the parts**] two thousand five hundred dollars**, as a guaranty of good faith on the part of the bidder, that if his or her bid should be the highest he or she will provide the security required by section 110.010. Upon his or her failure to give the security required by law, the amount of the certified check shall go to the county as liquidated damages, and the commission may order the county clerk to readvertise for bids.

3. It shall be a misdemeanor, and punishable as such, for the clerk of the commission, or any deputy of the clerk, to directly or indirectly disclose the amount of any bid before the selection of depositaries.

Approved June 6, 2016

SB 664 [SB 664]

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

Modifies corporate registration report requirements for authorized farm corporations and family farm corporations

AN ACT to repeal section 351.120, RSMo, and to enact in lieu thereof one new section relating to corporate registration reports for farm corporations.

SECTION
A. Enacting clause.
351.120. Corporate registration report required, when — change in registered office or agent to be filed with report — waiver, when.

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

SECTION A. ENACTING CLAUSE. — Section 351.120, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 351.120, to read as follows:

351.120. CORPORATE REGISTRATION REPORT REQUIRED, WHEN — CHANGE IN REGISTERED OFFICE OR AGENT TO BE FILED WITH REPORT — WAIVER, WHEN. — 1. Every corporation organized pursuant to the laws of this state, including corporations organized pursuant to or subject to this chapter, and every foreign corporation licensed to do business in this state, whether such license shall have been issued pursuant to this chapter or not, other than corporations exempted from taxation by the laws of this state, shall file a corporate registration report.

2. The corporate registration report shall state the corporate name, the name of its registered agent and such agent's Missouri physical address, giving street and number, or building and number, or both, as the case may require, the name and correct business or residence address of its officers and directors, and the mailing address of the corporation's principal place of business or corporate headquarters.

3. The corporate registration report shall be filed annually, except as provided in section 351.122, and shall be due the month that the corporation incorporated or qualified, unless changed by the corporation under subsection 8 of this section. Corporations existing prior to July 1, 2003, shall file the corporate registration report on the month indicated on the corporation's last corporate registration report. Corporations formed on or after July 1, 2003, shall file a corporate registration report within thirty days of the date of incorporation or qualification and every year thereafter, except as provided in section 351.122, in the month that they were incorporated or qualified, unless such month is changed by the corporation under subsection 8 of this section.

4. The corporate registration report shall be signed by an officer or authorized person.

5. In the event of any error in the names and addresses of the officers and directors set forth in a corporate registration report, the corporation may correct such information by filing a certificate of correction pursuant to section 351.049.

6. A corporation may change the corporation's registered office or registered agent with the filing of the corporation's corporate registration report. To change the corporation's registered agent with the filing of the corporate registration report, the corporation must include the new registered agent's written consent to the appointment as registered agent and a written consent stating that such change in registered agents was authorized by resolution duly adopted by the board of directors. The written consent must be signed by the new registered agent and must include such agent's address. If the corporate registration report is not completed correctly, the secretary of state may reject the filing of such report.

7. A corporation's corporate registration report must be filed in a format as prescribed by the secretary of state.

8. A corporation may change the month of its corporate registration report in the corporation's initial corporate registration report or a subsequent report.

To change its filing month, a corporation shall designate the desired month in its corporate registration report and include with that report an additional fee of twenty dollars. After a corporation registration report designating a new filing month is filed by the secretary of state, the corporation's next corporate registration report shall be filed in the newly designated month in the next year in which a report is due under subsection 3 of this section or under section 351.122. This subsection shall become effective January 1, 2010.

9. The requirement to file a corporate registration report pursuant to this section shall be waived for authorized farm corporations and family farm corporations as defined by subdivision (2) of section 350.010 and subdivision (5) of section 350.010, respectively, when the information required by subsection 2 of this section has not changed since the filing of the corporation's original articles of incorporation or most recent corporate registration report, whichever is applicable.

Approved June 24, 2016

SB 665 [HCS SB 665]

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 135.679, 261.235, 262.960, 262.962, 348.407, 348.430, 348.432, 348.436, and 414.082, RSMo, and to enact in lieu thereof ten new sections relating to agriculture.

SECTION
A. Enacting clause.
135.679. Citation — definitions — tax credit, amount, claim procedure — rulemaking authority.
135.686. Citation — definitions — tax credit, amount, claim procedure — rulemaking authority.
261.235. AgriMissouri fund, created, purposes, lapse of fund into general revenue prohibited — advisory commission, created, purposes, duties, membership — trademark fees.
262.960. Citation of law — program created, purpose — agencies to make staff available — duties of department.
262.962. Definitions — task force created, mission, duties, report — expiration date.
348.407. Development and implementation of grants and loans — fee authority's powers — assistance to businesses — rules.
348.430. Agricultural product utilization contributor tax credit — definitions — requirements — limitations — report.
348.432. New generation cooperative incentive tax credit — definitions — requirements — limitations — report.
348.436. Expiration date.
414.082. Inspection fees, rate determined by director of revenue — petroleum inspection fund created, fees deposited, uses, investment of moneys.

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

SECTION A. ENACTING CLAUSE. — Sections 135.679, 261.235, 262.960, 262.962, 348.407, 348.430, 348.432, 348.436, and 414.082, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 135.679, 135.686, 261.235, 262.960, 262.962, 348.407, 348.430, 348.432, 348.436, and 414.082, to read as follows:

135.679. CITATION — DEFINITIONS — TAX CREDIT, AMOUNT, CLAIM PROCEDURE — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Qualified Beef Tax Credit Act".

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

(1) "Agricultural property", any real and personal property, including but not limited to buildings, structures, improvements, equipment, and livestock, that is used in or is to be used in this state by residents of this state for:

(a) The operation of a farm or ranch; and

(b) Grazing, feeding, or the care of livestock;

(2) "Authority", the agricultural and small business development authority established in chapter 348;

(3) "Backgrounded", any additional weight at the time of the first qualifying sale, before being finished, above the established baseline weight;

(4) "Baseline weight", the average weight in the immediate past **[**three**]** **two** years of all beef animals sold that are thirty months of age or younger, categorized by sex. Baseline weight for qualified beef animals that are physically out-of-state but whose ownership is retained by a resident of this state shall be established by the average transfer weight in the immediate past **[**three**]** **two** years of all beef animals that are thirty months of age or younger and that are transferred out-of-state but whose ownership is retained by a resident of this state, categorized by sex. The established baseline weight shall be effective for a period of three years. If the taxpayer is a qualifying beef animal producer with fewer than **[**three**]** **two** years of production, the baseline weight shall be established by the available average weight in the immediate past year of all beef animals sold that are thirty months of age or younger, categorized by sex. If the qualifying beef animal producer has no previous production, the baseline weight shall be established by the authority;

(5) "Finished", the period from backgrounded to harvest;

(6) "Qualifying beef animal", any beef animal that is certified by the authority, that was born in this state after August 28, 2008, that was raised and backgrounded or finished in this state

by the taxpayer, excluding any beef animal more than thirty months of age as verified by certified written birth records;

(7) "Qualifying sale", the first time a qualifying beef animal is sold in this state after the qualifying beef animal is backgrounded, and a subsequent sale if the weight of the qualifying beef animal at the time of the subsequent sale is greater than the weight of the qualifying beef animal at the time of the first qualifying sale of such beef animal;

(8) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or otherwise due under chapter 147;

(9) "Taxpayer", any individual or entity who:

(a) Is subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in chapter 147;

(b) In the case of an individual, is a resident of this state as verified by a 911 address or in the absence of a 911 system, a physical address; and

(c) Owns or rents agricultural property and principal place of business is located in this state.

3. For all **[**taxable**] tax** years beginning on or after January 1, 2009, but ending on or before December 31, **[**2016**] 2021**, a taxpayer shall be allowed a tax credit for the first qualifying sale and for a subsequent qualifying sale of all qualifying beef animals.

(1) The tax credit amount for the first qualifying sale shall be ten cents per pound **for qualifying sale weights under six hundred pounds and twenty-five cents per pound for qualifying sale weights of six hundred pounds or greater**, shall be based on the backgrounded weight of all qualifying beef animals at the time of the first qualifying sale, and shall be calculated as follows:

(a) If the qualifying sale weight is under six hundred pounds, the qualifying sale weight minus the baseline weight multiplied by ten cents, as long as the qualifying sale weight is equal to or greater than **[**two**] one** hundred pounds above the baseline weight**; or**

(b) If the qualifying sale weight is six hundred pounds or greater, the qualifying sale weight minus the baseline weight multiplied by twenty-five cents, as long as the qualifying sale weight is equal to or greater than one hundred pounds above the baseline weight.

(2) The tax credit amount for each subsequent qualifying sale shall be ten cents per pound **for qualifying sale weights under six hundred pounds and twenty-five cents per pound for qualifying sale weights of six hundred pounds or greater**, shall be based on the backgrounded weight of all qualifying beef animals at the time of the subsequent qualifying sale, and shall be calculated as follows:

(a) If the qualifying sale weight is under six hundred pounds, the qualifying sale weight minus the baseline weight multiplied by ten cents, as long as the qualifying sale weight is equal to or greater than **[**two**] one** hundred pounds above the baseline weight**; or**

(b) If the qualifying sale weight is six hundred pounds or greater, the qualifying sale weight minus the baseline weight multiplied by twenty-five cents, as long as the qualifying sale weight is equal to or greater than one hundred pounds above the baseline weight.

The authority may waive no more than twenty-five percent of the **[**two hundred pound**] one-hundred-pound** weight gain requirement, but any such waiver shall be based on a disaster declaration issued by the U. S. Department of Agriculture.

4. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the **[**taxable**] tax** year for which the credit is claimed. No tax credit claimed under this section shall be refundable. The tax credit shall be claimed in the **[**taxable**] tax** year in which the qualifying sale of the qualifying beef occurred, but any amount of credit that the taxpayer is prohibited by this section from claiming in a **[**taxable**] tax** year may be carried forward to any of the taxpayer's **[**five**] four** subsequent **[**taxable**] tax** years **[**and carried backward to any of the taxpayer's three previous taxable years**]. The total amount of tax credits that any taxpayer may claim shall not exceed fifteen thousand dollars per year. No taxpayer shall be allowed to claim tax credits under this section for more than three years.** The amount of tax credits

that may be issued to all eligible applicants claiming tax credits authorized in this section **and section 135.686** in a **[**fiscal**]** **calendar** year shall not exceed **[**three**]** **two** million dollars. Tax credits shall be issued on an as-received application basis until the **[**fiscal**]** **calendar** year limit is reached. Any credits not issued in any **[**fiscal**]** **calendar** year shall expire and shall not be issued in any subsequent years.

5. To claim the tax credit allowed under this section, the taxpayer shall submit to the authority an application for the tax credit on a form provided by the authority and any application fee imposed by the authority. The application shall be filed with the authority at the end of each calendar year in which a qualified sale was made and for which a tax credit is claimed under this section. The application shall include any certified documentation and information required by the authority. All required information obtained by the authority shall be confidential and not disclosed except by court order, subpoena, or as otherwise provided by law. If the taxpayer and the qualified sale meet all criteria required by this section and approval is granted by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credit certificates issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit certificate shall have the same rights in the tax credit as the original taxpayer. Whenever a tax credit certificate is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit certificate or the value of the tax credit.

6. Any information provided under this section shall be confidential information, to be shared with no one except state and federal animal health officials, except as provided in subsection 5 of this section.

7. **The authority shall, at least annually, submit a report to the Missouri general assembly reviewing the costs and benefits of the program established under this section.**

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

[8.**]** **9.** This section shall not be subject to the Missouri sunset act, sections 23.250 to 23.298.

135.686. CITATION — DEFINITIONS — TAX CREDIT, AMOUNT, CLAIM PROCEDURE — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Meat Processing Facility Investment Tax Credit Act".

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

(1) "Authority", the agricultural and small business development authority established in chapter 348;

(2) "Meat processing facility", any commercial plant, as defined under section 265.300, at which livestock are slaughtered or at which meat or meat products are processed for sale commercially and for human consumption;

(3) "Meat processing modernization or expansion", constructing, improving, or acquiring buildings or facilities, or acquiring equipment for meat processing including the following, if used exclusively for meat processing and if acquired and placed in service in this state during tax years beginning on or after January 1, 2017, but ending on or before December 31, 2021:

(a) Building construction including livestock handling, product intake, storage, and warehouse facilities;

(b) Building additions;

(c) Upgrades to utilities including water, electric, heat, refrigeration, freezing, and waste facilities;

(d) Livestock intake and storage equipment;

(e) Processing and manufacturing equipment including cutting equipment, mixers, grinders, sausage stuffers, meat smokers, curing equipment, cooking equipment, pipes, motors, pumps, and valves;

(f) Packaging and handling equipment including sealing, bagging, boxing, labeling, conveying, and product movement equipment;

(g) Warehouse equipment including storage and curing racks;

(h) Waste treatment and waste management equipment including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products;

(i) Computer software and hardware used for managing the claimant's meat processing operation including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls; and

(j) Construction or expansion of retail facilities or the purchase or upgrade of retail equipment for the commercial sale of meat products if the retail facility is located at the same location as the meat processing facility.

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or otherwise due under chapter 147;

(5) "Taxpayer", any individual or entity who:

(a) Is subject to the tax imposed under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or the tax imposed under chapter 147;

(b) In the case of an individual, is a resident of this state as verified by a 911 address or, in the absence of a 911 system, a physical address; and

(c) Owns a meat processing facility located in this state;

(6) "Used exclusively", used to the exclusion of all other uses except for use not exceeding five percent of total use.

3. For all tax years beginning on or after January 1, 2017, but ending on or before December 31, 2021, a taxpayer shall be allowed a tax credit for meat processing modernization or expansion related to the taxpayer's meat processing facility. The tax credit amount shall be equal to twenty-five percent of the amount the taxpayer paid in the tax year for meat processing modernization or expansion.

4. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed. No tax credit claimed under this section shall be refundable. The tax credit shall be claimed in the tax year in which the meat processing modernization or expansion expenses were paid, but any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year may be carried forward to any of the taxpayer's four subsequent tax years. The total amount of tax credits that any taxpayer may claim shall not exceed seventy-five thousand dollars per year. If two or more persons own and operate the meat processing facility, each person may claim a credit under this section in proportion to his or her ownership interest; except that, the aggregate amount of the credits claimed by all persons who own and operate the meat processing facility shall not exceed seventy-five thousand dollars per year. The amount of tax credits authorized in this section and section 135.679 in a calendar year shall not exceed two million dollars. Tax credits shall be issued on an as-received application basis until the calendar year limit is reached. Any credits not issued in any calendar year shall expire and shall not be issued in any subsequent year.

5. To claim the tax credit allowed under this section, the taxpayer shall submit to the authority an application for the tax credit on a form provided by the authority and any application fee imposed by the authority. The application shall be filed with the authority at the end of each calendar year in which a meat processing modernization or expansion

project was completed and for which a tax credit is claimed under this section. The application shall include any certified documentation, proof of meat processing modernization or expansion, and any other information required by the authority. All required information obtained by the authority shall be confidential and not disclosed except by court order, subpoena, or as otherwise provided by law. If the taxpayer and the meat processing modernization or expansion meet all criteria required by this section and approval is granted by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credit certificates issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit certificate shall have the same rights in the tax credit as the original taxpayer. If a tax credit certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit certificate and the value of the tax credit.

6. Any information provided under this section shall be confidential information, to be shared with no one except state and federal animal health officials, except as provided in subsection 5 of this section.

7. The authority shall promulgate rules establishing a process for verifying that a facility's modernization or expansion for which tax credits were allowed under this section has in fact expanded the facility's production within three years of the issuance of the tax credit and if not, the authority shall promulgate through rulemaking a process by which the taxpayer shall repay the authority an amount equal to that of the tax credit allowed.

8. The authority shall, at least annually, submit a report to the Missouri general assembly reviewing the costs and benefits of the program established under this section.

9. The authority may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

10. This section shall not be subject to the Missouri sunset act, sections 23.250 to 23.298.

261.235. AGRIMISSOURI FUND, CREATED, PURPOSES, LAPSE OF FUND INTO GENERAL REVENUE PROHIBITED — ADVISORY COMMISSION, CREATED, PURPOSES, DUTIES, MEMBERSHIP — TRADEMARK FEES. — 1. There is hereby created in the state treasury for the use of the agriculture business development division of the state department of agriculture a fund to be known as "The AgriMissouri Fund". All moneys received by the state department of agriculture for Missouri agricultural products marketing development from any source, including trademark fees, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state department of agriculture, be expended by the agriculture business development division of the state department of agriculture for promotion of Missouri agricultural products under the AgriMissouri program. The unexpended balance in the AgriMissouri fund at the end of the biennium shall not be transferred to the general revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080 relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

2. There is hereby created within the department of agriculture the "AgriMissouri Advisory Commission for Marketing Missouri Agricultural Products". The commission shall establish guidelines, and make recommendations to the director of agriculture, for the use of funds appropriated by the general assembly for the agriculture business development division of the

department of agriculture, and for all funds collected or appropriated to the AgriMissouri fund created pursuant to subsection 1 of this section. The guidelines shall focus on the promotion of the AgriMissouri trademark associated with Missouri agricultural products that have been approved by the general assembly, and shall advance the following objectives:

(1) Increasing the impact and fostering the effectiveness of local efforts to promote Missouri agricultural products;

(2) Enabling and encouraging expanded advertising efforts for Missouri agricultural products;

(3) Encouraging effective, high-quality advertising projects, innovative marketing strategies, and the coordination of local, regional and statewide marketing efforts;

(4) Providing training and technical assistance to cooperative-marketing partners of Missouri agricultural products.

3. The commission may establish a fee structure for sellers electing to use the AgriMissouri trademark associated with Missouri agricultural products**, so long as the fees established and collected under this subsection do not yield revenue greater than the total cost of administering this section during the ensuing year**. **[**Under the fee structure:

(1) A seller having gross annual sales greater than two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall remit to the agriculture business development division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri trademark; and

(2) All sellers having gross annual sales less than or equal to two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall, after three years of selling Missouri agricultural products carrying the AgriMissouri trademark, remit to the agriculture business development division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri trademark.**]** All trademark fees shall be deposited to the credit of the AgriMissouri fund, created pursuant to this section.

4. **[**The agriculture business development division of the department of agriculture is authorized to promulgate rules consistent with the guidelines and fee structure established by the commission. No rule or portion of a rule shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

5.**]** The commission shall consist of nine members appointed by the governor with the advice and consent of the senate. One member shall be the director of the agriculture business development division of the department of agriculture, or his or her representative. At least one member shall be a specialist in advertising; at least one member shall be a specialist in agribusiness; at least one member shall be a specialist in the retail grocery business; at least one member shall be a specialist in communications; at least one member shall be a specialist in product distribution; at least one member shall be a family farmer with expertise in livestock farming; at least one member shall be a family farmer with expertise in grain farming and at least one member shall be a family farmer with expertise in organic farming. Members shall serve for four-year terms, except in the first appointments three members shall be appointed for terms of four years, three members shall be appointed for terms of three years and three members shall be appointed for terms of two years each. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of the term of the member causing the vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by the commission.

[6.**]** **5.** Commission members shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties on the commission. The division of agriculture business development of the department of agriculture

shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts and to conduct all other business of the commission. The commission shall meet quarterly and at any such time that it deems necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the members of the commission. Ten days' notice shall be given in writing to such members prior to the meeting date. A simple majority of the members of the commission shall be present to constitute a quorum. Proxy voting shall not be permitted.

6. If the commission does establish a fee structure as permitted under subsection 3 of this section, the agriculture business development division of the department of agriculture shall promulgate rules establishing the commission's fee structure. The department of agriculture shall also promulgate rules and regulations for the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

262.960. CITATION OF LAW — PROGRAM CREATED, PURPOSE — AGENCIES TO MAKE STAFF AVAILABLE — DUTIES OF DEPARTMENT. — 1. This section shall be known and may be cited as the "**[**Farm-to-School**]** **Farm-to-Table** Act".

2. There is hereby created within the department of agriculture the "**[**Farm-to-School**]** **Farm-to-Table** Program" to connect Missouri farmers and **[**schools**]** **institutions** in order to provide **[**schools**]** **institutions** with locally grown agricultural products for inclusion in **[**school**]** meals and snacks and to strengthen local farming economies. **The department shall establish guidelines for voluntary participation and parameters for program goals, which shall include, but not be limited to, participating institutions purchasing at least ten percent of their food products locally by December 31, 2019.** The department shall designate an employee to administer and monitor the **[**farm-to-school**]** **farm-to-table** program and to serve as liaison between Missouri farmers and **[**schools**]** **institutions. Nothing in this section, nor the guidelines developed by the department, shall require an institution to participate in the farm-to-table program**.

3. The following agencies shall make staff available to the Missouri **[**farm-to-school**]** **farm-to-table** program for the purpose of providing professional consultation and staff support to assist the implementation of this section:

(1) The department of health and senior services;

(2) The department of elementary and secondary education; **[**and**]**

(3) The office of administration**; and**

(4) The department of corrections .

4. The duties of the department employee coordinating the [farm-to-school**] farm-to-table** program shall include, but not be limited to:

(1) Establishing and maintaining a website database to allow farmers and **[**schools**]** **institutions** to connect whereby farmers can enter the locally grown agricultural products they produce along with pricing information, the times such products are available, and where they are willing to distribute such products;

(2) Providing leadership at the state level to encourage **[**schools**]** **institutions** to procure and use locally grown agricultural products;

(3) Conducting workshops and training sessions and providing technical assistance to **[**school**]** **institution** food service directors, personnel, farmers, and produce distributors and processors regarding the **[**farm-to-school**]** **farm-to-table** program; and

(4) Seeking grants, private donations, or other funding sources to support the [farm-to-school] **farm-to-table** program.

262.962. DEFINITIONS — TASK FORCE CREATED, MISSION, DUTIES, REPORT — EXPIRATION DATE. — 1. As used in this section, section 262.960, and subsection 5 of section 348.407, the following terms shall mean:

(1) **"Institutions", facilities including, but not limited to, schools, correctional facilities, hospitals, nursing homes, long-term care facilities, and military bases;**

(2) "Locally grown agricultural products", food or fiber produced or processed by a small agribusiness or small farm;

[(2)] **(3) "Participating institutions", institutions that voluntarily elect to participate in the farm-to-table program;**

(4) "Schools", includes any school in this state that maintains a food service program under the United States Department of Agriculture and administered by the school;

[(3)] **(5)** "Small agribusiness", a qualifying agribusiness as defined in section 348.400, and located in Missouri with gross annual sales of less than five million dollars;

[(4)] **(6)** "Small farm", a family-owned farm or family farm corporation as defined in section 350.010, and located in Missouri with less than two hundred fifty thousand dollars in gross sales per year.

2. There is hereby created a taskforce under the AgriMissouri **marketing** program established in section 261.230, which shall be known as the "[Farm-to-School] **Farm-to-Table** Taskforce". The taskforce shall be made up of at least one representative from each of the following [agencies]: the University of Missouri extension service, the department of agriculture, **the department of corrections, the department of health and senior services,** the department of elementary and secondary education, [and] the office of administration**, and a representative from one of the military bases in the state**. In addition, the director of the department of agriculture shall appoint [two persons] **one person** actively engaged in the practice of small agribusiness. In addition, the [director of the department of elementary and secondary] **commissioner of** education shall appoint [two persons] **one person** from [schools] **a school** within the state who [direct] **directs** a food service program. **The director of the department of corrections shall appoint one person employed as a correctional facility food service director. The director of the department of health and senior services shall appoint one person employed as a hospital or nursing home food service director. The director of the department of agriculture shall appoint one person who is a registered dietician under section 324.200.** One representative for the department of agriculture shall serve as the chairperson for the taskforce and shall coordinate the taskforce meetings. The taskforce shall hold at least two meetings, but may hold more as it deems necessary to fulfill its requirements under this section. Staff of the department of agriculture may provide administrative assistance to the taskforce if such assistance is required.

3. The mission of the taskforce is to provide recommendations for strategies that:

(1) Allow [schools] **institutions** to more easily incorporate locally grown agricultural products into their cafeteria offerings, salad bars, and vending machines; and

(2) Allow [schools] **institutions** to work with food service providers to ensure greater use of locally grown agricultural products by developing standardized language for food service contracts.

4. In fulfilling its mission under this section, the taskforce shall review various food service contracts of [schools] **institutions** within the state to identify standardized language that could be included in such contracts to allow [schools] **institutions** to more easily procure and use locally grown agricultural products.

5. The taskforce shall prepare a report containing its findings and recommendations and shall deliver such report to the governor, the general assembly, and to the director of each [agency] **entity** represented on the taskforce [by no later than December 31, 2015] **no later than December thirty-first of each year**.

6. In conducting its work, the taskforce may hold public meetings at which it may invite testimony from experts, or it may solicit information from any party it deems may have information relevant to its duties under this section.

7. **Nothing in** this section shall **[**expire on December 31, 2015**] require an institution to participate in the farm-to-table program, and the department shall not establish guidelines or promulgate rules that require institutions to participate in such program**.

348.407. DEVELOPMENT AND IMPLEMENTATION OF GRANTS AND LOANS — FEE AUTHORITY'S POWERS — ASSISTANCE TO BUSINESSES — RULES. — 1. The authority shall develop and implement agricultural products utilization grants as provided in this section.

2. The authority may reject any application for grants pursuant to this section.

3. The authority shall make grants, and may make loans or guaranteed loans from the grant fund to persons for the creation, development and operation, for up to three years from the time of application approval, of rural agricultural businesses whose projects add value to agricultural products and aid the economy of a rural community.

4. The authority may make loan guarantees to qualified agribusinesses for agricultural business development loans for businesses that aid in the economy of a rural community and support production agriculture or add value to agricultural products by providing necessary products and services for production or processing.

5. The authority may make grants, loans, or loan guarantees to Missouri businesses to access resources for accessing and processing locally grown agricultural products for use in **[**schools**] institutions, as defined in section 262.962,** within the state.

6. The authority may, upon the provision of a fee by the requesting person in an amount to be determined by the authority, provide for a feasibility study of the person's rural agricultural business concept.

7. Upon a determination by the authority that such concept is feasible and upon the provision of a fee by the requesting person, in an amount to be determined by the authority, the authority may then provide for a marketing study. Such marketing study shall be designed to determine whether such concept may be operated profitably.

8. Upon a determination by the authority that the concept may be operated profitably, the authority may provide for legal assistance to set up the business. Such legal assistance shall include, but not be limited to, providing advice and assistance on the form of business entity, the availability of tax credits and other assistance for which the business may qualify as well as helping the person apply for such assistance.

9. The authority may provide or facilitate loans or guaranteed loans for the business including, but not limited to, loans from the United States Department of Agriculture Rural Development Program, subject to availability. Such financial assistance may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the financial assistance in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

10. The authority may provide for consulting services in the building of the physical facilities of the business.

11. The authority may provide for consulting services in the operation of the business.

12. The authority may provide for such services through employees of the state or by contracting with private entities.

13. The authority may consider the following in making the decision:

(1) The applicant's commitment to the project through the applicant's risk;

(2) Community involvement and support;

(3) The phase the project is in on an annual basis;

(4) The leaders and consultants chosen to direct the project;

(5) The amount needed for the project to achieve the bankable stage; and

(6) The project's planning for long-term success through feasibility studies, marketing plans, and business plans.

14. The department of agriculture, the department of natural resources, the department of economic development and the University of Missouri may provide such assistance as is necessary for the implementation and operation of this section. The authority may consult with other state and federal agencies as is necessary.

15. The authority may charge fees for the provision of any service pursuant to this section.

16. The authority may adopt rules to implement the provisions of this section.

17. 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 348.005 to 348.180 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.

348.430. AGRICULTURAL PRODUCT UTILIZATION CONTRIBUTOR TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS — REPORT. — 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

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

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

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

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, or incorporated pursuant to chapter 357, for the purpose of operating within this state a development facility or a renewable fuel production facility;

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

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

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

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

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

3. For all tax years beginning on or after January 1, 1999, a contributor who contributes funds to the authority may receive a credit against the tax or estimated quarterly tax otherwise due pursuant to chapter 143, other than taxes withheld pursuant to sections 143.191 to 143.265, chapter 148 chapter 147, in an amount of up to one hundred percent of such contribution. Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to this subsection. If a quarterly tax credit claim or series of claims

contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year. The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section may be claimed in the taxable year in which the contributor contributes funds to the authority. For all fiscal years beginning on or after July 1, 2004, tax credits allowed pursuant to this section **[**may be carried back to any of the contributor's three prior tax years and**]** may be carried forward to any of the contributor's **[**five**]** **four** subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred or sold and the new owner of the tax credit shall have the same rights in the credit as the contributor. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407 to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority members or women shall be given consideration in the allocation of funds.

7. The authority shall, at least annually, submit a report to the Missouri general assembly reviewing the costs and benefits of the program established under this section.

348.432. NEW GENERATION COOPERATIVE INCENTIVE TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS — REPORT. — 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

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

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

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

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274 or incorporated pursuant to chapter 357 for the purpose of operating within this state a development facility or a renewable fuel production facility and approved by the authority;

(4) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

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

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

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

(5) "Employee-qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least sixty employees;

(6) "Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;

(7) "Producer member", a person, partnership, corporation, trust or limited liability company whose main purpose is agricultural production that invests cash funds to an eligible new generation cooperative or eligible new generation processing entity;

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

(9) "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and ending December 31, 2002, any producer member who invests cash funds in an eligible new generation cooperative or eligible new generation processing entity may receive a credit against the tax or estimated quarterly tax otherwise due pursuant to chapter 143, other than taxes withheld pursuant to sections 143.191 to 143.265 or chapter 148, chapter 147, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

4. For all tax years beginning on or after January 1, 2003, any producer member who invests cash funds in an eligible new generation cooperative or eligible new generation processing entity may receive a credit against the tax or estimated quarterly tax otherwise due pursuant to chapter 143, other than taxes withheld pursuant to sections 143.191 to 143.265, chapter 147 or chapter 148, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars. Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to subsection 3 of this section. If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year.

5. A producer member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the producer member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section may be **[**carried back to any of the producer member's three prior taxable years and**]** carried forward to any of the producer member's **[**five**]** **four** subsequent taxable years regardless of the type of tax liability to which such credits are applied as authorized pursuant to subsection 3 of this section. Tax credits issued pursuant to 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 producer member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

6. Ten percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered to employee-qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.

7. Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee-qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee-qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.

8. The authority shall, at least annually, submit a report to the Missouri general assembly reviewing the costs and benefits of the program established under this section.

348.436. EXPIRATION DATE. — The provisions of sections 348.430 to 348.436 shall expire December 31, **[**2016**]** **2021**.

414.082. INSPECTION FEES, RATE DETERMINED BY DIRECTOR OF REVENUE — PETROLEUM INSPECTION FUND CREATED, FEES DEPOSITED, USES, INVESTMENT OF MONEYS. — 1. The fee for the inspection of gasoline, gasoline-alcohol blends, kerosene, diesel fuel, heating oil, aviation turbine fuel, and other motor fuels under this chapter shall be fixed by the director of revenue at a rate per barrel which will approximately yield revenue equal to the expenses of administering this chapter; except that, until December 31, **[**1993, the rate shall be one and one-half cents per barrel and beginning January 1, 1994, the fee shall not be less than one and one-half cents per barrel nor exceed two and one-half**]** **2016, the rate shall not exceed two and one-half cents per barrel, from January 1, 2017, through December 31, 2021, the rate shall not exceed four cents per barrel, and after January 1, 2022, the rate shall not exceed five** cents per barrel.

2. Annually the director of the department of agriculture shall ascertain the total expenses for administering sections 414.012 to 414.152 during the preceding year, and shall forward a copy of such expenses to the director of revenue. The director of revenue shall fix the inspection fee for the ensuing calendar year at such rate per barrel, within the limits established by subsection 1 of this section, as will approximately yield revenue equal to the expenses of administering sections 414.012 to 414.152 during the preceding calendar year and shall collect the fees and deposit them in the state treasury to the credit of the "Petroleum Inspection Fund" which is hereby created. Beginning July 1, 1988, all expenses of administering sections 414.012 to 414.152 shall be paid from appropriations made out of the petroleum inspection fund.

3. The unexpended balance in the fund at the end of each fiscal year shall not be transferred to the general revenue fund of the state, and the provisions of section 33.080 relating to the transfer of funds to the general revenue fund of the state by the state treasurer shall not apply to this fund.

4. The state treasurer shall invest all sums in the petroleum inspection fund not needed for current operating expenses in interest-bearing banking accounts or United States government obligations in the manner provided by law. All yield, increment, gain, interest or income derived from the investment of these sums shall accrue to the benefit of, and be deposited within the state treasury to the credit of, the petroleum inspection fund.

Approved June 24, 2016

SB 700 [CCS SB 700]

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 law relating to workers' compensation premium rates

AN ACT to repeal sections 287.090, 287.957, and 287.975, RSMo, and to enact in lieu thereof four new sections relating to workers' compensation.

SECTION

A. Enacting clause.
287.090. Exempt employers and occupations — election to accept — withdrawal — notification required of insurance companies.
287.245. Volunteer firefighters, grants for workers' compensation insurance premiums.
287.957. Experience rating plan, contents.
287.975. Pure premium rate, schedule of rates, filed with director, when — payroll differential, advisory organization to collect data, when, purpose — construction group, submission to advisory organization.

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

SECTION A. ENACTING CLAUSE. — Sections 287.090, 287.957, and 287.975, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 287.090, 287.245, 287.957, and 287.975, to read as follows:

287.090. EXEMPT EMPLOYERS AND OCCUPATIONS — ELECTION TO ACCEPT — WITHDRAWAL — NOTIFICATION REQUIRED OF INSURANCE COMPANIES. — 1. This chapter shall not apply to:

(1) Employment of farm labor, domestic servants in a private home, including family chauffeurs, or occasional labor performed for and related to a private household;

(2) Qualified real estate agents and direct sellers as those terms are defined in Section 3508 of Title 26 United States Code;

(3) Employment where the person employed is an inmate confined in a state prison, penitentiary or county or municipal jail, or a patient or resident in a state mental health facility, and the labor or services of such inmate, patient, or resident are exclusively on behalf of the state, county or municipality having custody of said inmate, patient, or resident. Nothing in this subdivision is intended to exempt employment where the inmate, patient or resident was hired by a state, county or municipal government agency after direct competition with persons who are not inmates, patients or residents and the compensation for the position of employment is not contingent upon or affected by the worker's status as an inmate, patient or resident;

(4) Except as provided in section 287.243, volunteers of a tax-exempt organization which operates under the standards of Section 501(c)(3) **or Section 501(c)(19)** of the federal Internal Revenue Code, where such volunteers are not paid wages, but provide services purely on a charitable and voluntary basis;

(5) Persons providing services as adjudicators, sports officials, or contest workers for interscholastic activities programs or similar amateur youth programs who are not otherwise employed by the sponsoring school, association of schools or nonprofit tax-exempt organization sponsoring the amateur youth programs.

2. Any employer exempted from this chapter as to the employer or as to any class of employees of the employer pursuant to the provisions of subdivision (3) of subsection 1 of section 287.030 or pursuant to subsection 1 of this section may elect coverage as to the employer or as to the class of employees of that employer pursuant to this chapter by purchasing and accepting a valid workers' compensation insurance policy or endorsement, or by written notice to the group self-insurer of which the employer is a member. The election shall take effect on

the effective date of the workers' compensation insurance policy or endorsement, or by written notice to the group self-insurer of which the employer is a member, and continue while such policy or endorsement remains in effect or until further written notice to the group self-insurer of which the employer is a member. Any such exempt employer or employer with an exempt class of employees may withdraw such election by the cancellation or nonrenewal of the workers' compensation insurance policy or endorsement, or by written notice to the group self-insurer of which the employer is a member. In the event the employer is electing out of coverage as to the employer, the cancellation shall take effect on the later date of the cancellation of the policy or the filing of notice pursuant to subsection 3 of this section.

3. Any insurance company authorized to write insurance under the provisions of this chapter in this state shall file with the division a memorandum on a form prescribed by the division of any workers' compensation policy issued to any employer and of any renewal or cancellation thereof.

4. The mandatory coverage sections of this chapter shall not apply to the employment of any member of a family owning a family farm corporation as defined in section 350.010 or to the employment of any salaried officer of a family farm corporation organized pursuant to the laws of this state, but such family members and officers of such family farm corporations may be covered under a policy of workers' compensation insurance if approved by a resolution of the board of directors. Nothing in this subsection shall be construed to apply to any other type of corporation other than a family farm corporation.

5. A corporation may withdraw from the provisions of this chapter, when there are no more than two owners of the corporation who are also the only employees of the corporation, by filing with the division notice of election to be withdrawn. The election shall take effect and continue from the date of filing with the division by the corporation of the notice of withdrawal from liability under this chapter. Any corporation making such an election may withdraw its election by filing with the division a notice to withdraw the election, which shall take effect thirty days after the date of the filing, or at such later date as may be specified in the notice of withdrawal.

287.245. VOLUNTEER FIREFIGHTERS, GRANTS FOR WORKERS' COMPENSATION INSURANCE PREMIUMS.—1. As used in this section, the following terms shall mean:

(1) "Association", volunteer fire protection associations as defined in section 320.300;

(2) "State fire marshal", the state fire marshal selected under the provisions of sections 320.200 to 320.270;

(3) "Volunteer firefighter", the same meaning as in section 287.243.

2. Any association may apply to the state fire marshal for a grant for the purpose of funding such association's costs related to workers' compensation insurance premiums for volunteer firefighters.

3. Subject to appropriations, the state fire marshal shall disburse grants to each applying volunteer fire protection association according to the following schedule:

(1) Associations which had zero to five volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for two thousand dollars in grant money;

(2) Associations which had six to ten volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand five hundred dollars in grant money;

(3) Associations which had eleven to fifteen volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand dollars in grant money;

(4) Associations which had sixteen to twenty volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for five hundred dollars in grant money.

4. Grant money disbursed under this section shall only be used for the purpose of paying for the workers' compensation insurance premiums of volunteer firefighters.

287.957. EXPERIENCE RATING PLAN, CONTENTS. — The experience rating plan shall contain reasonable eligibility standards, provide adequate incentives for loss prevention, and shall provide for sufficient premium differentials so as to encourage safety. The uniform experience rating plan shall be the exclusive means of providing prospective premium adjustment based upon measurement of the loss-producing characteristics of an individual insured. An insurer may submit a rating plan or plans providing for retrospective premium adjustments based upon an insured's past experience. Such system shall provide for retrospective adjustment of an experience modification and premiums paid pursuant to such experience modification where a prior reserved claim produced an experience modification that varied by greater than fifty percent from the experience modification that would have been established based on the settlement amount of that claim. The rating plan shall prohibit an adjustment to the experience modification of an employer if the total medical cost does not exceed **[**one thousand dollars**]** **twenty percent of the current split point of primary and excess losses under the uniform experience rating plan,** and the employer pays all of the total medical costs and there is no lost time from the employment, other than the first three days or less of disability under subsection 1 of section 287.160, and no claim is filed. An employer opting to utilize this provision maintains an obligation to report the injury under subsection 1 of section 287.380.

287.975. PURE PREMIUM RATE, SCHEDULE OF RATES, FILED WITH DIRECTOR, WHEN — PAYROLL DIFFERENTIAL, ADVISORY ORGANIZATION TO COLLECT DATA, WHEN, PURPOSE — CONSTRUCTION GROUP, SUBMISSION TO ADVISORY ORGANIZATION. — 1. The advisory organization shall file with the director every pure premium rate, every manual of rating rules, every rating schedule and every change or amendment, or modification of any of the foregoing, proposed for use in this state no more than thirty days after it is distributed to members, subscribers or others.

2. The advisory organization which makes a uniform classification system for use in setting rates in this state shall collect data for two years after January 1, 1994, on the payroll differential between employers within the construction group of code classifications, including, but not limited to, payroll costs of the employer and number of hours worked by all employees of the employer engaged in construction work. Such data shall be transferred to the department of insurance, financial institutions and professional registration in a form prescribed by the director of the department of insurance, financial institutions and professional registration, and the department shall compile the data and develop a formula to equalize premium rates for employers within the construction group of code classifications based on such payroll differential within three years after the data is submitted by the advisory organization.

3. The formula to equalize premium rates for employers within the construction group of code classifications established under subsection 2 of this section shall be the formula in effect on January 1, 1999. This subsection shall become effective on January 1, 2014.

4. For the purposes of calculating the premium credit under the Missouri contracting classification premium adjustment program, an employer within the construction group of code classifications may submit to the advisory organization the required payroll record information for the first, second, third, or fourth calendar quarter of the year prior to the workers' compensation policy beginning or renewal date, provided that the employer clearly indicates for which quarter the payroll information is being submitted.

Allowed to go into effect pursuant to Article III, Section 31 of the Missouri Constitution

SB 702 [SB 702]

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 law relating to unemployment compensation benefits

AN ACT to repeal sections 288.032, 288.380, and 288.381, RSMo, and to enact in lieu thereof three new sections relating to employment security, with existing penalty provisions.

SECTION

A. Enacting clause.
288.032. Employer defined, exceptions.
288.380. Void agreements — offenses, penalties — deductions of support obligations and uncollected overissuance of food stamps — offset for overpayment of benefits by other states, when — definitions.
288.381. Collection of benefits paid when claimant later determined ineligible or awarded back pay — violation, damages.

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

SECTION A. ENACTING CLAUSE. — Sections 288.032, 288.380, and 288.381, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 288.032, 288.380, and 288.381, to read as follows:

288.032. EMPLOYER DEFINED, EXCEPTIONS. — 1. After December 31, 1977, "employer" means:

(1) Any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars or more except that for the purposes of this definition, wages paid for "agricultural labor" as defined in paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and for "domestic services" as defined in subdivisions (2) and (13) of subsection 12 of section 288.034 shall not be considered;

(2) Any employing unit which for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment at least one individual (irrespective of whether the same individual was in employment in each such day); except that for the purposes of this definition, services performed in "agricultural labor" as defined in paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and in "domestic services" as defined in subdivisions (2) and (13) of subsection 12 of section 288.034 shall not be considered;

(3) Any governmental entity for which service in employment as defined in subsection 7 of section 288.034 is performed;

(4) Any employing unit for which service in employment as defined in subsection 8 of section 288.034 is performed during the current or preceding calendar year;

(5) Any employing unit for which service in employment as defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 is performed during the current or preceding calendar year;

(6) Any employing unit for which service in employment as defined in subsection 13 of section 288.034 is performed during the current or preceding calendar year;

(7) Any individual, type of organization or employing unit which has been determined to be a successor pursuant to section 288.110;

(8) Any individual, type of organization or employing unit which has elected to become subject to this law pursuant to subdivision (1) of subsection 3 of section 288.080;

(9) Any individual, type of organization or employing unit which, having become an employer, has not pursuant to section 288.080 ceased to be an employer;

(10) Any employing unit subject to the Federal Unemployment Tax Act or which, as a condition for approval of this law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an employer pursuant to this law.

2. (1) Notwithstanding any other provisions of this law, any employer, individual, organization, partnership, corporation, other legal entity or employing unit that meets the definition of "lessor employing unit", as defined in subdivision (5) of this subsection, shall be liable for contributions on wages paid by the lessor employing unit to individuals performing services for client lessees of the lessor employing unit. Unless the lessor employing unit has timely complied with the provisions of subdivision (3) of this subsection, any employer, individual, organization, partnership, corporation, other legal entity or employing unit which is leasing individuals from any lessor employing unit shall be jointly and severally liable for any unpaid contributions, interest and penalties due pursuant to this law from any lessor employing unit attributable to wages for services performed for the client lessee entity by individuals leased to the client lessee entity, and the lessor employing unit shall keep separate records and submit separate quarterly contribution and wage reports for each of its client lessee entities. Delinquent contributions, interest and penalties shall be collected in accordance with the provisions of this chapter.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, any governmental entity or nonprofit organization that meets the definition of "lessor employing unit", as defined in subdivision (5) of this subsection, and has elected to become liable for payments in lieu of contributions as provided in subsection 3 of section 288.090, shall pay the division payments in lieu of contributions, interest, penalties and surcharges in accordance with section 288.090 on benefits paid to individuals performing services for the client lessees of the lessor employing unit. If the lessor employing unit has not timely complied with the provisions of subdivision (3) of this subsection, any client lessees with services attributable to and performed for the client lessees shall be jointly and severally liable for any unpaid payments in lieu of contributions, interest, penalties and surcharges due pursuant to this law. The lessor employing unit shall keep separate records and submit separate quarterly contribution and wage reports for each of its client lessees. Delinquent payments in lieu of contributions, interest, penalties and surcharges shall be collected in accordance with subsection 3 of section 288.090. The election to be liable for payments in lieu of contributions made by a governmental entity or nonprofit organization meeting the definition of "lessor employing unit" may be terminated by the division in accordance with subsection 3 of section 288.090.

(3) In order to relieve a client lessees from joint and several liability and the separate reporting requirements imposed pursuant to this subsection, any lessor employing unit may post and maintain a surety bond issued by a corporate surety authorized to do business in Missouri in an amount equivalent to the contributions or payments in lieu of contributions for which the lessor employing unit was liable in the last calendar year in which he or she accrued contributions or payments in lieu of contributions, or one hundred thousand dollars, whichever amount is the greater, to ensure prompt payment of contributions or payments in lieu of contributions, interest, penalties and surcharges for which the lessor employing unit may be, or becomes, liable pursuant to this law. In lieu of a surety bond, the lessor employing unit may deposit in a depository designated by the director, securities with marketable value equivalent to the amount required for a surety bond. The securities so deposited shall include authorization to the director to sell any securities in an amount sufficient to pay any contributions or payments in lieu of contributions, interest, penalties and surcharges which the lessor employing unit fails to promptly pay when due. In lieu of a surety bond or securities as described in this subdivision, any lessor employing unit may provide the director with an irrevocable letter of credit, as defined in section 409.5-103, issued by any state or federally chartered financial institution, in an amount equivalent to the amount required for a surety bond as described in this subdivision. In lieu of a surety bond, securities or an irrevocable letter of credit, a lessor employing unit may obtain a

certificate of deposit issued by any state or federally chartered financial institution, in an amount equivalent to the amount required for a surety bond as described in this subdivision. The certificate of deposit shall be pledged to the director until release by the director. As used in this subdivision, the term "certificate of deposit" means a certificate representing any deposit of funds in a state or federally chartered financial institution for a specified period of time which earns interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a specified time without forfeiture of some or all of the earned interest.

(4) Any lessor employing unit which is currently engaged in the business of leasing individuals to client lessees shall comply with the provisions of subdivision (3) of this subsection by September 28, 1992. Lessor employing units not currently engaged in the business of leasing individuals to client lessees shall comply with subdivision (3) of this subsection before entering into a written lease agreement with client lessees.

(5) As used in this subsection, the term "lessor employing unit" means an independently established business entity, governmental entity as defined in subsection 1 of section 288.030 or nonprofit organization as defined in subsection 3 of section 288.090 which, pursuant to a written lease agreement between the lessor employing unit and the client lessees, engages in the business of providing individuals to any other employer, individual, organization, partnership, corporation, other legal entity or employing unit referred to in this subsection as a client lessee.

(6) The provisions of this subsection shall not be applicable to private employment agencies who provide their employees to employers on a temporary help basis provided the private employment agencies are liable as employers for the payment of contributions on wages paid to temporary workers so employed.

3. After September 30, 1986, notwithstanding any provision of section 288.034, for the purpose of this law, in no event shall a for-hire motor carrier as regulated by the Missouri division of motor carrier and railroad safety or whose operations are confined to a commercial zone be determined to be the employer of a lessor as defined in 49 CFR Section 376.2(f), or of a driver receiving remuneration from a lessor as defined in 49 CFR Section 376.2(f), provided, however, the term "for-hire motor carrier" shall in no event include an organization described in Section 501(c)(3) of the Internal Revenue Code or any governmental entity.

4. The owner or operator of a beauty salon or similar establishment shall not be determined to be the employer of a person who utilizes the facilities of the owner or operator but who receives neither salary, wages or other compensation from the owner or operator and who pays the owner or operator rent or other payments for the use of the facilities.

5. For purposes of this chapter, a taxicab driver shall not be considered to be an employee of the company that leases the taxicab to the driver or that provides dispatching or similar rider referral services unless the driver is shown to be an employee of that company by application of the Internal Revenue Service twenty-factor right-to-control test.

288.380. VOID AGREEMENTS — OFFENSES, PENALTIES — DEDUCTIONS OF SUPPORT OBLIGATIONS AND UNCOLLECTED OVERISSUANCE OF FOOD STAMPS — OFFSET FOR OVERPAYMENT OF BENEFITS BY OTHER STATES, WHEN — DEFINITIONS. — 1. Any agreement by a worker to waive, release, or commute such worker's rights to benefits or any other rights pursuant to this chapter or pursuant to an employment security law of any other state or of the federal government shall be void. Any agreement by a worker to pay all or any portion of any contributions required shall be void. No employer shall directly or indirectly make any deduction from wages to finance the employer's contributions required from him or her, or accept any waiver of any right pursuant to this chapter by any individual in his or her employ.

2. No employing unit or any agent of an employing unit or any other person shall make a false statement or representation knowing it to be false, nor shall knowingly fail to disclose a material fact to prevent or reduce the payment of benefits to any individual, nor to avoid becoming or remaining an employer, nor to avoid or reduce any contribution or other payment

required from any employing unit, nor shall willfully fail or refuse to make any contributions or payments nor to furnish any required reports nor to produce or permit the inspection or copying of required records. Each such requirement shall apply regardless of whether it is a requirement of this chapter, of an employment security law of any other state or of the federal government.

3. No person shall make a false statement or representation knowing it to be false or knowingly fail to disclose a material fact, to obtain or increase any benefit or other payment pursuant to this chapter, or under an employment security law of any other state or of the federal government either for himself or herself or for any other person.

4. No person shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in such person's power so to do in obedience to a subpoena of the director, the commission, an appeals tribunal, or any duly authorized representative of any one of them.

5. No individual claiming benefits shall be charged fees of any kind in any proceeding pursuant to this chapter by the division, or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the division or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the division.

6. No employee of the division or any person who has obtained any list of applicants for work or of claimants for or recipients of benefits pursuant to this chapter shall use or permit the use of such lists for any political purpose.

7. Any person who shall willfully violate any provision of this chapter, or of an employment security law of any other state or of the federal government or any rule or regulation, the observance of which is required under the terms of any one of such laws, shall upon conviction be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, and each such violation or each day such violation continues shall be deemed to be a separate offense.

8. In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of this state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the director, the commission, an appeals tribunal, or any duly authorized representative of any one of them shall have jurisdiction to issue to such person an order requiring such person to appear before the director, the commission, an appeals tribunal or any duly authorized representative of any one of them, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

9. (1) Any individual or employer who receives or denies unemployment benefits by intentionally misrepresenting, misstating, or failing to disclose any material fact has committed fraud. After the discovery of facts indicating fraud, a deputy shall make a written determination that the individual obtained or denied unemployment benefits by fraud and that the individual must promptly repay the unemployment benefits to the fund. In addition, the deputy shall assess a penalty equal to twenty-five percent of the amount fraudulently obtained or denied. If division records indicate that the individual or employer had a prior established overpayment or record of denial due to fraud, the deputy shall, on the present overpayment or determination, assess a penalty equal to one hundred percent of the amount fraudulently obtained.

(2) Unless the individual or employer within thirty calendar days after notice of such determination of overpayment by fraud is either delivered in person or mailed to the last known address of such individual or employer files an appeal from such determination, it shall be final. Proceedings on the appeal shall be conducted in accordance with section 288.190.

(3) If the individual or employer fails to repay the unemployment benefits and penalty, assessed as a result of the deputy's determination that the individual or employer obtained or denied unemployment benefits by fraud, such sum shall be collectible in the manner provided

in **[**sections 288.160 and 288.170 for the collection of past due contributions**]** **subsection 14 of this section for the recovery of overpaid unemployment compensation benefits**. If the individual or employer fails to repay the unemployment benefits that the individual or employer denied or obtained by fraud, the division may offset from any future unemployment benefits otherwise payable the amount of the overpayment, or may take such steps as are necessary to effect payment from the individual or employer. Future benefits may not be used to offset the penalty due. Money received in repayment of fraudulently obtained or denied unemployment benefits and penalties shall first be applied to the unemployment benefits overpaid, then to the penalty amount due. **[**Payments made toward the penalty amount due**]** **Regarding payments made toward the penalty, an amount equal to fifteen percent of the total amount of benefits fraudulently obtained shall be immediately deposited into the state's unemployment compensation fund upon receipt and the remaining penalty amount** shall be credited to the special employment security fund.

(4) If fraud or evasion on the part of any employer is discovered by the division, the employer will be subject to the fraud provisions of subsection 4 of section 288.160.

(5) The provisions of this subsection shall become effective July 1, 2005.

10. An individual who willfully fails to disclose amounts earned during any week with respect to which benefits are claimed by him or her, willfully fails to disclose or has falsified as to any fact which would have disqualified him or her or rendered him or her ineligible for benefits during such week, or willfully fails to disclose a material fact or makes a false statement or representation in order to obtain or increase any benefit pursuant to this chapter shall forfeit all of his or her benefit rights, and all of his or her wage credits accrued prior to the date of such failure to disclose or falsification shall be cancelled, and any benefits which might otherwise have become payable to him or her subsequent to such date based upon such wage credits shall be forfeited; except that, the division may, upon good cause shown, modify such reduction of benefits and cancellation of wage credits. It shall be presumed that such failure or falsification was willful in any case in which an individual signs and certifies a claim for benefits and fails to disclose or falsifies as to any fact relative to such claim.

11. (1) Any assignment, pledge, or encumbrance of any rights to benefits which are or may become due or payable pursuant to this chapter shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessaries furnished to such individual or the individual's spouse or dependents during the time such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void; except that this section shall not apply to:

(a) Support obligations, as defined pursuant to paragraph (g) of subdivision (2) of this subsection, which are being enforced by a state or local support enforcement agency against any individual claiming unemployment compensation pursuant to this chapter; or

(b) Uncollected overissuances (as defined in Section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons;

(2) (a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes support obligations, as defined pursuant to paragraph (g) of this subdivision or owes uncollected overissuances of food stamp coupons (as defined in Section 13(c)(1) of the Food Stamp Act of 1977). If any such individual discloses that he or she owes support obligations or uncollected overissuances of food stamp coupons, and is determined to be eligible for unemployment compensation, the division shall notify the state or local support enforcement agency enforcing the support obligation or the state food stamp agency to which the uncollected food stamp overissuance is owed that such individual has been determined to be eligible for unemployment compensation;

(b) The division shall deduct and withhold from any unemployment compensation payable to an individual who owes support obligations as defined pursuant to paragraph (g) of this subdivision or who owes uncollected food stamp overissuances:

a. The amount specified by the individual to the division to be deducted and withheld pursuant to this paragraph if neither subparagraph b. nor subparagraph c. of this paragraph is applicable; or

b. The amount, if any, determined pursuant to an agreement submitted to the division pursuant to Section 454(20)(B)(i) of the Social Security Act by the state or local support enforcement agency, unless subparagraph c. of this paragraph is applicable; or the amount (if any) determined pursuant to an agreement submitted to the state food stamp agency pursuant to Section 13(c)(3)(a) of the Food Stamp Act of 1977; or

c. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to properly served legal process, as that term is defined in Section 459(i) of the Social Security Act; or any amount otherwise required to be deducted and withheld from the unemployment compensation pursuant to Section 13(c)(3)(b) of the Food Stamp Act of 1977;

(c) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision shall be paid by the division to the appropriate state or local support enforcement agency or state food stamp agency;

(d) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision shall, for all purposes, be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local support enforcement agency in satisfaction of the individual's support obligations or to the state food stamp agency to which the uncollected overissuance is owed as repayment of the individual's uncollected overissuance;

(e) For purposes of paragraphs (a), (b), (c), and (d) of this subdivision, the term "unemployment compensation" means any compensation payable pursuant to this chapter, including amounts payable by the division pursuant to an agreement pursuant to any federal law providing for compensation, assistance, or allowances with respect to unemployment;

(f) Deductions will be made pursuant to this section only if appropriate arrangements have been made for reimbursement by the state or local support enforcement agency, or the state food stamp agency, for the administrative costs incurred by the division pursuant to this section which are attributable to support obligations being enforced by the state or local support enforcement agency or which are attributable to uncollected overissuances of food stamp coupons;

(g) The term "support obligations" is defined for purposes of this subsection as including only obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services pursuant to Part D of Title IV of the Social Security Act;

(h) The term "state or local support enforcement agency", as used in this subsection, means any agency of a state, or political subdivision thereof, operating pursuant to a plan described in paragraph (g) of this subdivision;

(i) The term "state food stamp agency" as used in this subsection means any agency of a state, or political subdivision thereof, operating pursuant to a plan described in the Food Stamp Act of 1977;

(j) The director may prescribe the procedures to be followed and the form and contents of any documents required in carrying out the provisions of this subsection;

(k) The division shall comply with the following priority when deducting and withholding amounts from any unemployment compensation payable to an individual:

a. Before withholding any amount for child support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold from any unemployment compensation payable to an individual the amount, as determined by the division, owed pursuant to subsection 12 or 13 of this section;

b. If, after deductions are made pursuant to subparagraph a. of this paragraph, an individual has remaining unemployment compensation amounts due and owing, and the individual owes

support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold any remaining unemployment compensation amounts for application to child support obligations owed by the individual;

c. If, after deductions are made pursuant to subparagraphs a. and b. of this paragraph, an individual has remaining unemployment compensation amounts due and owing, and the individual owes uncollected overissuances of food stamp coupons, the division shall deduct and withhold any remaining unemployment compensation amounts for application to uncollected overissuances of food stamp coupons owed by the individual.

12. Any person who, by reason of the nondisclosure or misrepresentation by such person or by another of a material fact, has received any sum as benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such person's case, or while he or she was disqualified from receiving benefits, shall, in the discretion of the division, either be liable to have such sums deducted from any future benefits payable to such person pursuant to this chapter or shall be liable to repay to the division for the unemployment compensation fund a sum equal to the amounts so received by him or her. **The division may recover such sums in accordance with the provisions of subsection 14 of this section.**

13. Any person who, by reason of any error or omission or because of a lack of knowledge of material fact on the part of the division, has received any sum of benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such person's case, or while such person was disqualified from receiving benefits, shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190**, in the discretion of the division, either be liable to** have such sums deducted from any further benefits payable to such person pursuant to this chapter, **[**provided that**] or shall be liable to repay to the division for the unemployment compensation fund a sum equal to the amounts so received by him or her. The division may recover such sums in accordance with the provisions of subsection 14 of this section. However,** the division may elect not to process such possible overpayments where the amount of same is not over twenty percent of the maximum state weekly benefit amount in effect at the time the error or omission was discovered.

14. Recovering overpaid unemployment compensation benefits shall be pursued by the division against any person receiving such overpaid unemployment compensation benefits through billing, setoffs against state and federal tax refunds to the extent permitted by federal law, intercepts of lottery winnings under section 313.321, and collection efforts as provided for in sections 288.160, 288.170, and 288.175.

15. Any person who has received any sum as benefits under the laws of another state, or under any unemployment benefit program of the United States administered by another state while any conditions for the receipt of benefits imposed by the law of such other state were not fulfilled in his or her case, shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190 have such sums deducted from any further benefits payable to such person pursuant to this chapter, but only if there exists between this state and such other state a reciprocal agreement under which such entity agrees to recover benefit overpayments, in like fashion, on behalf of this state.

288.381. COLLECTION OF BENEFITS PAID WHEN CLAIMANT LATER DETERMINED INELIGIBLE OR AWARDED BACK PAY — VIOLATION, DAMAGES. — 1. The provisions of subsection **[**6**] 8** of section 288.070 notwithstanding, benefits paid to a claimant pursuant to subsection **[**5**] 7** of section 288.070 to which the claimant was not entitled based on a subsequent determination, redetermination or decision which has become final, shall be collectible by the division as provided in subsections 12 and 13 of section 288.380.

2. Notwithstanding any other provision of law to the contrary, when a claimant who has been separated from his employment receives benefits under this chapter and subsequently receives a back pay award pursuant to action by a governmental agency, court of competent

jurisdiction or as a result of arbitration proceedings, for a period of time during which no services were performed, the division shall establish an overpayment equal to the lesser of the amount of the back pay award or the benefits paid to the claimant which were attributable to the period covered by the back pay award. After the claimant has been provided an opportunity for a fair hearing under the provision of section 288.190, the employer shall withhold from the employee's back pay award the amount of benefits so received and shall pay such amount to the division and separately designate such amount.

3. For the purposes of subsection 2 of this section, the division shall provide the employer with the amount of benefits paid to the claimant.

4. Any individual, company, association, corporation, partnership, bureau, agency or the agent or employee of the foregoing who interferes with, obstructs, or otherwise causes an employer to fail to comply with the provisions of subsection 2 of this section shall be liable for damages in the amount of three times the amount owed by the employer to the division. The division shall proceed to collect such damages under the provisions of sections 288.160 and 288.170.

Approved July 14, 2016

SB 711 [SB 711]

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

Modifies laws relating to elementary and secondary education

AN ACT to repeal section 170.310, RSMo, and to enact in lieu thereof one new section relating to cardiopulmonary instruction in schools.

SECTION
A. Enacting clause.
170.310. Cardiopulmonary resuscitation instruction and training, grades nine through twelve, requirements — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Section 170.310, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 170.310, to read as follows:

170.310. CARDIOPULMONARY RESUSCITATION INSTRUCTION AND TRAINING, GRADES NINE THROUGH TWELVE, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. **For school year 2017-18 and each school year thereafter, upon graduation from high school pupils in public schools and charter schools shall have received thirty minutes of cardiopulmonary resuscitation instruction and training in the proper performance of the Heimlich maneuver or other first aid for choking given any time during a pupil's four years of high school.**

2. Beginning in school year 2017-18, any public school or charter school serving grades nine through twelve **[**may**]** **shall** provide enrolled students instruction in cardiopulmonary resuscitation. Students with disabilities may participate to the extent appropriate as determined by the provisions of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. Instruction **[**may be embedded in any health education course**]** **shall be included in the district's existing health or physical education curriculum**. Instruction shall be based on a program established by the American Heart Association or the American Red Cross, or through a nationally recognized program based on the most current national evidence-

based emergency cardiovascular care guidelines, and psychomotor skills development shall be incorporated into the instruction. For purposes of this section, "psychomotor skills" means the use of hands-on practicing and skills testing to support cognitive learning.

[2.**]** **3.** The teacher of the cardiopulmonary resuscitation course or unit shall not be required to be a certified trainer of cardiopulmonary resuscitation if the instruction is not designed to result in certification of students. Instruction that is designed to result in certification being earned shall be required to be taught by an authorized cardiopulmonary instructor. Schools may develop agreements with any local chapter of a voluntary organization of first responders to provide the required hands-on practice and skills testing.

[3.**]** **4.** The department of elementary and secondary education may promulgate rules 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, 2012, shall be invalid and void.

Approved June 14, 2016

SB 732 [CCS HCS SS SB 732]

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

Modifies numerous provisions relating to public safety

AN ACT to repeal sections 43.545, 44.010, 44.023, 44.032, 67.145, 67.281, 70.210, 84.720, 94.902, 190.055, 190.102, 190.103, 190.142, 190.165, 190.241, 190.335, 192.737, 192.2400, 192.2405, 304.022, 307.175, 321.017, 321.130, 321.210, 455.543, 455.545, and 610.100, RSMo, and section 192.2475 as enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475 as enacted by house revision bill no. 1299, ninety-seventh general assembly, second regular session, section 575.145 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 575.145 as enacted by house bill no. 1270 and house bill no. 2032, ninety-first general assembly, second regular session, and to enact in lieu thereof thirty-seven new sections relating to public safety, with penalty provisions.

SECTION

A. Enacting clause.
43.545. Highway patrol to include incidents of domestic violence in reporting system.
44.010. Definitions.
44.023. Disaster volunteer program established, agency's duties — expenses — immunity from liability, exception.
44.032. Emergency powers of governor, uses — Missouri disaster fund, funding, expenditures, procedures, purposes — aid to political subdivisions, when, procedure — expenditures in excess of $1,000, governor to approve.
67.145. First responders, political activity while off duty and not in uniform, political subdivisions not to prohibit — first responder defined.
67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline.
70.210. Definitions.
84.720. Police commissioners, power to regulate security personnel — fingerprint, criminal history record check — penalty — excursion gambling boat exception (Kansas City).

94.902. Sales tax authorized for certain cities (Gladstone, Grandview, Liberty, North Kansas City, Raytown) — ballot, effective date — administration and collection — refunds, use of funds upon establishment of tax — repeal.
190.055. Powers of board — seal and bylaws required — reimbursement of board members' expenses — secretary and treasurer, additional compensation — board member attendance fees, when — ineligibility for board employment, when.
190.102. Regional EMS advisory committees.
190.103. Regional EMS medical director, powers, duties.
190.142. Emergency medical technician license — rules.
190.144. Immunity from liability, when.
190.165. Suspension or revocation of licenses, grounds for — procedure.
190.173. Confidentiality of information.
190.240. At-risk behavioral health patients, notice required before transport of — training of personnel — temporary involuntary hold, patient placed on, when.
190.241. Trauma, STEMI, or stroke centers, designation by department — on-site reviews — grounds for suspension or revocation of designation — data submission and analysis — fees — administrative hearing commission to hear persons aggrieved by designation.
190.260. Citation — definitions — training for broadcast engineers and technical personnel — credentialing — access to disaster areas.
190.265. Helipads, hospitals not required to have fencing or barriers.
190.335. Central dispatch for emergency services, alternative funding by county sales tax, procedure, ballot form, rate of tax — collection, limitations — adoption of alternate tax, telephone tax to expire, when — board appointment and election, qualification, terms — continuation of board in Greene and Stoddard counties — board appointment in Christian, Taney, and St. Francois counties.
192.2400. Definitions.
192.2405. Beginning January 1, 2017 — Mandatory reporters — penalty for failure to report.
192.2475. Beginning January 1, 2017 — Report of abuse or neglect of in-home services or home health agency client, duty — penalty — contents of report — investigation, procedure — confidentiality of report — immunity — retaliation prohibited, penalty — employee disqualification list — safe at home evaluations, procedure.
192.2475. Until December 31, 2016 — Report of abuse or neglect of in-home services or home health agency client, duty — penalty — contents of report — investigation, procedure — confidentiality of report — immunity — retaliation prohibited, penalty — employee disqualification list — safe at home evaluations, procedure.
208.1030. Supplemental reimbursement for ground emergency medical transportation — amount — voluntary participation.
208.1032. Intergovernmental transfer program — increased reimbursement for services, when — participation requirements.
287.245. Volunteer firefighters, grants for workers' compensation insurance premiums.
304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.
307.175. Sirens and flashing lights emergency use, persons authorized — violation, penalty.
321.017. Employee of fire protection district or ambulance district not to be member of board, exception — former board members ineligible for employment by the board for twelve months.
321.130. Directors, qualifications — candidate filing fee, oath.
321.210. Election and terms of directors — filing fee.
455.543. Homicides or suicides, determination of domestic violence, factors to be considered — reports made to highway patrol, forms.
455.545. Annual report by highway patrol.
575.145. Beginning January 1, 2017 — Signal or direction of law enforcement or firefighter, duty to stop, motor vehicle operators and riders of animals — violation, penalty.
575.145. Until December 31, 2016 — Signal or direction of sheriff or deputy sheriff, duty to stop, motor vehicle operators and riders of animals — violation, penalty.
610.100. Definitions — arrest and incident records available to public — closed records, when — record redacted, when — access to incident reports, record redacted, when — action for disclosure of investigative report authorized, costs — application to open incident and arrest reports, violations, civil penalty — identity of victim of sexual offense — confidentiality of recording.
610.205. Crime scene photographs and video recordings closed records, when — disclosure to next-of-kin or by court order — inapplicability.
192.737. Data analysis and needs assessment.

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

SECTION A. ENACTING CLAUSE. — Sections 43.545, 44.010, 44.023, 44.032, 67.145, 67.281, 70.210, 84.720, 94.902, 190.055, 190.102, 190.103, 190.142, 190.165, 190.241, 190.335, 192.737, 192.2400, 192.2405, 304.022, 307.175, 321.017, 321.130, 321.210, 455.543,

455.545, and 610.100, RSMo, and section 192.2475 as enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475 as enacted by house revision bill no. 1299, ninety-seventh general assembly, second regular session, section 575.145 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 575.145 as enacted by house bill no. 1270 and house bill no. 2032, ninety-first general assembly, second regular session, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 43.545, 44.010, 44.023, 44.032, 67.145, 67.281, 70.210, 84.720, 94.902, 190.055, 190.102, 190.103, 190.142, 190.144, 190.165, 190.173, 190.240, 190.241, 190.260, 190.265, 190.335, 192.2400, 192.2405, 192.2475, 208.1030, 208.1032, 287.245, 304.022, 307.175, 321.017, 321.130, 321.210, 455.543, 455.545, 575.145, 610.100, and 610.205, to read as follows:

43.545. HIGHWAY PATROL TO INCLUDE INCIDENTS OF DOMESTIC VIOLENCE IN REPORTING SYSTEM. — The state highway patrol shall include **[**in its voluntary system of reporting for compilation in the "Crime in Missouri"**]** all reported incidents of domestic violence as defined in section 455.010, whether or not an arrest is made**, in its system of reporting for compilation in the annual crime report published under section 43.505**. All incidents shall be reported on forms provided by the highway patrol and in a manner prescribed by the patrol.

44.010. DEFINITIONS. — As used in sections 44.010 to 44.130, the following terms mean:

(1) "Agency", the state emergency management agency;

(2) "Bioterrorism", the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population;

(3) "Director", the director of the state emergency management agency;

(4) "Disasters", disasters which may result from terrorism, including bioterrorism, or from fire, wind, flood, earthquake, or other natural or man-made causes;

(5) "Economic or geographic area", an area or areas within the state, or partly in this state and adjacent states, comprising political subdivisions grouped together for purposes of administration, organization, control or disaster recovery and rehabilitation in time of emergency;

(6) "Emergency", any state of emergency declared by proclamation by the governor, or by resolution of the legislature pursuant to sections 44.010 to 44.130 upon the actual occurrence of a natural or man-made disaster of major proportions within this state when the safety and welfare of the inhabitants of this state are jeopardized;

(7) "Emergency management", government at all levels performing emergency functions, other than functions for which military forces are primarily responsible;

(8) "Emergency management functions", "emergency management activities" and "emergency management service", those functions required to prepare for and carry out actions to prevent, minimize and repair injury and damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, either on order of or at the request of the federal government, or in the event the federal government is incapable of administering such control;

(9) "Emergency resources planning and management", planning for, management and coordination of national, state and local resources;

(10) "Executive officer of any political subdivision", the county commission or county supervisor or the mayor or other manager of the executive affairs of any city, town, village or fire protection district;

(11) "Local organization for emergency management", any organization established under this law by any county or by any city, town, or village to perform local emergency management functions;

(12) "Management", the activities of the emergency management director in the implementation of emergency operations plans during time of emergency;

(13) "Planning", activities of the state and local emergency management agency in the formulation of emergency management plans to be used in time of emergency;

(14) "Political subdivision", any county or city, town or village, or any fire district created by law**;**

(15) "Urban search and rescue task force", any entity whose primary responsibility is to locate, remove, and provide medical care to persons in collapsed buildings.

44.023. DISASTER VOLUNTEER PROGRAM ESTABLISHED, AGENCY'S DUTIES — EXPENSES — IMMUNITY FROM LIABILITY, EXCEPTION. — 1. The Missouri state emergency management agency shall establish and administer an emergency volunteer program to be activated in the event of a disaster whereby volunteer architects**, [**and professional**]** engineers **[**registered**] licensed** under chapter 327**, any individual including, but not limited to, building officials and building inspectors employed by local governments, qualified by training and experience, who has been certified by the state emergency management agency, and who performs his or her duties under the direction of an architect or engineer licensed under chapter 327,** and construction contractors, equipment dealers and other owners and operators of construction equipment may volunteer the use of their services and equipment, either manned or unmanned, for up to **[**three**] five consecutive** days **for in-state deployments** as requested and needed by the state emergency management agency.

2. In the event of a disaster, the enrolled volunteers shall, where needed, assist local jurisdictions and local building inspectors to provide essential demolition, cleanup or other related services and to determine whether **[**buildings**] structures** affected by a disaster:

(1) Have not sustained serious damage and may be occupied;

(2) Must be **[**vacated temporarily**] restricted in their use** pending repairs; or

(3) **[**Must be demolished in order to avoid hazards to occupants or other persons**] Are unsafe and shall not be occupied pending repair or demolition**.

3. Any person when utilized as a volunteer under the emergency volunteer program shall have his **or her** incidental expenses paid by the local jurisdiction for which the volunteer service is provided. **Enrolled volunteers under the emergency volunteer program shall be provided workers' compensation insurance by the state emergency management agency during their official duties as authorized by the state emergency management agency.**

4. **Emergency volunteers who are certified by the state emergency management agency shall be considered employees of the state for purposes of the emergency mutual aid compact under section 44.415 and shall be eligible for out-of-state deployments in accordance with such section.**

5. Architects, [and professional] engineers, individuals including, but not limited to, building officials and building inspectors employed by local governments, qualified by training and experience, who have been certified by the state emergency management agency, and who perform their duties under the direction of an architect or engineer licensed under chapter 327, construction contractors, equipment dealers and other owners and operators of construction equipment and the companies with which they are employed, working under the emergency volunteer program, shall not be personally liable either jointly or separately for any act or acts committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

[5.**] 6.** Any individuals, employers, partnerships, corporations or proprietorships, that are working under the emergency volunteer program providing demolition, cleanup, removal or other related services, shall not be liable for any acts committed in the performance of their

official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

44.032. EMERGENCY POWERS OF GOVERNOR, USES — MISSOURI DISASTER FUND, FUNDING, EXPENDITURES, PROCEDURES, PURPOSES — AID TO POLITICAL SUBDIVISIONS, WHEN, PROCEDURE — EXPENDITURES IN EXCESS OF $1,000, GOVERNOR TO APPROVE. — 1. The general assembly recognizes the necessity for anticipating and making advance provisions to care for the unusual and extraordinary burdens imposed on this state and its political subdivisions by disasters or emergencies. To meet such situations, it is the intention of the general assembly to confer emergency powers on the governor, acting through the director, and vesting the governor with adequate power and authority within the limitation of available funds in the Missouri disaster fund to meet any such emergency or disaster.

2. There is hereby established a fund to be known as the "Missouri Disaster Fund", to which the general assembly may appropriate funds and from which funds may be appropriated annually to the state emergency management agency. The funds appropriated shall be expended during a state emergency at the direction of the governor and upon the issuance of an emergency declaration which shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The director of the state emergency management agency shall administer the fund.

3. Expenditures may be made upon direction of the governor for emergency management, as defined in section 44.010, or to implement the state disaster plans. Expenditures may also be made to meet the matching requirements of state and federal agencies for any applicable assistance programs.

4. Assistance may be provided from the Missouri disaster fund to political subdivisions of this state which have suffered from a disaster to such an extent as to impose a severe financial burden exceeding the ordinary reserve capacity of the subdivision affected. Applications for aid under this section shall be made to the state emergency management agency on such forms as may be prescribed and furnished by the agency, which forms shall require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The director of the state emergency management agency shall review each application for aid under the provisions of this section and recommend its approval or disapproval, in whole or in part, to the governor. If approved, the governor shall determine and certify to the director of the state emergency management agency the amount of aid to be furnished. The director of the state emergency management agency shall thereupon issue his voucher to the commissioner of administration, who shall issue his warrants therefor to the applicant.

5. When a disaster or emergency has been proclaimed by the governor or there is a national emergency, the director of the state emergency management agency, upon order of the governor, shall have authority to expend funds for the following:

(1) The purposes of sections 44.010 to 44.130 and the responsibilities of the governor and the state emergency management agency as outlined in sections 44.010 to 44.130;

(2) Employing, for the duration of the response and recovery to emergency, additional personnel and contracting or otherwise procuring necessary appliances, supplies, equipment, and transport;

(3) Performing services for and furnishing materials and supplies to state government agencies, counties, and municipalities with respect to performance of any duties enjoined by law upon such agencies, counties, and municipalities which they are unable to perform because of extreme natural or man-made phenomena, and receiving reimbursement in whole or in part from such agencies, counties, and municipalities able to pay therefor under such terms and conditions as may be agreed upon by the director of the state emergency management agency and any such agency, county, or municipality;

(4) Performing services for and furnishing materials to any individual in connection with alleviating hardship and distress growing out of extreme natural or man-made phenomena, and

receiving reimbursement in whole or in part from such individual under such terms as may be agreed upon by the director of the state emergency management agency and such individual;

(5) Providing services to counties and municipalities with respect to quelling riots and civil disturbances;

(6) Repairing and restoring public infrastructure;

(7) Furnishing transportation for supplies to alleviate suffering and distress;

(8) Furnishing medical services and supplies to prevent the spread of disease and epidemics;

(9) Quelling riots and civil disturbances;

(10) Training individuals or governmental agencies for the purpose of perfecting the performance of emergency assistance duties as defined in the state disaster plans;

(11) Procurement, storage, and transport of special emergency supplies or equipment determined by the director to be necessary to provide rapid response by state government to assist counties and municipalities in impending or actual emergencies;

(12) Clearing or removing from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety; **[**and**]**

(13) **Reimbursement to any urban search and rescue task force for any reasonable and necessary expenditures incurred in the course of responding to any declared emergency under this section; and**

(14) Such other measures as are customarily necessary to furnish adequate relief in cases of catastrophe or disaster.

6. The governor may receive such voluntary contributions as may be made from any source to aid in carrying out the purposes of this section and shall credit the same to the Missouri disaster fund.

7. All obligations and expenses incurred by the governor in the exercise of the powers and duties vested by the provisions of this section shall be paid by the state treasurer out of available funds in the Missouri disaster fund, and the commissioner of administration shall draw warrants upon the state treasurer for the payment of such sum, or so much thereof as may be required, upon receipt of proper vouchers provided by the director of the state emergency management agency.

8. The provisions of this section shall be liberally construed in order to accomplish the purposes of sections 44.010 to 44.130 and to permit the governor to cope adequately with any emergency which may arise, and the powers vested in the governor by this section shall be construed as being in addition to all other powers presently vested in the governor and not in derogation of any existing powers.

9. Such funds as may be made available by the government of the United States for the purpose of alleviating distress from disasters may be accepted by the state treasurer and shall be credited to the Missouri disaster fund, unless otherwise specifically provided in the act of Congress making such funds available.

10. The foregoing provisions of this section notwithstanding, any expenditure or proposed series of expenditures which total in excess of one thousand dollars per project shall be approved by the governor prior to the expenditure.

67.145. FIRST RESPONDERS, POLITICAL ACTIVITY WHILE OFF DUTY AND NOT IN UNIFORM, POLITICAL SUBDIVISIONS NOT TO PROHIBIT — FIRST RESPONDER DEFINED. — 1. No political subdivision of this state shall prohibit any first responder**[**, as the term first responder is defined in section 192.800,**]** from engaging in any political activity while off duty and not in uniform, being a candidate for elected or appointed public office, or holding such office unless such political activity or candidacy is otherwise prohibited by state or federal law.

2. As used in this section, "first responder" means any person trained and authorized by law or rule to render emergency medical assistance or treatment. Such persons may include, but shall not be limited to, emergency first responders, police officers, sheriffs,

deputy sheriffs, firefighters, ambulance attendants and attendant drivers, emergency medical technicians, mobile emergency medical technicians, emergency medical technician-paramedics, registered nurses, or physicians.

67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE. — 1. A builder of one- or two-family dwellings or townhouses shall offer to any purchaser on or before the time of entering into the purchase contract the option, at the purchaser's cost, to install or equip fire sprinklers in the dwelling or townhouse. Notwithstanding any other provision of law to the contrary, no purchaser of such a one- or two-family dwelling or townhouse shall be denied the right to choose or decline to install a fire sprinkler system in such dwelling or townhouse being purchased by any code, ordinance, rule, regulation, order, or resolution by any county or other political subdivision. Any county or other political subdivision shall provide in any such code, ordinance, rule, regulation, order, or resolution the mandatory option for purchasers to have the right to choose and the requirement that builders offer to purchasers the option to purchase fire sprinklers in connection with the purchase of any one- or two-family dwelling or townhouse. **[**The provisions of this section shall expire on December 31, 2024.**]**

2. Any governing body of any political subdivision that adopts the 2009 International Residential Code for One- and Two-Family Dwellings or a subsequent edition of such code without mandated automatic fire sprinkler systems in Section R313 of such code shall retain the language in section R317 of the 2006 International Residential Code for two-family dwellings (R317.1) and townhouses (R317.2).

70.210. DEFINITIONS. — As used in sections 70.210 to 70.320, the following terms mean:

(1) "Governing body", the board, body or persons in which the powers of a municipality or political subdivision are vested;

(2) "Municipality", municipal corporations, political corporations, and other public corporations and agencies authorized to exercise governmental functions;

(3) "Political subdivision", counties, townships, cities, towns, villages, school, county library, city library, city-county library, road, drainage, sewer, levee and fire districts, soil and water conservation districts, watershed subdistricts, county hospitals, **[**and**]** any board of control of an art museum, **the board created under sections 205.968 to 205.973,** and any other public subdivision or public corporation having the power to tax.

84.720. POLICE COMMISSIONERS, POWER TO REGULATE SECURITY PERSONNEL — FINGERPRINT, CRIMINAL HISTORY RECORD CHECK — PENALTY — EXCURSION GAMBLING BOAT EXCEPTION (KANSAS CITY). — **1.** The police commissioners of any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county shall have power to regulate and license all private security personnel and organizations, serving or acting as such in such cities, and no person or organization shall act in the capacity of, or provide, security services in such cities without first having obtained the written license of the president or acting president of the police commissioners of such cities. In order to determine an individual's suitability to be licensed, the police commissioners of such cities shall require each applicant to be licensed to be fingerprinted and shall forward the fingerprints to the Missouri state highway patrol for a criminal history record check. Any person or organization that violates the provisions of this section is guilty of a class B misdemeanor.

2. Any individual who is a holder of an occupational license issued by the Missouri gaming commission as defined under section 313.800 to perform the duties of an unarmed security guard while working on an excursion gambling boat as defined under section 313.800 or at a facility adjacent to an excursion gambling boat shall be exempt from the requirements of subsection 1 of this section and from any other political subdivision licensing requirements for unarmed security guards.

94.902. SALES TAX AUTHORIZED FOR CERTAIN CITIES (GLADSTONE, GRANDVIEW, LIBERTY, NORTH KANSAS CITY, RAYTOWN) — BALLOT, EFFECTIVE DATE — ADMINISTRATION AND COLLECTION — REFUNDS, USE OF FUNDS UPON ESTABLISHMENT OF TAX — REPEAL. — 1. The governing **[**body**]** **bodies** of **the following cities may impose a tax as provided in this section:**

(1) Any city of the third classification with more than twenty-six thousand three hundred but less than twenty-six thousand seven hundred inhabitants[, or**];**

(2) Any city of the fourth classification with more than thirty thousand three hundred but fewer than thirty thousand seven hundred inhabitants[, or**];**

(3) Any city of the fourth classification with more than twenty-four thousand eight hundred but fewer than twenty-five thousand inhabitants**[,] ;**

(4) Any special charter city with more than twenty-nine thousand but fewer than thirty-two thousand inhabitants; or

(5) Any city of the third classification with more than four thousand but fewer than four thousand five hundred inhabitants and located in any county of the first classification with more than two hundred thousand but fewer than two hundred sixty thousand inhabitants.

2. The governing body of any city listed in subsection 1 of this section may impose, by order or ordinance, a sales tax on all retail sales made in the city which are subject to taxation under chapter 144. The tax authorized in this section may be imposed in an amount of up to one-half of one percent, and shall be imposed solely for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance imposing a sales tax under this section shall not become effective unless the governing body of the city submits to the voters residing within the city, at a county or state general, primary, or special election, a proposal to authorize the governing body of the city to impose a tax under this section.

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

Shall the city of ..... (city's name) impose a citywide sales tax at a rate of ..... (insert rate of percent) percent for the purpose of improving the public safety of the city?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments to the order or ordinance shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the sales tax. If a majority of the votes cast on the proposal by the qualified voters voting thereon are opposed to the proposal, then the tax shall not become effective unless the proposal is resubmitted under this section to the qualified voters and such proposal is approved by a majority of the qualified voters voting on the proposal. However, in no event shall a proposal under this section be submitted to the voters sooner than twelve months from the date of the last proposal under this section.

[3.**]** **4.** Any sales tax imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created in the state treasury, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the

general revenue fund. The director shall keep accurate records of the amount of money in the trust fund and which was collected in each city imposing a sales tax under this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax. Such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

[4.**]** **5.** The director of the department of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the action at least ninety days before the effective date of the repeal, and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

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

Shall ..... (insert the name of the city) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of improving the public safety of the city?

[ ] YES [ ] NO

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

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

[7.**]** **8.** Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed under this section.

190.055. POWERS OF BOARD — SEAL AND BYLAWS REQUIRED — REIMBURSEMENT OF BOARD MEMBERS' EXPENSES — SECRETARY AND TREASURER, ADDITIONAL COMPENSATION — BOARD MEMBER ATTENDANCE FEES, WHEN — INELIGIBILITY FOR BOARD EMPLOYMENT,

WHEN. — 1. The board of directors of a district shall possess and exercise all of its legislative and executive powers. Within thirty days after the election of the initial directors, the board shall meet. The time and place of the first meeting of the board shall be designated by the county commission. At its first meeting and after each election of new board members 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 corporate objectives. The secretary and treasurer need not be members of the board. At the meeting the board, by ordinance, shall define the first and subsequent fiscal years of the district, and shall adopt a corporate seal and bylaws, which shall determine the times for the annual election of officers and of other regular and special meetings of the board and shall contain the rules for the transaction of other business of the district and for amending the bylaws.

2. Each board member of any district shall devote such time to the duties of the office as the faithful discharge thereof may require, including educational programs provided by the state and each board member may be reimbursed for actual expenditures in the performance of his or her duties on behalf of the district.

3. The secretary and treasurer, if members of the board of directors, may each receive additional compensation for the performance of their duties as secretary or treasurer as the board shall deem reasonable and necessary; provided that, such additional compensation shall not exceed one thousand dollars per year.

4. Each board member may receive an attendance fee not to exceed one hundred dollars for attending each regularly or specially called board meeting. Such member shall not be paid for attending more than two meetings in any calendar month, except that in a county of the first classification having a charter form of government, such member shall not be paid for attending more than four such meetings in any calendar month. In addition, the chairman of the board may receive fifty dollars for attending each regularly or specially called board meeting, but such chairman shall not be paid the additional fee for attending more than two meetings in any calendar month.

5. The compensation authorized by subsections 3 and 4 of this section shall only apply:

(1) If such compensation is approved by the board of such district; and

(2) To any elected term of any board member beginning after August 28, 2000.

6. Notwithstanding any other provision of law to the contrary, individual board members shall not be eligible for employment by the board within twelve months of termination of service as a member of the board unless such employment is on a volunteer basis or without compensation.

190.102. REGIONAL EMS ADVISORY COMMITTEES. — 1. The department shall designate through regulation EMS regions and committees. The purpose of the regional EMS advisory committees is to advise and make recommendations to the region and the department on:

(1) Coordination of emergency resources in the region;

(2) Improvement of public and professional education;

(3) Cooperative research endeavors;

(4) Development of standards, protocols and policies; **[**and**]**

(5) Voluntary multiagency quality improvement committee and process**; and**

(6) Development and review of and recommendations for community and regional time critical diagnosis plans.

2. The members of the committees shall serve without compensation except that the department of health and senior services shall budget for reasonable travel expenses and meeting expenses related to the functions of the committees.

3. The director will appoint personnel to no less than six regional EMS committees from recommendations provided by recognized professional organizations. Appointments will be for four years with individuals serving until reappointed or replaced. **The regional EMS medical director shall serve as a member of the regional EMS committee**.

190.103. REGIONAL EMS MEDICAL DIRECTOR, POWERS, DUTIES. — 1. One physician with expertise in emergency medical services from each of the EMS regions shall be elected by that region's EMS medical directors to serve as a regional EMS medical director. The regional EMS medical directors shall constitute the state EMS medical director's advisory committee and shall advise the department and their region's ambulance services on matters relating to medical control and medical direction in accordance with sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245. **The regional EMS medical director shall serve a term of four years. The southwest, northwest, and Kansas City regional EMS medical directors shall be elected to an initial two-year term. The central, east central, and southeast regional EMS medical directors shall be elected to an initial four-year term. All subsequent terms following the initial terms shall be four years.**

2. A medical director is required for all ambulance services and emergency medical response agencies that provide: advanced life support services; basic life support services utilizing medications or providing assistance with patients' medications; or basic life support services performing invasive procedures including invasive airway procedures. The medical director shall provide medical direction to these services and agencies in these instances.

3. The medical director, in cooperation with the ambulance service or emergency medical response agency administrator, shall have the responsibility and the authority to ensure that the personnel working under their supervision are able to provide care meeting established standards of care with consideration for state and national standards as well as local area needs and resources. The medical director, in cooperation with the ambulance service or emergency medical response agency administrator, shall establish and develop triage, treatment and transport protocols, which may include authorization for standing orders.

4. All ambulance services and emergency medical response agencies that are required to have a medical director shall establish an agreement between the service or agency and their medical director. The agreement will include the roles, responsibilities and authority of the medical director beyond what is granted in accordance with sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245. The agreement shall also include grievance procedures regarding the emergency medical response agency or ambulance service, personnel and the medical director.

190.142. EMERGENCY MEDICAL TECHNICIAN LICENSE — RULES. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as it deems necessary to be made of the applicant for an emergency medical technician's license. The director may authorize investigations into criminal records in other states for any applicant.

2. The department shall issue a license to all levels of emergency medical technicians, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical technician including but not limited to:

(1) Age requirements;

(2) Education and training requirements based on respective national curricula of the United States Department of Transportation and any modification to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;

(3) Initial licensure testing requirements**. Initial EMT-P licensure testing shall be through the national registry of EMTs or examinations developed and administered by the department of health and senior services**;

(4) Continuing education and relicensure requirements; and

(5) Ability to speak, read and write the English language.

3. Application for all levels of emergency medical technician license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems

necessary to make a determination as to whether the emergency medical technician meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. All levels of emergency medical technicians may perform only that patient care which is:

(1) Consistent with the training, education and experience of the particular emergency medical technician; and

(2) Ordered by a physician or set forth in protocols approved by the medical director.

5. No person shall hold themselves out as an emergency medical technician or provide the services of an emergency medical technician unless such person is licensed by the department.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

190.144. IMMUNITY FROM LIABILITY, WHEN. — No emergency medical technician licensed under section 190.142 or 190.143, if acting in good faith and without gross negligence, shall be liable for:

(1) Transporting a person for whom an application for detention for evaluation and treatment has been filed under section 631.115 or 632.305; or

(2) Physically or chemically restraining an at-risk behavioral health patient as that term is defined under section 190.240 if such restraint is to ensure the safety of the patient or technician.

190.165. SUSPENSION OR REVOCATION OF LICENSES, GROUNDS FOR — PROCEDURE. — 1. The department may refuse to issue or deny renewal of any certificate, permit or license required pursuant to sections 190.100 to 190.245 for failure to comply with the provisions of sections 190.100 to 190.245 or any lawful regulations promulgated by the department to implement its provisions as described in subsection 2 of this section. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate, permit or license required by sections 190.100 to 190.245 or any person who has failed to renew or has surrendered his or her certificate, permit or license for failure to comply with the provisions of sections 190.100 to 190.245 or any lawful regulations promulgated by the department to implement such sections. Those regulations shall be limited to the following:

(1) Use or unlawful possession 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 activity licensed or regulated by sections 190.100 to 190.245;

(2) Being finally adjudicated and found guilty, or having 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 activity licensed or regulated pursuant to sections 190.100 to 190.245, 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, permit or license issued pursuant to sections 190.100 to 190.245 or in obtaining permission to take any examination given or required pursuant to sections 190.100 to 190.245;

(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 activity licensed or regulated by sections 190.100 to 190.245;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 190.100 to 190.245, or of any lawful rule or regulation adopted by the department pursuant to sections 190.100 to 190.245;

(7) Impersonation of any person holding a certificate, permit or license or allowing any person to use his or her certificate, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any activity regulated by sections 190.100 to 190.245 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) For an individual being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any activity licensed or regulated by sections 190.100 to 190.245 who is not licensed and currently eligible to practice pursuant to sections 190.100 to 190.245;

(11) Issuance of a certificate, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust **[**or**],** confidence**, or legally protected privacy rights of a patient by means of an unauthorized or unlawful disclosure**;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(15) Refusal of any applicant or licensee to **[**cooperate with the**]** **respond to reasonable** department of health and senior **[**services during any investigation**]** **services' requests for necessary information to process an application or to determine license status or license eligibility**;

(16) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health **or safety** of a patient or the public;

(17) Repeated **acts of** negligence **or recklessness** in the performance of the functions or duties of any activity licensed or regulated by sections 190.100 to 190.245.

3. **If the department conducts investigations, the department, prior to interviewing a licensee who is the subject of the investigation, shall explain to the licensee that he or she has the right to:**

(1) Consult legal counsel or have legal counsel present;

(2) Have anyone present whom he or she deems to be necessary or desirable, except for any holder of any certificate, permit, or license required by sections 190.100 to 190.245; and

(3) Refuse to answer any question or refuse to provide or sign any written statement. The assertion of any right listed in this subsection shall not be deemed by the department to be a failure to cooperate with any department investigation.

4. 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 department may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate or permit. **Notwithstanding any provision of law to the contrary, the department shall be authorized to impose a suspension or revocation as a disciplinary action only if it first files the requisite complaint with the administrative hearing commission.**

[4.] **5.** An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the department after compliance with all the requirements of sections 190.100 to 190.245 relative to the licensing of an applicant for the first time. Any individual whose license has been revoked twice within a ten-year period shall not be eligible for relicensure.

[5.] **6.** The department may notify the proper licensing authority of any other state in which the person whose license was suspended or revoked was also licensed of the suspension or revocation.

[6.] **7.** Any person, organization, association or corporation who reports or provides information to the department pursuant to the provisions of sections 190.100 to 190.245 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

[7.] **8.** The department of health and senior services may suspend any certificate, permit or license required pursuant to sections 190.100 to 190.245 simultaneously with the filing of the complaint with the administrative hearing commission as set forth in subsection 2 of this section, if the department finds that there is an imminent threat to the public health. The notice of suspension shall include the basis of the suspension and notice of the right to appeal such suspension. The licensee may appeal the decision to suspend the license, certificate or permit to the department. The appeal shall be filed within ten days from the date of the filing of the complaint. A hearing shall be conducted by the department within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

190.173. CONFIDENTIALITY OF INFORMATION. — 1. All complaints, investigatory reports, and information pertaining to any applicant, holder of any certificate, permit, or license, or other individual are confidential and shall only be disclosed upon written consent of the person whose records are involved or to other administrative or law enforcement agencies acting with the scope of their statutory authority. However, no applicant, holder of any certificate, permit, or license, or other individual shall have access to any complaints, investigatory reports, or information concerning an investigation in progress until such time as the investigation has been completed as required by subsection 1 of section 190.248.

2. Any information regarding the identity, name, address, license, final disciplinary action taken, currency of the license, permit, or certificate of an applicant for or a person possessing a license, permit, or certificate in accordance with sections 190.100 to 190.245 shall not be confidential.

3. This section shall not be construed to authorize the release of records, reports, or other information which may be held in department files for any holder of or applicant for any certificate, permit, or license that is subject to other specific state or federal laws concerning their disclosure.

190.240. AT-RISK BEHAVIORAL HEALTH PATIENTS, NOTICE REQUIRED BEFORE TRANSPORT OF — TRAINING OF PERSONNEL — TEMPORARY INVOLUNTARY HOLD, PATIENT PLACED ON, WHEN. — 1. Any hospital, as such term is defined in section 197.020, or any nursing home facility licensed under chapter 198 shall have policies and procedures that require the hospital or facility to give advance notification to emergency medical services personnel prior to the transportation of any at-risk behavioral health patient.

2. Any emergency medical services personnel licensed under this chapter who conduct interfacility transfers of at-risk behavioral health patients may be properly trained as determined by the medical director for the ambulance services or emergency medical response agency as required under section 190.103, with regard to proper restraining procedures and nonmedical management techniques, such as verbal de-escalation techniques, to handle such patients before their transportation.

3. Any physician treating an at-risk behavioral patient in an emergency situation who, after assessing the patient, determines that there is reasonable cause to believe there is a likelihood that the patient may cause an imminent serious harm to himself, herself, or others unless the patient is immediately transported to another appropriate facility may, upon initiation as soon as possible by either the sending facility or the receiving facility, place the patient on a temporary involuntary hold for a period of time necessary to effectuate the patient's transport. The provisions of section 632.440 shall apply to such physicians. During the transport, the emergency medical services personnel may rely on the physician's hold order as a basis for implied consent to treat and transport the patient and shall not be liable for any claims of negligence, false imprisonment, or invasion of privacy based on such temporary hold, treatment, or transport of the patient.

4. Nothing in this section shall be construed to limit the patient's rights under the federal Mental Health Patient's Bill of Rights under 42 U.S.C. Section 9501(1)(A) and (F).

5. For the purposes of this section, "at-risk behavioral health patient" shall mean any patient who displays violent, homicidal, or suicidal ideation or behavior.

190.241. TRAUMA, STEMI, OR STROKE CENTERS, DESIGNATION BY DEPARTMENT — ON-SITE REVIEWS — GROUNDS FOR SUSPENSION OR REVOCATION OF DESIGNATION — DATA SUBMISSION AND ANALYSIS — FEES — ADMINISTRATIVE HEARING COMMISSION TO HEAR PERSONS AGGRIEVED BY DESIGNATION. — 1. The department shall designate a hospital as an adult, pediatric or adult and pediatric trauma center when a hospital, upon proper application submitted by the hospital and site review, has been found by the department to meet the applicable level of trauma center criteria for designation in accordance with rules adopted by the department as prescribed by section 190.185.

2. **Except as provided for in subsection 4 of this section,** the department shall designate a hospital as a STEMI or stroke center when such hospital, upon proper application and site review, has been found by the department to meet the applicable level of STEMI or stroke center criteria for designation in accordance with rules adopted by the department as prescribed by section 190.185. In developing STEMI center and stroke center designation criteria, the department shall use, as it deems practicable, appropriate peer-reviewed or evidence-based research on such topics including, but not limited to, the most recent guidelines of the American College of Cardiology and American Heart Association for STEMI centers, or the Joint Commission's Primary Stroke Center Certification program criteria for stroke centers, or Primary and Comprehensive Stroke Center Recommendations as published by the American Stroke Association.

3. The department of health and senior services shall, not less than once every five years, conduct an on-site review of every trauma, STEMI, and stroke center through appropriate department personnel or a qualified contractor**, with the exception of stroke centers designated pursuant to subsection 4 of this section; however, this provision is not intended to limit the department's ability to conduct a complaint investigation pursuant to subdivision (3) of subsection 2 of section 197.080 of any trauma, STEMI, or stroke center**. On-site reviews shall be coordinated for the different types of centers to the extent practicable with hospital licensure inspections conducted under chapter 197. No person shall be a qualified contractor for purposes of this subsection who has a substantial conflict of interest in the operation of any trauma, STEMI, or stroke center under review. The department may deny, place on probation, suspend or revoke such designation in any case in which it has reasonable cause to believe that there has been a substantial failure to comply with the provisions of this chapter or any rules or regulations promulgated pursuant to this chapter. If the department of health and senior services has reasonable cause to believe that a hospital is not in compliance with such provisions or regulations, it may conduct additional announced or unannounced site reviews of the hospital to verify compliance. If a trauma, STEMI, or stroke center fails two consecutive on-site reviews because of substantial noncompliance with standards prescribed by sections 190.001 to 190.245

or rules adopted by the department pursuant to sections 190.001 to 190.245, its center designation shall be revoked.

4. **Instead of applying for stroke center designation pursuant to the provisions of subsection 2 of this section, a hospital may apply for stroke center designation pursuant to this subsection. Upon receipt of an application from a hospital on a form prescribed by the department, the department shall designate such hospital:**

(1) A level I stroke center if such hospital has been certified as a comprehensive stroke center by the Joint Commission or any other certifying organization designated by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines;

(2) A level II stroke center if such hospital has been certified as a primary stroke center by the Joint Commission or any other certifying organization designated by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines; or

(3) A level III stroke center if such hospital has been certified as an acute stroke-ready hospital by the Joint Commission or any other certifying organization designated by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines.

Except as provided by subsection 5 of this section, the department shall not require compliance with any additional standards for establishing or renewing stroke designations. The designation shall continue if such hospital remains certified. The department may remove a hospital's designation as a stroke center if the hospital requests removal of the designation or the department determines that the certificate recognizing the hospital as a stroke center has been suspended or revoked. Any decision made by the department to withdraw its designation of a stroke center pursuant to this subsection that is based on the revocation or suspension of a certification by a certifying organization shall not be subject to judicial review. The department shall report to the certifying organization any complaint it receives related to the stroke center certification of a stroke center designated pursuant to this subsection. The department shall also advise the complainant which organization certified the stroke center and provide the necessary contact information should the complainant wish to pursue a complaint with the certifying organization.

5. Any hospital receiving designation as a stroke center pursuant to subsection 4 of this section shall:

(1) Annually and within thirty days of any changes submit to the department proof of stroke certification and the names and contact information of the medical director and the program manager of the stroke center;

(2) Submit to the department a copy of the certifying organization's final stroke certification survey results within thirty days of receiving such results;

(3) Submit every four years an application on a form prescribed by the department for stroke center review and designation;

(4) Participate in the emergency medical services regional system of stroke care in its respective emergency medical services region as defined in rules promulgated by the department;

(5) Participate in local and regional emergency medical services systems by reviewing and sharing outcome data and providing training and clinical educational resources.

Any hospital receiving designation as a level III stroke center pursuant to subsection 4 of this section shall have a formal agreement with a level I or level II stroke center for physician consultative services for evaluation of stroke patients for thrombolytic therapy and the care of the patient post-thrombolytic therapy.

6. Hospitals designated as a STEMI or stroke center by the department, including those designated pursuant to subsection 4 of this section, shall submit data to meet the data submission requirements specified by rules promulgated by the department. Such submission of data may be done by the following methods:

(1) Entering hospital data directly into a state registry by direct data entry;

(2) Downloading hospital data from a nationally-recognized registry or data bank and importing the data files into a state registry; or

(3) Authorizing a nationally-recognized registry or data bank to disclose or grant access to the department facility-specific data held by the registry or data bank.

A hospital submitting data pursuant to subdivisions (2) or (3) of this subsection shall not be required to collect and submit any additional STEMI or stroke center data elements.

7. When collecting and analyzing data pursuant to the provisions of this section, the department shall comply with the following requirements:

(1) Names of any health care professionals, as defined in section 376.1350, shall not be subject to disclosure;

(2) The data shall not be disclosed in a manner that permits the identification of an individual patient or encounter;

(3) The data shall be used for the evaluation and improvement of hospital and emergency medical services' trauma, stroke, and STEMI care;

(4) The data collection system shall be capable of accepting file transfers of data entered into to any national recognized trauma, stroke, or STEMI registry or data bank to fulfill trauma, stroke, or STEMI certification reporting requirements;

(5) STEMI and stroke center data elements shall conform to nationally recognized performance measures, such as the American Heart Association's Get With the Guidelines, and include published detailed measure specifications, data coding instructions, and patient population inclusion and exclusion criteria to ensure data reliability and validity; and

(6) Generate from the trauma, stroke, and STEMI registries quarterly regional and state outcome data reports for trauma, stroke, and STEMI designated centers, the state advisory council on EMS, and regional EMS committees to review for performance improvement and patient safety.

8. The board of registration for the healing arts shall have sole authority to establish education requirements for physicians who practice in an emergency department of a facility designated as a trauma, STEMI, or stroke center by the department under this section. The department shall deem such education requirements promulgated by the board of registration for the healing arts sufficient to meet the standards for designations under this section.

9. The department of health and senior services may establish appropriate fees to offset the costs of trauma, STEMI, and stroke center reviews.

[5.**]** **10.** No hospital shall hold itself out to the public as a STEMI center, stroke center, adult trauma center, pediatric trauma center, or an adult and pediatric trauma center unless it is designated as such by the department of health and senior services.

[6.**]** **11.** Any person aggrieved by an action of the department of health and senior services affecting the trauma, STEMI, or stroke center designation pursuant to this chapter, including the revocation, the suspension, or the granting of, refusal to grant, or failure to renew a designation, may seek a determination thereon by the administrative hearing commission under chapter 621. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department.

190.260. CITATION — DEFINITIONS — TRAINING FOR BROADCAST ENGINEERS AND TECHNICAL PERSONNEL — CREDENTIALING — ACCESS TO DISASTER AREAS. — 1. This section shall be known and may be cited as the "First Informer Broadcasters Act".

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

(1) "Broadcaster", a radio broadcasting station or television broadcasting station licensed by the Federal Communications Commission and subject to participation in the Emergency Alert System (EAS), which is primarily engaged in and deriving income from

the business of facilitating speech via over-the-air-communications, both as pure speech and commercial speech;

(2) "First informer broadcaster", a person who has been certified as a first informer broadcaster under this section.

3. The department of public safety, in cooperation with any statewide organization or any member of a statewide organization that represents broadcasters, shall establish a program for training and certifying broadcast engineers and technical personnel as first informer broadcasters. Upon completion of the program, broadcasters shall receive statewide recognized credentials to certify that such broadcasters are first informer broadcasters. The program established under this section shall provide training and education concerning:

(1) The restoration, repair, and resupply of any facilities and equipment of a broadcaster in an area affected by an emergency or disaster; and

(2) The personal safety of a first informer broadcaster in an area affected by an emergency or disaster.

4. To the extent practicable and consistent with not endangering public safety or inhibiting recovery efforts, state and local governmental agencies shall allow first informer broadcasters access to areas affected by an emergency or disaster for the purposes of restoring, repairing, or resupplying any facility or equipment critical to the ability of a broadcaster to acquire, produce, and transmit essential emergency or disaster-related public information programming including, without limitation, repairing and maintaining transmitters and generators, and transporting fuel for generators.

5. The statewide association involved in establishing a program in accordance with this section shall pay the costs of developing and implementing the training program.

190.265. HELIPADS, HOSPITALS NOT REQUIRED TO HAVE FENCING OR BARRIERS. — 1. In order to ensure that the skids of a helicopter do not get caught in a fence or other barriers and cause a potentially catastrophic outcome, any rules and regulations promulgated by the department of health and senior services pursuant to sections 190.185, 190.241, and 192.006, chapter 197, or any other provision of Missouri law shall not require hospitals to have a fence, or other barriers, around such hospital's helipad. Any regulation requiring fencing, or other barriers, or any interpretation of such regulation shall be null and void.

2. In addition to the prohibition in subsection 1 of this section, the department shall not promulgate any rules and regulations with respect to the operation or construction of a helipad located at a hospital.

3. Hospitals shall ensure that helipads are free of obstruction and safe for use by a helicopter while on the ground, during approach, and takeoff.

4. As used in this section, the term "hospital" shall have the same meaning as in section 197.020.

190.335. CENTRAL DISPATCH FOR EMERGENCY SERVICES, ALTERNATIVE FUNDING BY COUNTY SALES TAX, PROCEDURE, BALLOT FORM, RATE OF TAX — COLLECTION, LIMITATIONS — ADOPTION OF ALTERNATE TAX, TELEPHONE TAX TO EXPIRE, WHEN — BOARD APPOINTMENT AND ELECTION, QUALIFICATION, TERMS — CONTINUATION OF BOARD IN GREENE AND STODDARD COUNTIES — BOARD APPOINTMENT IN CHRISTIAN, TANEY, AND ST. FRANCOIS COUNTIES. — 1. In lieu of the tax levy authorized under section 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase and maintenance of communications and emergency

equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of ..... (insert name of county) impose a county sales tax of ..... (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

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

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the board shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The board shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the board shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, who shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, any other emergency services and the general public. This initial board shall serve until its successor board is duly elected and installed

in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large, such member to be the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years. Notwithstanding any other provision of law, if there is no candidate for an open position on the board, then no election shall be held for that position and it shall be considered vacant, to be filled pursuant to the provisions of section 190.339, and, if there is only one candidate for each open position, no election shall be held and the candidate or candidates shall assume office at the same time and in the same manner as if elected.

11. Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the first classification with more than two hundred forty thousand three hundred but fewer than two hundred forty thousand four hundred inhabitants **or in any county of the third classification with a township form of government and with more than twenty-eight thousand but fewer than thirty-one thousand inhabitants**, any emergency telephone service 911 board appointed by the county under section 190.309 which is in existence on the date the voters approve a sales tax under this section shall continue to exist and shall have the powers set forth under section 190.339. Such boards which existed prior to August 25, 2010, shall not be considered a body corporate and a political subdivision of the state for any purpose, unless and until an order is entered upon an unanimous vote of the commissioners of the county in which such board is established reclassifying such board as a corporate body and political subdivision of the state. The order shall approve the transfer of the assets and liabilities related to the operation of the emergency service 911 system to the new entity created by the reclassification of the board.

12. (1) Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the second classification with more than fifty-four thousand two hundred but fewer than fifty-four thousand three hundred inhabitants or any county of the first classification with more than fifty thousand but fewer than seventy thousand inhabitants that has approved a sales tax under this section, the county commission shall appoint the members of the board to administer the funds and oversee the provision of emergency services in the county.

(2) The board shall consist of seven members appointed without regard to political affiliation. Except as provided in subdivision (4) of this subsection, each member shall be one of the following:

(a) The head of any of the county's fire protection districts, or a designee;

(b) The head of any of the county's ambulance districts, or a designee;

(c) The county sheriff, or a designee;

(d) The head of any of the police departments in the county, or a designee; and

(e) The head of any of the county's emergency management organizations, or a designee.

(3) Upon the appointment of the board under this subsection, the board shall have the power provided in section 190.339 and shall exercise all powers and duties exercised by the county commission under this chapter, and the commission shall relinquish all powers and duties relating to the provision of emergency services under this chapter to the board.

(4) In any county of the first classification with more than fifty thousand but fewer than seventy thousand inhabitants, each of the entities listed in subdivision (2) of this subsection shall be represented on the board by at least one member.

192.2400. Definitions. — As used in sections 192.2400 to 192.2505, the following terms mean:

(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm**,** or corporation **and bullying**;

(2) **"Bullying", intimidation or harassment that causes a reasonable person to fear for his or her physical safety or property and may consist of physical actions including gestures; cyberbullying; oral, electronic, or written communication; and any threat of retaliation for reporting of such acts;**

(3) "Court", the circuit court;

[(3)**]** **(4)** "Department", the department of health and senior services;

[(4)**]** **(5)** "Director", director of the department of health and senior services or his or her designees;

[(5)**]** **(6)** "Eligible adult", a person sixty years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs or an adult with a disability, as defined in section 192.2005, between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs;

[(6)**]** **(7)** "Home health agency", the same meaning as such term is defined in section 197.400;

[(7)**]** **(8)** "Home health agency employee", a person employed by a home health agency;

[(8)**]** **(9)** "Home health patient", an eligible adult who is receiving services through any home health agency;

[(9)**]** **(10)** "In-home services client", an eligible adult who is receiving services in his or her private residence through any in-home services provider agency;

[(10)**]** **(11)** "In-home services employee", a person employed by an in-home services provider agency;

[(11)**]** **(12)** "In-home services provider agency", a business entity under contract with the department or with a Medicaid participation agreement, which employs persons to deliver any kind of services provided for eligible adults in their private homes;

[(12)**]** **(13)** "Least restrictive environment", a physical setting where protective services for the eligible adult and accommodation is provided in a manner no more restrictive of an individual's personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

[(13)**]** **(14)** "Likelihood of serious physical harm", one or more of the following:

(a) A substantial risk that physical harm to an eligible adult will occur because of his or her failure or inability to provide for his or her essential human needs as evidenced by acts or behavior which has caused such harm or which gives another person probable cause to believe that the eligible adult will sustain such harm;

(b) A substantial risk that physical harm will be inflicted by an eligible adult upon himself or herself, as evidenced by recent credible threats, acts, or behavior which has caused such harm or which places another person in reasonable fear that the eligible adult will sustain such harm;

(c) A substantial risk that physical harm will be inflicted by another upon an eligible adult as evidenced by recent acts or behavior which has caused such harm or which gives another person probable cause to believe the eligible adult will sustain such harm;

(d) A substantial risk that further physical harm will occur to an eligible adult who has suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting of his or her financial resources by another person;

[(14)**]** **(15)** "Neglect", the failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or welfare of the client or a substantial probability that death or serious physical harm would result;

[(15)**]** **(16)** "Protective services", services provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his or her essential human needs.

192.2405. BEGINNING JANUARY 1, 2017 — MANDATORY REPORTERS — PENALTY FOR FAILURE TO REPORT. — 1. The following persons shall be required to immediately report or cause a report to be made to the department under sections 192.2400 to 192.2470:

(1) Any person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm**, or bullying as defined in subdivision (2) of section 192.2400,** and is in need of protective services; and

(2) Any adult day care worker, chiropractor, Christian Science practitioner, coroner, dentist, embalmer, employee of the departments of social services, mental health, or health and senior services, employee of a local area agency on aging or an organized area agency on aging program, **first responder,** funeral director, home health agency, home health agency employee, hospital and clinic personnel engaged in the care or treatment of others, in-home services owner or provider, in-home services operator or employee, law enforcement officer, long-term care facility administrator or employee, medical examiner, medical resident or intern, mental health professional, minister, nurse, nurse practitioner, optometrist, other health practitioner, peace officer, pharmacist, physical therapist, physician, physician's assistant, podiatrist, probation or parole officer, psychologist, social worker, or other person with the responsibility for the care of a person sixty years of age or older who has reasonable cause to suspect that such a person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances which would reasonably result in abuse or neglect. Notwithstanding any other provision of this section, a duly ordained minister, clergy, religious worker, or Christian Science practitioner while functioning in his or her ministerial capacity shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

2. Any other person who becomes aware of circumstances that may reasonably be expected to be the result of, or result in, abuse or neglect of a person sixty years of age or older may report to the department.

3. The penalty for failing to report as required under subdivision (2) of subsection 1 of this section is provided under section 565.188.

4. As used in this section, "first responder" means any person trained and authorized by law or rule to render emergency medical assistance or treatment. Such persons may include, but shall not be limited to, emergency first responders, police officers, sheriffs, deputy sheriffs, firefighters, emergency medical technicians, or emergency medical technician-paramedics.

192.2475. BEGINNING JANUARY 1, 2017 — REPORT OF ABUSE OR NEGLECT OF IN-HOME SERVICES OR HOME HEALTH AGENCY CLIENT, DUTY — PENALTY — CONTENTS OF REPORT — INVESTIGATION, PROCEDURE — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED, PENALTY — EMPLOYEE DISQUALIFICATION LIST — SAFE AT HOME EVALUATIONS, PROCEDURE. — 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; **first responder, as defined in section 192.2405;** funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. **[**When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4.**]** Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

[5.**]** **3.** The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

[6.**]** **4.** In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

[7.**]** **5.** If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not to exceed thirty days.

[8.**]** **6.** Reports shall be confidential, as provided under section 192.2500.

[9.**]** **7.** Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

[10.**]** **8.** Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

[11.**]** **9.** No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he or she has reasonable cause to believe has been committed or has occurred.

[12.**]** **10.** Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution under section 565.184. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received

therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

[13.**]** **11.** The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

[14.**]** **12.** The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section 192.2490, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

[15.**]** **13.** At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care. The department may, as indicated by the safe at home evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

[16.**]** **14.** Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

[17.**]** **15.** All in-home services clients shall be advised of their rights by the department or the department's designee at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department may contract for services relating to receiving such complaints. The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

[18.**]** **16.** Subject to appropriations, all nurse visits authorized in sections 192.2400 to 192.2475 shall be reimbursed to the in-home services provider agency.

192.2475. UNTIL DECEMBER 31, 2016 — REPORT OF ABUSE OR NEGLECT OF IN-HOME SERVICES OR HOME HEALTH AGENCY CLIENT, DUTY — PENALTY — CONTENTS OF REPORT — INVESTIGATION, PROCEDURE — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED, PENALTY — EMPLOYEE DISQUALIFICATION LIST — SAFE AT HOME EVALUATIONS, PROCEDURE. — 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; **first responder, as defined in section 192.2405;** funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. **[**When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4.**]** Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

[5.**]** **3.** The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

[6.**]** **4.** In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

[7.**]** **5.** If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not to exceed thirty days.

[8.**]** **6.** Reports shall be confidential, as provided under section 192.2500.

[9.**]** **7.** Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any

administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

[10.**]** **8.** Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

[11.**]** **9.** No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he or she has reasonable cause to believe has been committed or has occurred.

[12.**]** **10.** Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution under section 565.180, 565.182, or 565.184. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

[13.**]** **11.** The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

[14.**]** **12.** The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section 192.2490, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

[15.**]** **13.** At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care. The department may, as indicated by the safe at home

evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

[16.**]** **14.** Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

[17.**]** **15.** All in-home services clients shall be advised of their rights by the department or the department's designee at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department may contract for services relating to receiving such complaints. The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

[18.**]** **16.** Subject to appropriations, all nurse visits authorized in sections 192.2400 to 192.2475 shall be reimbursed to the in-home services provider agency.

208.1030. SUPPLEMENTAL REIMBURSEMENT FOR GROUND EMERGENCY MEDICAL TRANSPORTATION — AMOUNT — VOLUNTARY PARTICIPATION. — 1. An eligible provider, as described in subsection 2 of this section, may, in addition to the rate of payment that the provider would otherwise receive for Medicaid ground emergency medical transportation services, receive MO HealthNet supplemental reimbursement to the extent provided by law.

2. A provider shall be eligible for Medicaid supplemental reimbursement if the provider meets the following characteristics during the state reporting period:

(1) Provides ground emergency medical transportation services to MO HealthNet participants;

(2) Is enrolled as a MO HealthNet provider for the period being claimed; and

(3) Is owned, operated, or contracted by the state or a political subdivision.

3. An eligible provider's Medicaid supplemental reimbursement under this section shall be calculated and paid as follows:

(1) The supplemental reimbursement to an eligible provider, as described in subsection 2 of this section, shall be equal to the amount of federal financial participation received as a result of the claims submitted under subdivision (2) of subsection 6 of this section;

(2) In no instance shall the amount certified under subdivision (1) of subsection 5 of this section, when combined with the amount received from all other sources of reimbursement from the MO HealthNet program, exceed one hundred percent of actual costs, as determined under the Medicaid state plan for ground emergency medical transportation services; and

(3) The supplemental Medicaid reimbursement provided by this section shall be distributed exclusively to eligible providers under a payment methodology based on ground emergency medical transportation services provided to MO HealthNet participants by eligible providers on a per-transport basis or other federally permissible basis. The department of social services shall obtain approval from the Centers for Medicare and Medicaid Services for the payment methodology to be utilized and shall not make any payment under this section prior to obtaining that approval.

4. An eligible provider, as a condition of receiving supplemental reimbursement under this section, shall enter into and maintain an agreement with the department's designee for the purposes of implementing this section and reimbursing the department

of social services for the costs of administering this section. The non-federal share of the supplemental reimbursement submitted to the Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid with funds from the governmental entities described in subdivision (3) of subsection 2 of this section and certified to the state as provided in subsection 5 of this section.

5. Participation in the program by an eligible provider described in this section is voluntary. If an applicable governmental entity elects to seek supplemental reimbursement under this section on behalf of an eligible provider owned or operated by the entity, as described in subdivision (3) of subsection 2 of this section, the governmental entity shall do the following:

(1) Certify in conformity with the requirements of 42 CFR 433.51 that the claimed expenditures for the ground emergency medical transportation services are eligible for federal financial participation;

(2) Provide evidence supporting the certification as specified by the department of social services;

(3) Submit data as specified by the department of social services to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation; and

(4) Keep, maintain, and have readily retrievable any records specified by the department of social services to fully disclose reimbursement amounts to which the eligible provider is entitled and any other records required by the Centers for Medicare and Medicaid Services.

6. The department of social services shall be authorized to seek any necessary federal approvals for the implementation of this section. The department may limit the program to those costs that are allowable expenditures under Title XIX of the Social Security Act, 42 U.S.C. Section 1396, et seq.

(1) The department of social services shall submit claims for federal financial participation for the expenditures for the services described in subsection 5 of this section that are allowable expenditures under federal law.

(2) The department of social services shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation shall include only those expenditures that are allowable under federal law.

208.1032. INTERGOVERNMENTAL TRANSFER PROGRAM — INCREASED REIMBURSEMENT FOR SERVICES, WHEN — PARTICIPATION REQUIREMENTS. — 1. The department of social services shall be authorized to design and implement in consultation and coordination with eligible providers as described in subsection 2 of this section an intergovernmental transfer program relating to ground emergency medical transport services, including those services provided at the emergency medical responder, emergency medical technician (EMT), advanced EMT, EMT intermediate, or paramedic levels in the pre-stabilization and preparation for transport, in order to increase capitation payments for the purpose of increasing reimbursement to eligible providers.

2. A provider shall be eligible for increased reimbursement under this section only if the provider meets the following conditions in an applicable state fiscal year:

(1) Provides ground emergency medical transportation services to MO HealthNet participants;

(2) Is enrolled as a MO HealthNet provider for the period being claimed; and

(3) Is owned, operated, or contracted by the state or a political subdivision.

3. To the extent intergovernmental transfers are voluntarily made by and accepted from an eligible provider described in subsection 2 of this section or a governmental entity affiliated with an eligible provider, the department of social services shall make increased capitation payments to applicable MO HealthNet eligible providers for covered ground emergency medical transportation services.

(1) The increased capitation payments made under this section shall be in amounts at least actuarially equivalent to the supplemental fee-for-service payments and up to equivalent of commercial reimbursement rates available for eligible providers to the extent permissible under federal law.

(2) Except as provided in subsection 6 of this section, all funds associated with intergovernmental transfers made and accepted under this section shall be used to fund additional payments to eligible providers.

(3) MO HealthNet managed care plans and coordinated care organizations shall pay one hundred percent of any amount of increased capitation payments made under this section to eligible providers for providing and making available ground emergency medical transportation and pre-stabilization services pursuant to a contract or other arrangement with a MO HealthNet managed care plan or coordinated care organization.

4. The intergovernmental transfer program developed under this section shall be implemented on the date federal approval is obtained, and only to the extent intergovernmental transfers from the eligible provider, or the governmental entity with which it is affiliated, are provided for this purpose. The department of social services shall implement the intergovernmental transfer program and increased capitation payments under this section on a retroactive basis as permitted by federal law.

5. Participation in the intergovernmental transfers under this section is voluntary on the part of the transferring entities for purposes of all applicable federal laws.

6. As a condition of participation under this section, each eligible provider as described in subsection 2 of this section or the governmental entity affiliated with an eligible provider shall agree to reimburse the department of social services for any costs associated with implementing this section. Intergovernmental transfers described in this section are subject to an administration fee of up to twenty percent of the nonfederal share paid to the department of social services and shall be allowed to count as a cost of providing the services not to exceed one hundred twenty percent of the total amount.

7. As a condition of participation under this section, MO HealthNet managed care plans, coordinated care organizations, eligible providers as described in subsection 2 of this section, and governmental entities affiliated with eligible providers shall agree to comply with any requests for information or similar data requirements imposed by the department of social services for purposes of obtaining supporting documentation necessary to claim federal funds or to obtain federal approvals.

8. This section shall be implemented only if and to the extent federal financial participation is available and is not otherwise jeopardized, and any necessary federal approvals have been obtained.

9. To the extent that the director of the department of social services determines that the payments made under this section do not comply with federal Medicaid requirements, the director retains the discretion to return or not accept an intergovernmental transfer, and may adjust payments under this section as necessary to comply with federal Medicaid requirements.

287.245. VOLUNTEER FIREFIGHTERS, GRANTS FOR WORKERS' COMPENSATION INSURANCE PREMIUMS.—1. As used in this section, the following terms shall mean:

(1) "Association", volunteer fire protection associations as defined in section 320.300;

(2) "State fire marshal", the state fire marshal selected under the provisions of sections 320.200 to 320.270;

(3) "Volunteer firefighter", the same meaning as in section 287.243.

2. Any association may apply to the state fire marshal for a grant for the purpose of funding such association's costs related to workers' compensation insurance premiums for volunteer firefighters.

3. Subject to appropriations, the state fire marshal shall disburse grants to each applying volunteer fire protection association according to the following schedule:

(1) Associations which had zero to five volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for two thousand dollars in grant money;

(2) Associations which had six to ten volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand five hundred dollars in grant money;

(3) Associations which had eleven to fifteen volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand dollars in grant money;

(4) Associations which had sixteen to twenty volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for five hundred dollars in grant money.

4. Grant money disbursed under this section shall only be used for the purpose of paying for the workers' compensation insurance premiums of volunteer firefighters.

304.022. EMERGENCY VEHICLE DEFINED — USE OF LIGHTS AND SIRENS — RIGHT-OF-WAY — STATIONARY VEHICLES, PROCEDURE — PENALTY. — 1. Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a flashing blue light authorized by section 307.175, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

2. Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, or a stationary vehicle owned by the state highways and transportation commission and operated by an authorized employee of the department of transportation **or a stationary vehicle owned by a contractor or subcontractor performing work for the department of transportation** displaying lighted amber or amber and white lights, the driver of every motor vehicle shall:

(1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

3. The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.

4. An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol, the Missouri capitol police, a conservation agent, or a state park ranger, those vehicles operated by enforcement personnel of the state highways and transportation commission, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

(2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

(3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175;

(4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

(5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

(6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of chapter 44;

(7) Any vehicle operated by an authorized employee of the department of corrections who, as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility;

(8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of sections 260.500 to 260.550; or

(9) Any vehicle owned by the state highways and transportation commission and operated by an authorized employee of the department of transportation that is marked as a department of transportation emergency response or motorist assistance vehicle.

5. (1) The driver of any vehicle referred to in subsection 4 of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire.

(2) The driver of an emergency vehicle may:

(a) Park or stand irrespective of the provisions of sections 304.014 to 304.025;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limit so long as the driver does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to an emergency vehicle pursuant to subdivision (2) of this subsection shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

6. No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

7. Violation of this section shall be deemed a class A misdemeanor.

307.175. SIRENS AND FLASHING LIGHTS EMERGENCY USE, PERSONS AUTHORIZED — VIOLATION, PENALTY. — 1. Motor vehicles and equipment which are operated by any member of an organized fire department, ambulance association, or rescue squad, whether paid or volunteer, may be operated on streets and highways in this state as an emergency vehicle under the provisions of section 304.022 while responding to a fire call or ambulance call or at the scene of a fire call or ambulance call and while using or sounding a warning siren and using or displaying thereon fixed, flashing or rotating blue lights, but sirens and blue lights shall be used only in bona fide emergencies.

2. Motor vehicles and equipment owned by the state highways and transportation commission or contractor or subcontractor performing work for the department of transportation may use or display thereon fixed, flashing, or rotating amber or white lights, but amber or white lights shall be used only while such vehicle is stationary in a work zone, as defined in section 304.580, when highway workers, as defined in section 304.580, are present.

3. Permits for the operation of such vehicles equipped with sirens or blue lights shall be in writing and shall be issued and may be revoked by the chief of an organized fire department, organized ambulance association, **[**or**]** rescue squad**, or the state highways and transportation commission** and no person shall use or display a siren or blue lights on a motor vehicle, fire, ambulance, or rescue equipment without a valid permit authorizing the use. A permit to use a siren or lights as heretofore set out does not relieve the operator of the vehicle so equipped with complying with all other traffic laws and regulations. Violation of this section constitutes a class A misdemeanor.

321.017. EMPLOYEE OF FIRE PROTECTION DISTRICT OR AMBULANCE DISTRICT NOT TO BE MEMBER OF BOARD, EXCEPTION — FORMER BOARD MEMBERS INELIGIBLE FOR EMPLOYMENT BY THE BOARD FOR TWELVE MONTHS. — **1.** Notwithstanding the provisions of section 321.015, no employee of any fire protection district or ambulance district shall serve as a member of any fire district or ambulance district board while such person is employed by any fire district or ambulance district, except that an employee of a fire protection district or an ambulance district may serve as a member of a voluntary fire protection district board or a voluntary ambulance district board.

2. Notwithstanding any other provision of law to the contrary, individual board members shall not be eligible for employment by the board within twelve months of termination of service as a member of the board unless such employment is on a volunteer basis or without compensation.

321.130. DIRECTORS, QUALIFICATIONS — CANDIDATE FILING FEE, OATH. — **[**1.**]** A person, to be qualified to serve as a director, shall be a **resident and** voter of the district **for** at least one year before the election or appointment and be over the age of **[**twenty-five**] twenty-four** years**[**; except as provided in subsections 2 and 3 of this section. The person shall also be a resident of such fire protection district**]**. In the event the person is no longer a resident of the district, the person's office shall be vacated, and the vacancy shall be filled as provided in section 321.200. Nominations and declarations of candidacy shall be filed at the headquarters of the fire protection district by paying a **[**ten dollar**]** filing fee **equal to the amount of a candidate for county office as set forth under section 115.357,** and filing a statement under oath that such person possesses the required qualifications.

[2. In any fire protection district located in more than one county one of which is a first class county without a charter form of government having a population of more than one hundred ninety-eight thousand and not adjoining any other first class county or located wholly within a first class county as described herein, a resident shall have been a resident of the district for more than one year to be qualified to serve as a director.

3. In any fire protection district located in a county of the third or fourth classification, a person to be qualified to serve as a director shall be over the age of twenty-five years and shall be a voter of the district for more than one year before the election or appointment, except that for the first board of directors in such district, a person need only be a voter of the district for one year before the election or appointment.

4. A person desiring to become a candidate for the first board of directors of the proposed district shall pay the sum of five dollars as a filing fee to the treasurer of the county and shall file with the election authority a statement under oath that such person possesses all of the qualifications set out in this chapter for a director of a fire protection district.**]** Thereafter, such candidate shall have the candidate's name placed on the ballot as a candidate for director.

321.210. ELECTION AND TERMS OF DIRECTORS — FILING FEE. — On the first Tuesday in April after the expiration of at least two full calendar years from the date of the election of the first board of directors, and on the first Tuesday in April every two years thereafter, an election for members of the board of directors shall be held in the district. Nominations shall be filed at

the headquarters of the fire protection district in which a majority of the district is located by paying a filing fee **[**up**]** **equal** to the amount of a candidate for **[**state representative**]** **county office** as set forth under section 115.357 and filing a statement under oath that **[**he**]** **the candidate** possesses the required qualifications. The candidate receiving the most votes shall be elected. Any new member of the board shall qualify in the same manner as the members of the first board qualify.

455.543. HOMICIDES OR SUICIDES, DETERMINATION OF DOMESTIC VIOLENCE, FACTORS TO BE CONSIDERED — REPORTS MADE TO HIGHWAY PATROL, FORMS. — 1. In any incident investigated by a law enforcement agency involving a homicide or suicide, the law enforcement agency shall make a determination as to whether the homicide or suicide is related to domestic violence.

2. In making such determination, the local law enforcement agency may consider a number of factors including, but not limited to, the following:

(1) If the relationship between the perpetrator and the victim is or was that of a family or household member;

(2) Whether the victim or perpetrator had previously filed for an order of protection;

(3) Whether any of the subjects involved in the incident had previously been investigated for incidents of domestic violence; and

(4) Any other evidence regarding the homicide or suicide that assists the agency in making its determination.

3. After making a determination as to whether the homicide or suicide is related to domestic violence, the law enforcement agency shall forward the information required **[**within fifteen days**]** to the Missouri state highway patrol on a form or format approved by the patrol. The required information shall include the gender and age of the victim, the type of incident investigated, the disposition of the incident and the relationship of the victim to the perpetrator. The state highway patrol shall develop a form for this purpose which shall be distributed by the department of public safety to all law enforcement agencies by October 1, 2000. **[**Completed forms shall be forwarded to the highway patrol without undue delay as required by section 43.500; except that all such reports shall be forwarded no later than seven days after an incident is determined or identified as a homicide or suicide involving domestic violence.**]**

455.545. ANNUAL REPORT BY HIGHWAY PATROL. — The highway patrol shall compile an annual report of homicides and suicides related to domestic violence. Such report shall be presented by **[**February**]** **March** first of the subsequent year to the governor, speaker of the house of representatives, and president pro tempore of the senate.

575.145. BEGINNING JANUARY 1, 2017 — SIGNAL OR DIRECTION OF LAW ENFORCEMENT OR FIREFIGHTER, DUTY TO STOP, MOTOR VEHICLE OPERATORS AND RIDERS OF ANIMALS — VIOLATION, PENALTY. — 1. It shall be the duty of the operator or driver of any vehicle or any other conveyance regardless of means of propulsion, or the rider of any animal traveling on the highways of this state to stop on signal of any law enforcement officer **or firefighter** and to obey any other reasonable signal or direction of such law enforcement officer **or firefighter** given in directing the movement of traffic on the highways or enforcing any offense or infraction.

2. The offense of willfully failing or refusing to obey such signals or directions or willfully resisting or opposing a law enforcement officer **or a firefighter** in the proper discharge of his or her duties is a class A misdemeanor.

575.145. UNTIL DECEMBER 31, 2016 — SIGNAL OR DIRECTION OF SHERIFF OR DEPUTY SHERIFF, DUTY TO STOP, MOTOR VEHICLE OPERATORS AND RIDERS OF ANIMALS — VIOLATION, PENALTY. — It shall be the duty of the operator or driver of any vehicle or the rider

of any animal traveling on the highways of this state to stop on signal of any sheriff **[**or**],** deputy sheriff**, or firefighter** and to obey any other reasonable signal or direction of such sheriff **[**or**],** deputy sheriff**, or firefighter** given in directing the movement of traffic on the highways. Any person who willfully fails or refuses to obey such signals or directions or who willfully resists or opposes a sheriff **[**or**],** deputy sheriff**, or firefighter** in the proper discharge of his or her duties shall be guilty of a class A misdemeanor and on conviction thereof shall be punished as provided by law for such offenses.

610.100. DEFINITIONS — ARREST AND INCIDENT RECORDS AVAILABLE TO PUBLIC — CLOSED RECORDS, WHEN — RECORD REDACTED, WHEN — ACCESS TO INCIDENT REPORTS, RECORD REDACTED, WHEN — ACTION FOR DISCLOSURE OF INVESTIGATIVE REPORT AUTHORIZED, COSTS — APPLICATION TO OPEN INCIDENT AND ARREST REPORTS, VIOLATIONS, CIVIL PENALTY — IDENTITY OF VICTIM OF SEXUAL OFFENSE — CONFIDENTIALITY OF RECORDING. — 1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

(1) "Arrest", an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

(2) "Arrest report", a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

(3) "Inactive", an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

(4) "Incident report", a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

(5) "Investigative report", a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties**;**

(6) "Mobile video recorder", any system or device that captures visual signals that is capable of being installed in a vehicle or being worn or carried by personnel of a law enforcement agency and that includes, at minimum, a camera and recording capabilities;

(7) "Mobile video recording", any data captured by a mobile video recorder, including audio, video, and any metadata;

(8) "Nonpublic location", a place where one would have a reasonable expectation of privacy including, but not limited to, a dwelling, school, or medical facility.

2. Each law enforcement agency of this state, of any county, and of any municipality shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records.

(1) Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, **mobile video recordings and** investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive.

(2) If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120.

(3) Except as provided in subsections 3 and 5 of this section, a mobile video recording that is recorded in a nonpublic location is authorized to be closed, except that any person who is depicted in the recording or whose voice is in the recording, a legal guardian or parent of such person if he or she is a minor, a family member of such person within the first degree of consanguinity if he or she is deceased or incompetent, an attorney for such person, or insurer of such person may obtain a complete, unaltered, and unedited copy of a recording under this section upon written request.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, including a **legal guardian or a parent of such person if he or she is a minor,** family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, **legal guardian or parent of such person if he or she is a minor,** his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of **a mobile video recording or** the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of **a mobile video recording or** the information contained in an investigative report be released to the person bringing the action.

(1) In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity.

(2) In making the determination as to whether a mobile video recording shall be disclosed, the court shall consider:

(a) Whether the benefit to the person bringing the action or the benefit to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the mobile video recording with respect to the need for law enforcement agencies to effectively investigate and prosecute criminal activity;

(b) Whether the mobile video recording contains information that is reasonably likely to disclose private matters in which the public has no legitimate concern;

(c) Whether the mobile video recording is reasonably likely to bring shame or humiliation to a person of ordinary sensibilities; and

(d) Whether the mobile recording was taken in a place where a person recorded or depicted has a reasonable expectation of privacy.

(3) The **mobile video recording or** investigative report in question may be examined by the court in camera.

(4) If the disclosure is authorized in whole or in part, the court may make any order that justice requires, including one or more of the following:

(a) That the mobile video recording or investigative report may be disclosed only on specified terms and conditions, including a designation of the time or place;

(b) That the mobile video recording or investigative report may be disclosed to the person making the request in a different manner or form as requested;

(c) That the scope of the request be limited to certain matters;

(d) That the disclosure occur with no one present except persons designated by the court;

(e) That the mobile video recording or investigative report be redacted to exclude for example, personally identifiable features or other sensitive information;

(f) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(5) The court may find that the party seeking disclosure of the **mobile video recording or** investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the decision of the law enforcement agency not to open the **mobile video recording or** investigative report was substantially unjustified under all relevant circumstances, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has knowingly violated this section, the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of this section, the court may order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in section 610.027. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has violated this section previously.

7. The victim of an offense as provided in chapter 566 may request that his or her identity be kept confidential until a charge relating to such incident is filed.

8. Any person who requests and receives a mobile video recording that was recorded in a nonpublic location under this section is prohibited from displaying or disclosing the mobile video recording, including any description or account of any or all of the mobile video recording, without first providing direct third party notice to each person not affiliated with a law enforcement agency whose image or sound is contained in the recording. Upon receiving such notice, each person appearing in a mobile video recording shall be given ten days to file and serve an action seeking an order from a court of competent jurisdiction to enjoin all or some of the intended display, disclosure, description, or account of the recording. Any person who fails to comply with the provisions of this section shall be subject to damages in a civil action proceeding.

610.205. CRIME SCENE PHOTOGRAPHS AND VIDEO RECORDINGS CLOSED RECORDS, WHEN — DISCLOSURE TO NEXT-OF-KIN OR BY COURT ORDER — INAPPLICABILITY. — 1. Crime scene photographs and video recordings, including photographs and video recordings created or produced by a state or local agency or by a perpetrator or suspect

at a crime scene, which depict or describe a deceased person in a state of dismemberment, decapitation, or similar mutilation including, without limitation, where the deceased person's genitalia are exposed, shall be considered closed records and shall not be subject to disclosure under the provisions of this chapter; provided, however, that this section shall not prohibit disclosure of such material to the deceased's next of kin or to an individual who has secured a written release from the next of kin. It shall be the responsibility of the next of kin to show proof of the familial relationship. For purposes of such access, the deceased's next of kin shall be:

(1) The spouse of the deceased if living;

(2) If there is no living spouse of the deceased, an adult child of the deceased; or

(3) If there is no living spouse or adult child, a parent of the deceased.

2. Subject to the provisions of subsection 3 of this section, in the case of closed criminal investigations a circuit court judge may order the disclosure of such photographs or video recordings upon findings in writing that disclosure is in the public interest and outweighs any privacy interest that may be asserted by the deceased person's next of kin. In making such determination, the court shall consider whether such disclosure is necessary for public evaluation of governmental performance, the seriousness of the intrusion into the family's right to privacy, and whether such disclosure is the least intrusive means available considering the availability of similar information in other public records. In any such action, the court shall review the photographs or video recordings in question in camera with the custodian of the crime scene materials present and may condition any disclosure on such condition as the court may deem necessary to accommodate the interests of the parties.

3. Prior to releasing any crime scene material described in subsection 1 of this section, the custodian of such material shall give the deceased person's next of kin at least two weeks' notice. No court shall order a disclosure under subsection 2 of this section which would disregard or shorten the duration of such notice requirement.

4. The provisions of this section shall apply to all undisclosed material which is in the custody of a state or local agency on the effective date of this section and to any such material which comes into the custody of a state or local agency after such date.

5. The provisions of this section shall not apply to disclosure of crime scene material to counsel representing a convicted defendant in a habeas corpus action, on a motion for new trial, or in a federal habeas corpus action under 28 U.S.C. Section 2254 or 2255 for the purpose of preparing to file or litigating such proceedings. Counsel may disclose such materials to his or her client and any expert or investigator assisting counsel but shall not otherwise disseminate such materials, except to the extent they may be necessary exhibits in court proceedings. A request under this subsection shall clearly state that such request is being made for the purpose of preparing to file and litigate proceedings enumerated in this subsection.

6. The director of the department of public safety shall promulgate rules and regulations governing the viewing of materials described in subsection 1 of this section by bona fide credentialed members of the press.

[192.737. DATA ANALYSIS AND NEEDS ASSESSMENT. — 1. The department of health and senior services shall establish and maintain an information registry and reporting system for the purpose of data collection and needs assessment of brain and spinal cord injured persons in this state.

2. Reports of traumatic brain and spinal cord injuries shall be filed with the department by a treating physician or his designee within seven days of identification. The attending physician of any patient with traumatic brain or spinal cord injury who is in the hospital shall provide in writing to the chief administrative officer the information required to be reported by this section. The chief administrative officer of the hospital shall then have the duty to submit the required reports.

3. Reporting forms and the manner in which the information is to be reported shall be provided by the department. Such reports shall include, but shall not be limited to, the following information: name, age, and residence of the injured person, the date and cause of the injury, the initial diagnosis and such other information as required by the department.**]**

Approved July 8, 2016

SB 735 [CCS HCS SB 735]

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 judicial proceedings

AN ACT to repeal sections 477.650, 600.042, 600.090, and 600.101, RSMo, and section 476.055 as enacted by house bill no. 1245 merged with house bill no. 1371, ninety-seventh general assembly, second regular session, and to enact in lieu thereof five new sections relating to judicial proceedings, with penalty provisions.

SECTION
A. Enacting clause.
476.055. Beginning January 1, 2017 — Statewide court automation fund created, administration, committee, members — powers, duties, limitation — unauthorized release of information, penalty — report — expiration date.
477.650. Basic civil legal services fund created, moneys to be used to increase funding for legal services to eligible low-income persons — allocation of moneys — record-keeping requirements — report to general assembly — expiration date.
600.042. Director's duties and powers — cases for which representation is authorized — rules, procedure — discretionary powers of defender system — bar members appointment authorized.
600.090. Determination of ability to pay all or part of representation costs — lien for reasonable value of services, procedure — deposit of funds collected.
600.101. Provision of office space for public defender, disputes.

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

SECTION A. ENACTING CLAUSE. — Sections 477.650, 600.042, 600.090, and 600.101, RSMo, and section 476.055 as enacted by house bill no. 1245 merged with house bill no. 1371, ninety-seventh general assembly, second regular session, are repealed and five new sections enacted in lieu thereof, to be known as sections 476.055, 477.650, 600.042, 600.090, and 600.101, to read as follows:

476.055. BEGINNING JANUARY 1, 2017 — STATEWIDE COURT AUTOMATION FUND CREATED, ADMINISTRATION, COMMITTEE, MEMBERS — POWERS, DUTIES, LIMITATION — UNAUTHORIZED RELEASE OF INFORMATION, PENALTY — REPORT — EXPIRATION DATE. — 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, **[**2018**]** **2023**, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president pro tem of the senate**, the executive director of the Missouri office of prosecution services, the director of the state public defender system,** and two members of the Missouri Bar. The judge members and employee members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class E felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with:

(1) The chair of the house budget committee;

(2) The chair of the senate appropriations committee;

(3) The chair of the house judiciary committee; and

(4) The chair of the senate judiciary committee.

8. Section 488.027 shall expire on September 1, **[**2018**]** **2023**. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, **[**2020**]** **2025**.

9. This section shall expire on September 1, **[**2020**]** **2025**.

477.650. BASIC CIVIL LEGAL SERVICES FUND CREATED, MONEYS TO BE USED TO INCREASE FUNDING FOR LEGAL SERVICES TO ELIGIBLE LOW-INCOME PERSONS — ALLOCATION OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT TO GENERAL ASSEMBLY — EXPIRATION DATE. — 1. There is hereby created in the state treasury the "Basic Civil Legal Services Fund", to be administered by, or under the direction of, the Missouri supreme court. All moneys collected under section 488.031 shall be credited to the fund. In addition to the court filing surcharges, funds from other public or private sources also may be deposited into the fund and all earnings of the fund shall be credited to the fund. The purpose

of this section is to increase the funding available for basic civil legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines.

2. Funds in the basic civil legal services fund shall be allocated annually and expended to provide legal representation to eligible low-income persons in the state in civil matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund shall, at least as often as annually, be distributed to the legal services organizations in this state which qualify for Federal Legal Services Corporation funding. The funds so distributed shall be used by legal services organizations in this state solely to provide legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines. Fund money shall be subject to all restrictions imposed on such legal services organizations by law. Funds shall be allocated to the programs according to the funding formula employed by the Federal Legal Services Corporation for the distribution of funds to this state. Notwithstanding the provisions of section 33.080, any balance remaining in the basic civil legal services fund at the end of any year shall not be transferred to the state's general revenue fund. Moneys in the basic civil legal services fund shall not be used to pay any portion of a refund mandated by Article X, Section 15 of the Missouri Constitution. State legal services programs shall represent individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its officials, with any state funds.

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

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

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

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

7. The provisions of this section shall expire on December 31, **[**2018**]** **2025**.

600.042. DIRECTOR'S DUTIES AND POWERS — CASES FOR WHICH REPRESENTATION IS AUTHORIZED — RULES, PROCEDURE — DISCRETIONARY POWERS OF DEFENDER SYSTEM — BAR MEMBERS APPOINTMENT AUTHORIZED. — 1. The director shall:

(1) Direct and supervise the work of the deputy directors and other state public defender office personnel appointed pursuant to this chapter; and he or she and the deputy director or directors may participate in the trial and appeal of criminal actions at the request of the defender;

(2) Submit to the commission, between August fifteenth and September fifteenth of each year, a report which shall include all pertinent data on the operation of the state public defender system, the costs, projected needs, and recommendations for statutory changes. Prior to October fifteenth of each year, the commission shall submit such report along with such recommendations, comments, conclusions, or other pertinent information it chooses to make to the chief justice, the governor, and the general assembly. Such reports shall be a public record,

shall be maintained in the office of the state public defender, and shall be otherwise distributed as the commission shall direct;

(3) With the approval of the commission, establish such divisions, facilities and offices and select such professional, technical and other personnel, including investigators, as he deems reasonably necessary for the efficient operation and discharge of the duties of the state public defender system under this chapter;

(4) Administer and coordinate the operations of defender services and be responsible for the overall supervision of all personnel, offices, divisions and facilities of the state public defender system, except that the director shall have no authority to direct or control the legal defense provided by a defender to any person served by the state public defender system;

(5) Develop programs and administer activities to achieve the purposes of this chapter;

(6) Keep and maintain proper financial records with respect to the provision of all public defender services for use in the calculating of direct and indirect costs of any or all aspects of the operation of the state public defender system;

(7) Supervise the training of all public defenders and other personnel and establish such training courses as shall be appropriate;

(8) With approval of the commission, promulgate necessary rules, regulations and instructions consistent with this chapter defining the organization of the state public defender system and the responsibilities of division directors, district defenders, deputy district defenders, assistant public defenders and other personnel;

(9) With the approval of the commission, apply for and accept on behalf of the public defender system any funds which may be offered or which may become available from government grants, private gifts, donations or bequests or from any other source. Such moneys shall be deposited in the state general revenue fund;

(10) Contract for legal services with private attorneys on a case-by-case basis and with assigned counsel as the commission deems necessary considering the needs of the area, for fees approved and established by the commission;

(11) With the approval and on behalf of the commission, contract with private attorneys for the collection and enforcement of liens and other judgments owed to the state for services rendered by the state public defender system;

(12) Prepare a plan to establish district offices, the boundaries of which shall coincide with existing judicial circuits. Any district office may contain more than one judicial circuit within its boundaries, but in no event shall any district office boundary include any geographic region of a judicial circuit without including the entire judicial circuit. The director shall submit the plan to the chair of the house judiciary committee and the chair of the senate judiciary committee, with fiscal estimates, by December 31, 2014. The plan shall be implemented by December 31, **[**2018**]** **2021**.

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

3. The director and defenders shall, within guidelines as established by the commission and as set forth in subsection 4 of this section, accept requests for legal services from eligible persons entitled to counsel under this chapter or otherwise so entitled under the constitution or laws of the United States or of the state of Missouri and provide such persons with legal services when, in the discretion of the director or the defenders, such provision of legal services is appropriate.

4. The director and defenders shall provide legal services to an eligible person:

(1) Who is detained or charged with a felony, including appeals from a conviction in such a case;

(2) Who is detained or charged with a misdemeanor which will probably result in confinement in the county jail upon conviction, including appeals from a conviction in such a case, unless the prosecuting or circuit attorney has waived a jail sentence;

(3) Who is charged with a violation of probation when it has been determined by a judge that the appointment of counsel is necessary to protect the person's due process rights under section 559.036;

(4) Who has been taken into custody pursuant to section 632.489, including appeals from a determination that the person is a sexually violent predator and petitions for release, notwithstanding any provisions of law to the contrary;

(5) For whom the federal constitution or the state constitution requires the appointment of counsel; and

(6) Who is charged in a case in which he or she faces a loss or deprivation of liberty, and in which the federal or the state constitution or any law of this state requires the appointment of counsel; however, the director and the defenders shall not be required to provide legal services to persons charged with violations of county or municipal ordinances, or misdemeanor offenses except as provided in this section.

5. The director may:

(1) Delegate the legal representation of **[**any**]** **an eligible** person to any member of the state bar of Missouri;

(2) Designate persons as representatives of the director for the purpose of making indigency determinations and assigning counsel.

600.090. DETERMINATION OF ABILITY TO PAY ALL OR PART OF REPRESENTATION COSTS — LIEN FOR REASONABLE VALUE OF SERVICES, PROCEDURE — DEPOSIT OF FUNDS COLLECTED. — 1. (1) If a person is determined to be eligible for the services provided by the state public defender system and if, at the time such determination is made, he is able to provide a limited cash contribution toward the cost of his representation without imposing a substantial hardship upon himself or his dependents, such contribution shall be required as a condition of his representation by the state public defender system.

(2) If at any time, either during or after the disposition of his case, such defendant becomes financially able to meet all or some part of the cost of services rendered to him, he shall be required to reimburse the commission in such amounts as he can reasonably pay, either by a single payment or by installments of reasonable amounts, in accordance with a schedule of charges for public defender services prepared by the commission.

(3) No difficulty or failure in the making of such payment shall reduce or in any way affect the rendering of public defender services to such persons.

2. (1) The reasonable value of the services rendered to a defendant pursuant to sections 600.011 to 600.048 and 600.086 to 600.096 may in all cases be a lien on any and all property to which the defendant shall have or acquire an interest. The public defender shall effectuate such lien whenever the reasonable value of the services rendered to a defendant appears to exceed one hundred fifty dollars and may effectuate such lien where the reasonable value of those services appears to be less than one hundred fifty dollars.

(2) To effectuate such a lien, the public defender shall, prior to the final disposition of the case or within ten days thereafter, file a notice of lien setting forth the services rendered to the defendant and a claim for the reasonable value of such services with the clerk of the circuit court. The defendant shall be personally served with a copy of such notice of lien. The court shall rule on whether all or any part of the claim shall be allowed. The portion of the claim approved by the court as the value of defender services which has been provided to the defendant shall be a judgment at law. The public defender shall not be required to pay filing or recording fees for or relating to such claim.

(3) Such judgment shall be enforceable in the name of the state on behalf of the commission by the prosecuting attorney of the circuit in which the judgment was entered.

(4) The prosecuting attorney may compromise and make settlement of, or, with the concurrence of the director, forego any claims for services performed for any person pursuant to this chapter whenever the financial circumstances of such person are such that the best interests of the state will be served by such action.

3. The commission may contract with private attorneys for the collection and enforcement of liens and other judgments owed to the state for services rendered by the state public defender system.

4. The lien created by this section shall be from the time filed in the court by the defender a charge or claim against any assets of the defendant; provided further that the same shall be served upon the person in possession of the assets or shall be recorded in the office of the recorder of deeds in the county in which the person resides or in which the assets are located.

5. Funds collected pursuant to this section and section 600.093 shall be credited to the "Legal Defense and Defender Fund" which is hereby created. The moneys credited to the legal defense and defender fund shall be used for the purpose of training public defenders, assistant public defenders, deputy public defenders and other personnel pursuant to subdivision (7) of subsection 1 of section 600.042, and may be used to pay for expert witness fees, the costs of depositions, travel expenses incurred by witnesses in case preparation and trial, expenses incurred for changes of venue and for other lawful expenses as authorized by the public defender commission.

6. The state treasurer shall be the custodian of the legal defense and defender fund, moneys in the legal defense and defender fund shall be deposited the same as are other state funds, and any interest accruing to the legal defense and defender fund shall be added to the legal defense and defender fund. The legal defense and defender fund shall be subject to audit, the same as other state funds and accounts, and shall be protected by the general bond given by the state treasurer.

7. Upon the request of the director of the office of state public defender, the commissioner of administration shall approve disbursements from the legal defense and defender fund. The legal defense and defender fund shall be funded annually by appropriation, but any unexpended **remaining** balance in the fund at the end of the appropriation period **[**not in excess of one hundred and fifty thousand dollars**]** shall be exempt from the provisions of section 33.080, specifically as they relate to the transfer of fund balances to the general revenue, and shall be the amount of the fund at the beginning of the appropriation period next immediately following.

600.101. PROVISION OF OFFICE SPACE FOR PUBLIC DEFENDER, DISPUTES. — Any dispute between any county or city not within a county and the state public defender regarding office space and utility service provided or to be provided pursuant to section 600.040 may be submitted to the judicial finance commission established pursuant to section 477.600. **[**The commission on judicial resources established pursuant to section 476.415 shall study and report its recommendations regarding provision of and payment for office space for the state public defender to the chairs of the judiciary committees of the senate and house of representatives, the chair of the senate appropriations committee and budget committee of the house of representatives.**]**

Approved July 13, 2016

SB 765 [CCS HCS SCS SB 765]

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 law enforcement officers and political subdivisions

AN ACT to repeal sections 67.145, 221.407, and 610.100, RSMo, section 575.320 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 575.320 as enacted by senate bill no. 180, eighty-seventh general assembly, first regular session, and to enact in lieu thereof five new sections relating to public safety, with penalty provisions.

SECTION
A. Enacting clause.
67.145. First responders, political activity while off duty and not in uniform, political subdivisions not to prohibit — first responder defined.
221.407. Regional jail district sales tax authorized, ballot language — special trust fund established — expiration date.
304.125. Traffic violation citation quota prohibited — exception.
575.320. Beginning January 1, 2017 — Misconduct in administration of justice — penalty.
575.320. Until December 31, 2016 — Misconduct in administration of justice.
610.100. Definitions — arrest and incident records available to public — closed records, when — record redacted, when — access to incident reports, record redacted, when — action for disclosure of investigative report authorized, costs — application to open incident and arrest reports, violations, civil penalty — identity of victim of sexual offense — confidentiality of recording.

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

SECTION A. ENACTING CLAUSE. — Sections 67.145, 221.407, and 610.100, RSMo, section 575.320 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 575.320 as enacted by senate bill no. 180, eighty-seventh general assembly, first regular session, are repealed and five new sections enacted in lieu thereof, to be known as sections 67.145, 221.407, 304.125, 575.320, and 610.100, to read as follows:

67.145. FIRST RESPONDERS, POLITICAL ACTIVITY WHILE OFF DUTY AND NOT IN UNIFORM, POLITICAL SUBDIVISIONS NOT TO PROHIBIT — FIRST RESPONDER DEFINED. — 1. No political subdivision of this state shall prohibit any first responder**[**, as the term first responder is defined in section 192.800,**]** from engaging in any political activity while off duty and not in uniform, being a candidate for elected or appointed public office, or holding such office unless such political activity or candidacy is otherwise prohibited by state or federal law.

2. As used in this section, "first responder" means any person trained and authorized by law or rule to render emergency medical assistance or treatment. Such persons may include, but shall not be limited to, emergency first responders, police officers, sheriffs, deputy sheriffs, firefighters, ambulance attendants and attendant drivers, emergency medical technicians, mobile emergency medical technicians, emergency medical technician-paramedics, registered nurses, or physicians.

221.407. REGIONAL JAIL DISTRICT SALES TAX AUTHORIZED, BALLOT LANGUAGE — SPECIAL TRUST FUND ESTABLISHED — EXPIRATION DATE. — 1. The commission of any regional jail district may impose, by order, a sales tax in the amount of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, or one-half of one percent on all retail sales made in such region which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525 for the purpose of providing jail services and court facilities and equipment for such region. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to this section shall be effective unless the commission submits to the voters of the district, on any election date authorized in chapter 115, a proposal to authorize the commission to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the regional jail district of ..... (counties' names) impose a region-wide sales tax of ..... (insert amount) for the purpose of providing jail services and court facilities and equipment for the region?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the proposal, then the order and any amendment to such order shall be in effect on the first day of the second quarter immediately following the election approving the

proposal. If the proposal receives less than the required majority, the commission shall have no power to impose the sales tax authorized pursuant to this section unless and until the commission shall again have submitted another proposal to authorize the commission to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district voting on such proposal; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last submission of a proposal pursuant to this section.

3. All revenue received by a district from the tax authorized pursuant to this section shall be deposited in a special trust fund and shall be used solely for providing jail services and court facilities and equipment for such district for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or terminated by any means, all funds remaining in the special trust fund shall be used solely for providing jail services and court facilities and equipment for the district. Any funds in such special trust fund which are not needed for current expenditures may be invested by the commission in accordance with applicable laws relating to the investment of other county funds.

5. All sales taxes collected by the director of revenue pursuant to this section on behalf of any district, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "Regional Jail District Sales Tax Trust Fund". The moneys in the regional jail district sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of each member county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district which levied the tax. Such funds shall be deposited with the treasurer of each such district, and all expenditures of funds arising from the regional jail district sales tax trust fund shall be paid pursuant to an appropriation adopted by the commission and shall be approved by the commission. Expenditures may be made from the fund for any function authorized in the order adopted by the commission submitting the regional jail district tax to the voters.

6. The director of revenue may **[**authorize the state treasurer to**]** make refunds from the amounts in the trust fund and credited to any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such districts. If any district abolishes the tax, the commission shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district in each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as provided in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed pursuant to this section.

8. The provisions of this section shall expire September 30, **[**2015**]** **2028**.

304.125. TRAFFIC VIOLATION CITATION QUOTA PROHIBITED — EXCEPTION. — No political subdivision or law enforcement agency shall have a policy requiring or encouraging an employee to issue a certain number of citations for traffic violations on a daily, weekly, monthly, quarterly, yearly, or other quota basis. This section shall not apply to the issuance of warning citations.

575.320. BEGINNING JANUARY 1, 2017 — MISCONDUCT IN ADMINISTRATION OF JUSTICE — PENALTY. — 1. A public servant, in his or her public capacity or under color of his or her office or employment, commits the offense of misconduct in administration of justice if he or she:

(1) Is charged with the custody of any person accused or convicted of any offense or municipal ordinance violation and he or she coerces, threatens, abuses or strikes such person for the purpose of securing a confession from him or her;

(2) Knowingly seizes or levies upon any property or dispossesses anyone of any lands or tenements without due and legal process, or other lawful authority;

(3) Is a judge and knowingly accepts a plea of guilty from any person charged with a violation of a statute or ordinance at any place other than at the place provided by law for holding court by such judge;

(4) Is a jailer or keeper of a county jail and knowingly refuses to receive, in the jail under his or her charge, any person lawfully committed to such jail on any criminal charge or criminal conviction by any court of this state, or on any warrant and commitment or capias on any criminal charge issued by any court of this state;

(5) Is a law enforcement officer and violates the provisions of section 544.170 by knowingly:

(a) Refusing to release any person in custody who is entitled to such release; or

(b) Refusing to permit a person in custody to see and consult with counsel or other persons; or

(c) Transferring any person in custody to the custody or control of another, or to another place, for the purpose of avoiding the provisions of that section; or

(d) Proffering against any person in custody a false charge for the purpose of avoiding the provisions of that section; or

(6) Orders or suggests to an employee of a **[**county of the first class having a charter form of government with a population over nine hundred thousand and not containing any part of a city of three hundred fifty thousand or more inhabitants**]** **political subdivision** that such employee shall issue a certain number of traffic citations on a daily, weekly, monthly, quarterly, yearly or other quota basis**[**, except when such employee is assigned exclusively to traffic control and has no other responsibilities or duties**]** **or that such employee shall increase the number of traffic citations that he or she is currently issuing**.

2. The offense of misconduct in the administration of justice is a class A misdemeanor.

575.320. UNTIL DECEMBER 31, 2016 — MISCONDUCT IN ADMINISTRATION OF JUSTICE. — 1. A public servant, in his public capacity or under color of his office or employment, commits the crime of misconduct in administration of justice if:

(1) He is charged with the custody of any person accused or convicted of any crime or municipal ordinance violation and he coerces, threatens, abuses or strikes such person for the purpose of securing a confession from him;

(2) He knowingly seizes or levies upon any property or dispossesses anyone of any lands or tenements without due and legal process, or other lawful authority;

(3) He is a judge and knowingly accepts a plea of guilty from any person charged with a violation of a statute or ordinance at any place other than at the place provided by law for holding court by such judge;

(4) He is a jailer or keeper of a county jail and knowingly refuses to receive, in the jail under his charge, any person lawfully committed to such jail on any criminal charge or criminal conviction by any court of this state, or on any warrant and commitment or capias on any criminal charge issued by any court of this state;

(5) He is a law enforcement officer and violates the provisions of section 544.170 by knowingly**:**

(a) Refusing to release any person in custody who is entitled to such release; or

(b) Refusing to permit a person in custody to see and consult with counsel or other persons; or

(c) Transferring any person in custody to the custody or control of another, or to another place, for the purpose of avoiding the provisions of that section; or

(d) Preferring against any person in custody a false charge for the purpose of avoiding the provisions of that section;

(6) He orders or suggests to an employee of a **[**county of the first class having a charter form of government with a population over nine hundred thousand and not containing any part of a city of three hundred fifty thousand or more inhabitants**]** **political subdivision** that such employee shall issue a certain number of traffic citations on a daily, weekly, monthly, quarterly, yearly or other quota basis**[**, except when such employee is assigned exclusively to traffic control and has no other responsibilities or duties**]** **or that such employee shall increase the number of traffic citations that he or she is currently issuing**.

2. Misconduct in the administration of justice is a class A misdemeanor.

610.100. DEFINITIONS — ARREST AND INCIDENT RECORDS AVAILABLE TO PUBLIC — CLOSED RECORDS, WHEN — RECORD REDACTED, WHEN — ACCESS TO INCIDENT REPORTS, RECORD REDACTED, WHEN — ACTION FOR DISCLOSURE OF INVESTIGATIVE REPORT AUTHORIZED, COSTS — APPLICATION TO OPEN INCIDENT AND ARREST REPORTS, VIOLATIONS, CIVIL PENALTY — IDENTITY OF VICTIM OF SEXUAL OFFENSE — CONFIDENTIALITY OF RECORDING. — 1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

(1) "Arrest", an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

(2) "Arrest report", a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

(3) "Inactive", an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

(4) "Incident report", a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

(5) "Investigative report", a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties**;**

(6) "Mobile video recorder", any system or device that captures visual signals that is capable of installation in a vehicle or being worn or carried by personnel of a law enforcement agency and that includes, at minimum, a camera and recording capabilities;

(7) "Mobile video recording", any data captured by a mobile video recorder, including audio, video, and any metadata;

(8) "Nonpublic location", a place where one would have a reasonable expectation of privacy, including but not limited to a dwelling, school, or medical facility.

2. Each law enforcement agency of this state, of any county, and of any municipality shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records.

(1) Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, **mobile video recordings and** investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive.

(2) If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120.

(3) Except as provided in subsections 3 and 5 of this section, a mobile video recording that is recorded in a nonpublic location is authorized to be closed, except that any person who is depicted in the recording or whose voice is in the recording, a legal guardian or parent of such person if he or she is a minor, a family member of such person within the first degree of consanguinity if he or she is deceased or incompetent, an attorney for such person, or insurer of such person, upon written request, may obtain a complete, unaltered, and unedited copy pursuant to this section.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, including a **legal guardian or parent of such person if he or she is a minor,** family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, **legal guardian or parent of such person if he or she is a minor,** his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of **a mobile video recording or** the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of **a mobile video recording or** the information contained in an investigative report be released to the person bringing the action.

(1) In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity.

(2) In making the determination as to whether a mobile video recording shall be disclosed, the court shall consider:

(a) Whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any

person identified in the mobile video recording in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity;

(b) Whether the mobile video recording contains information that is reasonably likely to disclose private matters in which the public has no legitimate concern;

(c) Whether the mobile video recording is reasonably likely to bring shame or humiliation to a person of ordinary sensibilities; and

(d) Whether the mobile video recording was taken in a place where a person recorded or depicted has a reasonable expectation of privacy.

(3) The **mobile video recording or** investigative report in question may be examined by the court in camera.

(4) If the disclosure is authorized in whole or in part, the court may make any order that justice requires, including one or more of the following:

(a) That the mobile video recording or investigative report may be disclosed only on specified terms and conditions, including a designation of the time or place;

(b) That the mobile video recording or investigative report may be had only by a method of disclosure other than that selected by the party seeking such disclosure;

(c) That the scope of the request be limited to certain matters;

(d) That the disclosure occur with no one present except persons designated by the court;

(e) That the mobile video recording or investigative report be redacted to exclude, for example, personally identifiable features or other sensitive information;

(f) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(5) The court may find that the party seeking disclosure of the **mobile video recording or** investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the decision of the law enforcement agency not to open the **mobile video recording or** investigative report was substantially unjustified under all relevant circumstances, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has knowingly violated this section, the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of this section, the court may order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in section 610.027. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has violated this section previously.

7. The victim of an offense as provided in chapter 566 may request that his or her identity be kept confidential until a charge relating to such incident is filed.

8. Any person who requests and receives a mobile video recording that was recorded in a nonpublic location pursuant to this section is prohibited from displaying or disclosing the mobile video recording, including any description or account of any or all of the mobile video recording, without first providing direct third party notice to each non law enforcement agency individual whose image or sound is contained in the recording and affording each person whose image or sound is contained in the mobile video recording no less than ten days to file and serve an action seeking an order from a court of competent jurisdiction to enjoin all or some of the intended display, disclosure, description,

or account of the recording. Any person who fails to comply with the provisions of this subsection is subject to damages in a civil action.

Approved July 13, 2016

SB 786 [CCS HCS SS SB 786]

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 law relating to the prosecution of election offenses

AN ACT to repeal sections 115.105, 115.107, 115.306, 115.361, 115.603, 115.607, 115.609, 115.611, 115.613, 115.617, 115.619, and 115.621, RSMo, and section 130.026 as enacted by senate bill no. 262, eighty-eighth general assembly, first regular session, and section 130.057 as enacted by house bill no. 676 merged with senate bills nos. 31 & 285, ninety-second general assembly, first regular session, and to enact in lieu thereof seventeen new sections relating to elections, with an emergency clause for certain sections and a delayed effective date for certain sections.

SECTION

A. Enacting clause.
115.105. Challengers, how selected, qualifications — challenges, when made — challengers may collect certain information at presidential primary elections — challenges, how made.
115.107. Watchers, how selected, qualifications, duties.
115.306. Disqualification as candidate for elective public office, when — filing of affidavit, contents — tax delinquency, effect of.
115.361. Filing to be reopened, when — death or withdrawal of only candidate to create vacancy on ballot, when — removal of name from ballot, when.
115.603. Committees each established party shall maintain.
115.607. County or city committee, eligibility requirements, selection of.
115.609. County or city committee members, when elected (St. Louis City and County).
115.611. County or city committee members, filing fees.
115.613. Committeeman and committeewoman, how selected — tie vote, effect of — if no person elected a vacancy created — single candidate, effect.
115.617. Vacancy, how filled.
115.619. Composition of legislative, congressional, senatorial, and judicial district committees.
115.620. Proxy voting, requirements.
115.621. Congressional, legislative, senatorial and judicial district committees to meet and organize, when.
115.642. Complaint procedures.
115.960. Electronic signatures accepted, when — system to be used — inapplicability — petitions, authorized signatures — confidentiality of data.
130.026. Election authority defined — appropriate officer designated for filing of reports. Election authority defined — appropriate officer designated — electronic filing, when.
130.057. Campaign finance electronic reporting system, establishment, use of — certain candidates and committees to file in electronic format, when, fees to convert paper copy — purchase of electronic system, requirements — public access. Campaign finance electronic reporting system, establishment, use of — certain candidates and committees to file in electronic format, when, fees to convert paper copy — purchase of electronic system, requirements — public access.
B. Emergency clause.
C. Delayed effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 115.105, 115.107, 115.306, 115.361, 115.603, 115.607, 115.609, 115.611, 115.613, 115.617, 115.619, and 115.621, RSMo, and section 130.026 as enacted by senate bill no. 262, eighty-eighth general assembly, first regular session, and section 130.057 as enacted by house bill no. 676 merged with senate bills nos. 31

& 285, ninety-second general assembly, first regular session, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 115.105, 115.107, 115.306, 115.361, 115.603, 115.607, 115.609, 115.611, 115.613, 115.617, 115.619, 115.620, 115.621, 115.642, 115.960, 130.026, and 130.057, to read as follows:

115.105. CHALLENGERS, HOW SELECTED, QUALIFICATIONS — CHALLENGES, WHEN MADE — CHALLENGERS MAY COLLECT CERTAIN INFORMATION AT PRESIDENTIAL PRIMARY ELECTIONS — CHALLENGES, HOW MADE. — 1. The chair of the county committee of each political party named on the ballot shall have the right to designate a challenger for each polling place, who may be present **[**during the hours of voting**]** **until all ballots are cast on the day of election**, and a challenger for each location at which absentee ballots are counted, who may be present while the ballots are being prepared for counting and counted. No later than four business days before the election, the chair of each county committee of each political party named on the ballot shall provide signed official designation forms with the names of the designated challengers and substitutes to the local election authority for confirmation of eligibility to serve as a challenger. The local election authority, after verifying the eligibility of each designated and substitute challenger, shall sign off on the official designation forms, unless the challenger is found not to have the qualifications established by subsection 5 of this section. If the election authority determines that a challenger does not meet the qualifications of subsection 5 of this section, the designating party chair may designate a replacement challenger and provide the local election authority with the name of the replacement challenger before 5:00 p.m. of the Monday preceding the election. The designating chair may substitute challengers at his or her discretion during such hours.

2. Challenges may only be made when the challenger believes the election laws of this state have been or will be violated, and each challenger shall report any such belief to the election judges, or to the election authority if not satisfied with the decision of the election judges.

3. Prior to the close of the polls, challengers may list and give out the names of those who have voted. The listing and giving out of names of those who have voted by a challenger shall not be considered giving information tending to show the state of the count.

4. In a presidential primary election, challengers may collect information about the party ballot selected by the voter and may disclose party affiliation information after the polls close.

5. All persons selected as challengers shall have the same qualifications required by section 115.085 for election judges, except that such challenger shall be a registered voter in the jurisdiction of the election authority for which the challenger is designated as a challenger.

6. Any challenge by a challenger to a voter's identification for validity shall be made only to the election judges or other election authority. If the poll challenger is not satisfied with the decision of the election judges, then he or she may report his or her belief that the election laws of this state have been or will be violated to the election authority as allowed under this section.

115.107. WATCHERS, HOW SELECTED, QUALIFICATIONS, DUTIES. — 1. At every election, the chairman of the county committee of each political party named on the ballot shall have the right to designate a watcher for each place votes are counted.

2. Watchers are to observe the counting of the votes and present any complaint of irregularity or law violation to the election judges, or to the election authority if not satisfied with the decision of the election judges. No watcher may be substituted for another on election day.

3. No watcher shall report to anyone the name of any person who has or has not voted.

4. **A watcher may remain present until all closing certification forms are completed, all equipment is closed and taken down, the transportation case for the ballots is sealed, election materials are returned to the election authority or to the designated collection place for a polling place, and any other duties or procedures required under sections 115.447 to 115.491 are completed. A watcher may also remain present at each location at which absentee ballots are counted and may remain present while such ballots are being prepared for counting and counted.**

5. All persons selected as watchers shall have the same qualifications required by section 115.085 for election judges, except that such watcher shall be a registered voter in the jurisdiction of the election authority for which the watcher is designated as a watcher.

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**, except candidates for a county or city committee of a political party,** 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.

115.361. FILING TO BE REOPENED, WHEN — DEATH OR WITHDRAWAL OF ONLY CANDIDATE TO CREATE VACANCY ON BALLOT, WHEN — REMOVAL OF NAME FROM BALLOT, WHEN. — 1. Except as provided in subsections 2 and 3 of this section, if a candidate for nomination to an office in which the candidate is the incumbent or the only candidate dies, withdraws as provided in subsection 1 or 2 of section 115.359, or is disqualified after 5:00 p.m. on the last day in which a person may file as a candidate for nomination, and at or before 5:00 p.m. on the eighth Tuesday prior to any primary election, or if any candidate for the position of political party committeeman or committeewoman dies or withdraws as provided in subsection 1 or 2 of section 115.359, or is disqualified after 5:00 p.m. on the last day in which a person may

file as a candidate for nomination, and at or before 5:00 p.m. on the eighth Tuesday prior to any primary election, leaving less candidates for the available committee positions than the number of available committee positions, filing for the office or position shall be reopened for a period of five working days, excluding holidays and weekends, following the death, withdrawal or disqualification during which period new candidates may file declarations of candidacy.

2. If a candidate for nomination to an office in which the candidate is the only candidate dies, withdraws as provided in subsection 1 or 2 of section 115.359, or is disqualified after 5:00 p.m. on the sixth Tuesday prior to the primary election, the election and canvass shall not proceed, and a vacancy shall exist on the general election ballot to be filled in the manner provided in sections 115.363 to 115.377.

3. If a candidate for the position of political party committeeman or committeewoman becomes disqualified after the eighth Tuesday prior to the primary election, the election and canvass shall proceed, and the disqualified candidate's name shall be physically eradicated from the ballot so that no vote may be cast for that candidate.

4. If after filing a declaration of candidacy, a candidate files a statement of withdrawal within two working days prior to the deadline for the close of filing set forth in section 115.349, the time of filing for that office shall **[**be extended until 5:00 p.m. of the first Friday following the deadline for the close of filing set forth in section 115.349**]** **cease at said deadline. There shall be a reopening of filing on the first Tuesday after the deadline for the close of filing set forth in section 115.349 which shall last until 5:00 p.m. on the Friday immediately following the first Tuesday after said deadline**.

115.603. COMMITTEES EACH ESTABLISHED PARTY SHALL MAINTAIN. — Each established political party shall have a state committee, a congressional district committee for each congressional district in the state, a judicial district committee for each circuit judge district in the state not subject to the provisions of article V, section 25 of the state constitution, a senatorial district committee for each senatorial district in the state, a legislative district committee for each legislative district in the state and a county committee for each county in the state**, except any city not within a county which shall have a city committee in lieu of a county committee**.

115.607. COUNTY OR CITY COMMITTEE, ELIGIBILITY REQUIREMENTS, SELECTION OF. — 1. No person shall be elected or shall serve as a member of a county **or city** committee who is not, for one year next before the person's election, both a registered voter of and a resident of the county **or city not within a county** and the committee district from which the person is elected if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken. Except as provided in subsections 2, 3, 4, 5, and 6 of this section, the membership of a county **or city** committee of each established political party shall consist of a man and a woman elected from each **precinct,** township**,** or ward in the county **or city not within a county**.

2. In each county of the first classification containing the major portion of a city which has over three hundred thousand inhabitants, two members of the committee, a man and a woman, shall be elected from each ward in the city. Any township entirely contained in the city shall have no additional representation on the county committee. The election authority for the county shall, not later than six months after the decennial census has been reported to the President of the United States, divide the most populous township outside the city into eight subdistricts of contiguous and compact territory and as nearly equal in population as practicable. The subdistricts shall be numbered from one upward consecutively, which numbers shall, insofar as practicable, be retained upon reapportionment. Two members of the county committee, a man and a woman, shall be elected from each such subdistrict. Six members of the committee, three men and three women, shall be elected from the second and third most populous townships outside the city. Four members of the committee, two men and two women, shall be elected from the other townships outside the city.

3. In any city which has over three hundred thousand inhabitants, the major portion of which is located in a county with a charter form of government, for the portion of the city located within such county and notwithstanding section 82.110, it shall be the duty of the election authority, not later than six months after the decennial census has been reported to the President of the United States, to divide such cities into not less than twenty-four nor more than twenty-five wards after each decennial census. Wards shall be so divided that the number of inhabitants in any ward shall not exceed any other ward of the city and within the same county, by more than five percent, measured by the number of the inhabitants determined at the preceding decennial census.

4. In each county of the first classification containing a portion, but not the major portion, of a city which has over three hundred thousand inhabitants, ten members of the committee, five men and five women, shall be elected from the district of each state representative wholly contained in the county in the following manner: within six months after each legislative reapportionment, the election authority shall divide each legislative district wholly contained in the county into five committee districts of contiguous territory as compact and as nearly equal in population as may be; two members of the committee, a man and a woman, shall be elected from each committee district. The election authority shall divide the area of the county located within legislative districts not wholly contained in the county into similar committee districts; two members of the committee, a man and a woman, shall be elected from each committee district.

5. In each city not situated in a county, two members of the committee, a man and a woman, shall be elected from each ward.

6. In all counties with a charter form of government and a population of over nine hundred thousand inhabitants, the county committee persons shall be elected from each township. Within ninety days after August 28, 2002, and within six months after each decennial census has been reported to the President of the United States, the election authority shall divide the county into twenty-eight compact and contiguous townships containing populations as nearly equal in population to each other as is practical.

7. If any election authority has failed to adopt a reapportionment plan by the deadline set forth in this section, the county commission, sitting as a reapportionment commission, shall within sixty days after the deadline, adopt a reapportionment plan. Changes of township, ward, or precinct lines shall not affect the terms of office of incumbent party committee members elected from districts as constituted at the time of their election.

115.609. COUNTY OR CITY COMMITTEE MEMBERS, WHEN ELECTED (ST. LOUIS CITY AND COUNTY). — In each city not situated in a county and in each county which has over nine hundred thousand inhabitants, all members of the county **or city** committee shall be elected at the primary election immediately preceding each gubernatorial election and shall hold office until their successors are elected and qualified. In each other county, all members of the county committee shall be elected at each primary election and shall hold office until their successors are elected and qualified.

115.611. COUNTY OR CITY COMMITTEE MEMBERS, FILING FEES. — 1. Except as provided in subsection 4 of section 115.613, any registered voter of the county **or a city not within a county** may have such voter's name printed on the primary ballot of such voter's party as a candidate for county **or city** committeeman or committeewoman by filing a declaration of candidacy in the office of the county **or city** election authority and by paying any filing fee required by subsection 2 of this section.

2. Before filing such candidate's declaration of candidacy, candidates for county **or city** committeeman or county **or city** committeewoman shall pay to the treasurer of such candidate's party's county **or city** committee, or submit to the county **or city** election authority to be forwarded to the treasurer of such candidate's party's committee, a certain sum of money, as follows:

(1) One hundred dollars if such candidate is a candidate for county **or city** committeeman or committeewoman in any county which has or hereafter has over nine hundred thousand inhabitants or in any city not situated in a county;

(2) Twenty-five dollars if such candidate is a candidate for county committeeman or committeewoman in any county of the first class containing the major portion of a city which has over three hundred thousand inhabitants; **or**

(3) Except as provided in subdivisions (1) and (2) of this subsection, no candidate for county committeeman or committeewoman shall be required to pay a filing fee.

3. Any person who cannot pay the fee to file as a candidate for county **or city** committeeman or committeewoman may have the fee waived by filing a declaration of inability to pay and a petition with the official with whom such candidate files such candidate's declaration of candidacy. The provisions of section 115.357 shall apply to all such declarations and petitions.

4. No person's name shall be printed on any official primary ballot as a candidate for county **or city** committeeman or committeewoman unless the person has filed a declaration of candidacy with the proper election authority not later than 5:00 p.m. on the last Tuesday in March immediately preceding the primary election.

115.613. COMMITTEEMAN AND COMMITTEEWOMAN, HOW SELECTED — TIE VOTE, EFFECT OF — IF NO PERSON ELECTED A VACANCY CREATED — SINGLE CANDIDATE, EFFECT. — 1. Except as provided in subsection 4 of this section, the qualified man and woman receiving the highest number of votes from each committee district for committeeman and committeewoman of a party shall be members of the county **or city** committee of the party.

2. If two or more qualified persons receive an equal number of votes for county **or city** committeeman or committeewoman of a party and a higher number of votes than any other qualified person from the party, a vacancy shall exist on the county **or city** committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

3. If no qualified person is elected county **or city** committeeman or committeewoman from a committee district for a party, a vacancy shall exist on the county **or city** committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

4. The provisions of this subsection shall apply only in any county **or city** where no filing fee is required for filing a declaration of candidacy for committeeman or committeewoman in a committee district. If only one qualified candidate has filed a declaration of candidacy for committeeman or committeewoman in a committee district for a party prior to the deadline established **[**by law**]** **in this chapter**, no election shall be held for committeeman or committeewoman in the committee district for that party and the election authority shall certify the qualified candidate in the same manner and at the same time as candidates elected pursuant to subsection 1 of this section are certified. If no qualified candidate files for committeeman or committeewoman in a committee district for a party, no election shall be held and a vacancy shall exist on the county **or city** committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

115.617. VACANCY, HOW FILLED. — Whenever a member of any county **or city** committee dies, **[**becomes disabled,**]** resigns, or ceases to be a registered voter of or a resident of the county **or a city not within a county** or the committee district from which he is elected, a vacancy shall exist on the committee. A majority of the committee shall elect another person to fill the vacancy who, for one year next before his election, shall have been both a registered voter of and a resident of the county **or city** and the committee district. The person selected to fill the vacancy shall serve the remainder of the vacated term.

115.619. COMPOSITION OF LEGISLATIVE, CONGRESSIONAL, SENATORIAL, AND JUDICIAL DISTRICT COMMITTEES. — 1. **[**The membership of**]** A legislative district committee shall

consist of [all county committee members within] **the precinct, ward, or township committeeman and committeewoman from such precincts, wards, or townships included in whole or in part of** the legislative district[, except as provided in subsections 4 and 5 of this section. In all counties of this state which are wholly contained within a legislative district, or in which there are two or more whole legislative districts, or one whole legislative district and part of another legislative district, or parts of two or more legislative districts,]. There shall be elected from the membership of each legislative district committee a chairman and a vice chairman, one of whom shall be a woman and one of whom shall be a man, and each legislative district at the same time shall elect a secretary and a treasurer, one of whom shall be a woman and one of whom shall be a man, but who may or may not be members of the legislative district committee. Party state committees may provide for voting by proxy and for weighted or fractional voting.

2. [If a legislative district and a county are coextensive, the chairman, vice chairman, secretary and treasurer of the county committee shall be the chairman, vice chairman, secretary and treasurer of the legislative committee.

3. Except as provided in subsections 4 and 5 of this section, the congressional, senatorial or judicial district committee shall consist of the chairman and vice chairman of each of the legislative districts in the congressional, senatorial, or judicial districts and the chairman and vice chairman of each of the county committees within the districts. Party state committees may provide for voting by proxy and may provide for weighted or fractional voting.

4. The congressional, senatorial or judicial district committee of a district coextensive with one county shall be the county committee.

5. The congressional, senatorial or judicial district committee of a district which is composed in whole or in part of a part of a city or part of a county shall consist of the ward or township committeemen and committeewomen from such wards or townships included in whole or in part in such part of a city or part of a county forming the whole or a part of such district. Party state committees may provide for voting by proxy and may provide for weighted or fractional voting.] **The congressional, senatorial, or judicial committee of a district which is composed of:**

(1) One or more whole counties; or

(2) One or more whole counties and part of one or more counties; shall consist of the county committee chair and vice chair of each county within the district and the committeeman and committeewoman of each legislative district committee within the district.

3. The congressional, senatorial, or judicial committee of a district which consists of:

(1) Parts of one or more counties;

(2) Part of a city not within the county;

(3) A whole city not within a county; or

(4) Part of a city not within a county and parts of one or more counties;

shall consist of the committeemen and committeewomen of the precinct, ward, or township included in whole or in part of the district and the chair and vice chair of each legislative district committee within the district in whole or in part.

115.620. PROXY VOTING, REQUIREMENTS. — Provisions for proxy voting for district committees organized under section 115.621 may be made by a political party. In the event that such provisions are not made, proxy voting shall only be allowed for legislative, congressional, senatorial, and judicial district committee meetings. In any event, a person may only serve as a proxy voter if such person is legally permitted to vote in the district in which the proxy resides.

115.621. CONGRESSIONAL, LEGISLATIVE, SENATORIAL AND JUDICIAL DISTRICT COMMITTEES TO MEET AND ORGANIZE, WHEN. — 1. Notwithstanding any other provision of this section to the contrary, any legislative, senatorial, or judicial district committee that

is wholly contained within a county or a city not within a county may choose to meet on the same day as the respective county or city committee. All other committees shall meet as otherwise prescribed in this section.

2. The members of each county committee shall meet at the county seat not earlier than two weeks after each primary election but in no event later than the third Saturday after each primary election, at the discretion of the chairman at the committee. In each city not within a county, the city committee shall meet on the same day at the city hall. In all counties of the first, second, and third classification, the county courthouse shall be made available for such meetings and any other county political party meeting at no charge to the party committees. In all cities not within a county, the city hall shall be made available for such meetings and any other city political party meeting at no charge to the party committees. At the meeting, each committee shall organize by electing two of its members, a man and a woman, as chair and vice chair, and a man and a woman who may or may not be members of the committee as secretary and treasurer.

3. The members of each congressional district committee shall meet at some place **and time** within the district, to be designated by the current chair of the committee, **[**on the last Tuesday in August**] not earlier than five weeks** after each primary election **but in no event later than the sixth Saturday after each primary election**. The county courthouse in counties of the first, second and third classification in which the meeting is to take place, as designated by the chair, shall be made available for such meeting and any other congressional district political party committee meeting at no charge to the committee. At the meeting, the committee shall organize by electing one of its members as chair and one of its members as vice chair, one of whom shall be a woman and one of whom shall be a man, and a secretary and a treasurer, one of whom shall be a woman and one of whom shall be a man, who may or may not be members of the committee.

[2.**] 4.** The members of each legislative district committee shall meet at some place **and date** within the legislative district or within one of the counties in which the legislative district exists, to be designated by the current chair of the committee, **[**on the third Wednesday**] not earlier than three weeks** after each **[**August**]** primary election **but in no event later than the fourth Saturday after each primary election**. The county courthouse in counties of the first, second and third classification in which the meeting is to take place, as designated by the chair, shall be made available for such meeting and any other legislative district political party committee meeting at no charge to the committee. At the meeting, the committee shall organize **[**pursuant to subsection 1 of section 115.619**] by electing two of its members, a man and a woman, as chair and vice chair, and a man and a woman who may or may not be members of the committee as secretary and treasurer**.

[3.**] 5.** The members of each senatorial district committee shall meet at some place **and date** within the district, to be designated by the current chair of the committee, if there is one, and if not, by the chair of the congressional district in which the senatorial district is principally located, **[**on the third Saturday**] not earlier than four weeks** after each **[**August**]** primary election **but in no event later than the fifth Saturday after each primary election**. The county courthouse in counties of the first, second and third classification in which the meeting is to take place, as so designated pursuant to this subsection, shall be made available for such meeting and any other senatorial district political party committee meeting at no charge to the committee. At the meeting, the committee shall organize by electing one of its members as chair and one of its members as vice chair, one of whom shall be a woman and one of whom shall be a man, and a secretary and a treasurer, one of whom shall be a woman and one of whom shall be a man, who may or may not be members of the committee.

6. The members of each senatorial district shall also meet at some place within the district, to be designated by the current chair of the committee, if there is one, and if not, by the chair of the congressional district in which the senatorial district is principally located, on the Saturday after **[**the third Tuesday in November after**]** each general election. At the meeting, the committee

shall proceed to elect two registered voters of the district, one man and one woman, as members of the party's state committee.

[4.**]** **7.** The members of each judicial district may meet at some place **and date** within the judicial district or within one of the counties in which the judicial district exists, to be designated by the current chair of the committee or the chair of the congressional district committee, **[**on the first Tuesday in September**]** **not earlier than six weeks** after each primary election**[**, or at another time designated by the chairmen of the committees**]** **but in no event later than the seventh Saturday after each primary election**. The county courthouse in counties of the first, second and third classification in which the meeting is to take place, as so designated pursuant to this subsection, shall be made available for such meeting and any other judicial district political party committee meeting at no charge to the committee. At the meeting, the committee shall organize **[**pursuant to subsection 1 of section 115.619**]** **by electing two of its members, a man and a woman, as chair and vice chair, and a man and a woman who may or may not be members of the committee as secretary and treasurer**.

115.642. COMPLAINT PROCEDURES. — 1. Any person may file a complaint with the secretary of state stating the name of any person who has violated any of the provisions of sections 115.629 to 115.646 and stating the facts of the alleged offense. Within thirty days of receiving a complaint, the secretary of state shall notify the person filing the complaint whether or not the secretary has dismissed the complaint or will commence an investigation. If reasonable grounds appear that the alleged offense was committed, the secretary of state may issue a probable cause statement. If the secretary of state issues a probable cause statement, he or she may refer the offense to the appropriate prosecuting attorney.

2. Notwithstanding the provisions of sections 27.060, 56.060, or 56.430 to the contrary, when requested by the prosecuting attorney or circuit attorney, the secretary of state or his or her authorized representatives may aid any prosecuting attorney or circuit attorney in the commencement and prosecution of election offenses as provided in sections 115.629 to 115.646.

3. The secretary of state may investigate any suspected violation of any of the provisions of sections 115.629 to 115.646.

115.960. ELECTRONIC SIGNATURES ACCEPTED, WHEN — SYSTEM TO BE USED — INAPPLICABILITY — PETITIONS, AUTHORIZED SIGNATURES — CONFIDENTIALITY OF DATA. — 1. An election authority is authorized to accept voter registration applications with a signature submitted to the election authority under the provisions of sections 432.200 to 432.295 as provided in this section:

(1) Sections 432.200 to 432.295 shall only apply to transactions between parties that have agreed to conduct transactions by electronic means;

(2) Except as provided in subsection 2 of this section, as used in this section and sections 432.200 to 432.295, the parties who agree to conduct voter registration transactions by electronic means shall be the local election authority who is required to accept or reject a voter registration application and the prospective voter submitting the application;

(3) A local election authority is authorized to develop, maintain, and approve systems that transmit voter registration applications electronically under sections 432.200 to 432.295;

(4) Except as provided in subsection 2 of this section, no officer, agency, or organization shall collect or submit a voter registration application with an electronic signature to an election authority without first obtaining approval of the data and signature format from the local election authority and the approval of the voter to collect and store the signature and data; and

(5) Local election authorities who maintain a voter registration application system shall direct voter registration applicants from other jurisdictions to the system used by the local election authority for that jurisdiction to accept voter registration applications electronically.

2. A system maintained by the secretary of state's office shall be used to accept voter registration applications electronically subsequent to approval from the committee formed as set forth in this subsection:

(1) Within thirty days of, but in no event prior to January 1, 2017, the president of the Missouri association of county clerks and election authorities shall appoint fourteen of its members to serve on a committee to approve and develop uniform standards, systems, and modifications that shall be used by the secretary of state in any electronic voter registration application system offered by that office. The committee may also make recommendations regarding the purchase, maintenance, integration, and operation of electronic databases, software, and hardware used by local election authorities and the secretary of state's office including, but not limited to, systems used for military and overseas voting and for building and conducting election operations. The committee shall have fourteen local election authorities, including representatives of each classification of counties, a representative from an election board, and at least one member who has experience processing online voter registration transactions. In addition, one representative appointed by the secretary of state's office shall serve on the committee;

(2) The committee shall immediately meet to approve electronic signature formats and a minimum set of data collection standards for use in a voter registration application system maintained by the secretary of state;

(3) Once the format and data collection standards are approved by the committee and implemented for the system maintained by the secretary of state, local election authorities shall accept the transmission of voter registration applications submitted to the approved system under the provisions of sections 432.200 to 432.295;

(4) The secretary of state's office shall direct eligible voters to a local election authority's system to accept voter registration applications electronically if the local election authority has a system in place as of the effective date of this section or implements a system that meets the same standards and format that has been approved by the committee for the secretary of state's system;

(5) The committee shall meet not less than semi-annually through June 30, 2019, to recommend and approve changes and enhancements proposed by the secretary of state or election authorities to the electronic voter registration application system. Vacancies that occur on the committee shall be filled by the president of the Missouri association of county clerks and election authorities at the time of the vacancy;

(6) To improve the accuracy of voter registration application data and reduce costs for local election authorities, the system maintained by the secretary of state shall, as soon as is practical, provide a method where the data entered by the voter registration applicant does not have to be re-entered by the election authority to the state voter registration database.

3. Each applicant who registers using an approved electronic voter registration application system shall be deemed to be registered as of the date the signed application is submitted to the system, if such application is accepted and not rejected by the election authority and the verification notice required under section 115.155 is not returned as undeliverable by the postal service.

4. This section shall not apply to voter registration and absentee records submitted by voters authorized under federal law, section 115.291, or sections 115.900 to 115.936 to submit electronic records and signatures.

5. High quality copies, including electronic copies, of signatures made on paper documents may be used for petition signature verification purposes and retained as records.

6. Any signature required for petition submission under chapter 116 shall be handwritten on a paper document.

7. Notwithstanding the provisions of section 432.230, nothing in this section shall require the election authority to accept voter registration records or signatures created, generated, sent, communicated, received, stored, or otherwise processed, or used by electronic means or in electronic form from any officer, agency, or organization not authorized under subsection 2 of this section without prior approval from the election authority. Except as provided in subsection 2 of this section, no officer, agency, or organization shall give the voter the opportunity to submit a voter registration application with an electronic signature without first obtaining the approval of the local election authority.

8. An election authority that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means.

9. No election authority or the secretary of state shall furnish to any member of the public any data collected under a voter registration application system except as authorized in subsection 1 of section 115.157.

10. Nothing in this section shall be construed to require the secretary of state to cease operating a voter registration application in place as of the effective date of this act.

130.026. ELECTION AUTHORITY DEFINED — APPROPRIATE OFFICER DESIGNATED FOR FILING OF REPORTS. ELECTION AUTHORITY DEFINED — APPROPRIATE OFFICER DESIGNATED — ELECTRONIC FILING, WHEN. — 1. For the purpose of this section, the term "election authority" or "local election authority" means the county clerk, except that in a city or county having a board of election commissioners the board of election commissioners shall be the election authority. For any political subdivision or other district which is situated within the jurisdiction of more than one election authority, as defined herein, the election authority is the one in whose jurisdiction the candidate resides or, in the case of ballot measures, the one in whose jurisdiction the most populous portion of the political subdivision or district for which an election is held is situated, except that a county clerk or a county board of election commissioners shall be the election authority for all candidates for elective county offices other than county clerk and for any countywide ballot measures.

2. The appropriate officer or officers for candidates and ballot measures shall be as follows:

(1) In the case of candidates for the offices of governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, judges of the supreme court and appellate court judges, the appropriate officer shall be the Missouri ethics commission;

(2) Notwithstanding the provisions of subsection 1 of this section, in the case of candidates for the offices of state senator, state representative, county clerk, and associate circuit court judges and circuit court judges, the appropriate **[**officers**]** **officer** shall be the Missouri ethics commission **[**and the election authority for the place of residence of the candidate**]**;

(3) In the case of candidates for elective municipal offices in municipalities of more than one hundred thousand inhabitants and elective county offices in counties of more than one hundred thousand inhabitants, the appropriate **[**officers**]** **officer** shall be the Missouri ethics commission **[**and the election authority of the municipality or county in which the candidate seeks office**]**;

(4) In the case of all other offices, the appropriate officer shall be the **[**election authority of the district or political subdivision for which the candidate seeks office**]** **Missouri ethics commission**;

(5) In the case of ballot measures, the appropriate officer or officers shall be:

(a) The Missouri ethics commission for a statewide measure;

(b) The local election authority for any political subdivision or district as determined by the provisions of subsection 1 of this section for any measure, other than a statewide measure, to be voted on in that political subdivision or district.

3. The appropriate officer or officers for candidate committees and campaign committees shall be the same as designated in subsection 2 of this section for the candidates or ballot measures supported or opposed as indicated in the statement of organization required to be filed by any such committee.

4. The appropriate officer for political party committees shall be as follows:

(1) In the case of state party committees, the appropriate officer shall be the Missouri ethics commission;

(2) In the case of any district, county or city political party committee, the appropriate officer shall be the Missouri ethics commission **[**and the election authority for that district, county or city**]**.

5. The appropriate **[**officers**]** **officer** for a continuing committee and for any other committee not named in subsections **2,** 3, **[**4 and 5**]** **and 4** of this section shall be **[**as follows:

(1)**]** the Missouri ethics commission **[**and the election authority for the county in which the committee is domiciled; and

(2) If the committee makes or anticipates making expenditures other than direct contributions which aggregate more than five hundred dollars to support or oppose one or more candidates or ballot measures in the same political subdivision or district for which the appropriate officer is an election authority other than the one for the county in which the committee is domiciled, the appropriate officers for that committee shall include such other election authority or authorities, except that committees covered by this subsection need not file statements required by section 130.021 and reports required by subsections 6, 7 and 8 of section 130.046 with any appropriate officer other than those set forth in subdivision (1) of this subsection**]**.

6. The term "domicile" or "domiciled" means the address of the committee listed on the statement of organization required to be filed by that committee in accordance with the provisions of section 130.021.

7. Any financial disclosure reports and statements filed with the Missouri ethics commission under this section shall be filed in an electronic format as prescribed by the commission.

130.057. CAMPAIGN FINANCE ELECTRONIC REPORTING SYSTEM, ESTABLISHMENT, USE OF — CERTAIN CANDIDATES AND COMMITTEES TO FILE IN ELECTRONIC FORMAT, WHEN, FEES TO CONVERT PAPER COPY — PURCHASE OF ELECTRONIC SYSTEM, REQUIREMENTS — PUBLIC ACCESS. — 1. In order for candidates for election and public officials to more easily file reports required by law and to access information contained in such reports, and for the Missouri ethics commission to receive and store reports in an efficient and economical method, and for the general public and news media to access information contained in such reports, the commission shall establish and maintain an electronic reporting system pursuant to this section.

2. The ethics commission **[**may establish for elections in 1996 and**]** shall establish **[**for elections and all required reporting beginning in 1998**]** and maintain **[**thereafter**]** a state campaign finance and financial interest disclosure electronic reporting system pursuant to this section for all candidates **and committees** required to file **under this chapter**. The system may be used for the collection, filing and dissemination of all reports, including monthly lobbying reports filed by law, and all reports filed with the commission pursuant to this chapter and chapter 105. **[**The system may be established and used for all reports required to be filed for the primary and general elections in 1996 and all elections thereafter, except that the system may require maintenance of a paper backup system for the primary and general elections in 1996.**]** The reports shall be maintained and secured in the electronic format by the commission.

3. **[**When the commission determines that the electronic reporting system has been properly implemented, the commission shall certify to all candidates and committees required to file pursuant to this chapter that such electronic reporting system has been established and

implemented. Beginning with the primary and general elections in 2000, or the next primary or general election in which the commission has made certification pursuant to this subsection, whichever is later, candidates and all other committees shall file reports by using either the electronic format prescribed by the commission or paper forms provided by the commission for that purpose. Continuing committees shall file reports by electronic format prescribed by the commission, except continuing committees which make contributions equal to or less than fifteen thousand dollars in the applicable calendar year. Any continuing committee which makes contributions in support of or opposition to any measure or candidate equal to or less than fifteen thousand dollars in the applicable calendar year shall file reports on paper forms provided by the commission for that purpose or by electronic format prescribed by the commission, whichever reporting method the continuing committee chooses. The commission shall supply a computer program which shall be used for filing by modem or by a common magnetic media chosen by the commission. In the event that filings are performed electronically, the candidate shall file a signed original written copy within five working days; except that, if a means becomes available which will allow a verifiable electronic signature, the commission may also accept this in lieu of a written statement.

4. Beginning January 1, 2000, or on the date the commission makes the certification pursuant to subsection 3 of this section, whichever is later, all reports filed with the commission by any candidate for a statewide office, or such candidate's committee, shall be filed in electronic format as prescribed by the commission; provided however, that if a candidate for statewide office, or such candidate's committee receives or spends five thousand dollars or less for any reporting period, the report for that reporting period shall not be required to be filed electronically.

5.**]** A copy of all reports filed in the state campaign finance electronic reporting system shall be placed on a public electronic access system so that the general public may have open access to the reports filed pursuant to this section. The access system shall be organized and maintained in such a manner to allow an individual to obtain information concerning all contributions made to or on behalf of, and all expenditures made on behalf of, any **candidate or** public official described in subsection 2 of this section in formats that will include both written and electronically readable formats.

[6.**]** **4.** All records that are in electronic format, not otherwise closed by law, shall be available in electronic format to the public. The commission shall maintain and provide for public inspection, a listing of all reports with a complete description for each field contained on the report, that has been used to extract information from their database files. The commission shall develop a report or reports which contain every field in each database.

[7.**]** **5.** Annually, the commission shall provide, without cost, a system-wide dump of information contained in the commission's electronic database files to the general assembly. The information is to be copied onto a medium specified by the general assembly. Such information shall not contain records otherwise closed by law. It is the intent of the general assembly to provide open access to the commission's records. The commission shall make every reasonable effort to comply with requests for information and shall take a liberal interpretation when considering such requests.

SECTION B. EMERGENCY CLAUSE. — Because of the necessity to effect a smooth transition for political party committee elections after the August primary, the enactment of section 115.620 and the repeal and reenactment of sections 115.306, 115.603, 115.607, 115.609, 115.611, 115.613, 115.617, 115.619, and 115.621 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 115.620 and the repeal and reenactment of sections 115.306, 115.603, 115.607, 115.609, 115.611, 115.613, 115.617, 115.619, and 115.621 of section A of this act shall be in full force and effect upon its passage and approval.

SECTION C. DELAYED EFFECTIVE DATE. — The repeal and reenactment of section 130.026 as enacted by senate bill no. 262, eighty-eighth general assembly, first regular session, and section 130.057 as enacted by house bill no. 676 merged with senate bills nos. 31 & 285, ninety-second general assembly, first regular session, shall become effective on January 1, 2017.

Approved July 7, 2016

SB 794 [SCS SB 794]

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 sales tax exemption for parts of certain types of medical equipment

AN ACT to repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to a sales tax exemption on parts and accessories for medical equipment.

SECTION
A. Enacting clause.
144.030. Exemptions from state and local sales and use taxes.

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

SECTION A. ENACTING CLAUSE. — Section 144.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.030, to read as follows:

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) 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 **all sales, rentals, repairs, and parts of durable medical equipment,** prosthetic **devices [**or**], and** 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 **including parts**, **and** hospital beds and accessories and ambulatory aids **including parts**, **and** all sales or rental of manual and powered wheelchairs **including parts**, **and** 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 **including parts**, **and** 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;

(44) Any new or used aircraft sold or delivered in this state to a person who is not a resident of this state or a corporation that is not incorporated in this state, and such aircraft is not to be based in this state and shall not remain in this state more than ten business days subsequent to the last to occur of:

(a) The transfer of title to the aircraft to a person who is not a resident of this state or a corporation that is not incorporated in this state; or

(b) The date of the return to service of the aircraft in accordance with 14 CFR 91.407 for any maintenance, preventive maintenance, rebuilding, alterations, repairs, or installations that are completed contemporaneously with the transfer of title to the aircraft to a person who is not a resident of this state or a corporation that is not incorporated in this state.

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.

Approved June 28, 2016

SB 814 [HCS SCS SB 814]

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

Allows an individual to deduct income earned through active military duty from his or her Missouri adjusted gross income

AN ACT to amend chapter 143, RSMo, by adding thereto one new section relating to income tax deductions for active duty military personnel.

SECTION
A. Enacting clause.
143.174. Tax deduction for compensation received as an active duty military member.

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

SECTION A. ENACTING CLAUSE. — Chapter 143, RSMo, is amended by adding thereto one new section, to be known as section 143.174, to read as follows:

143.174. TAX DEDUCTION FOR COMPENSATION RECEIVED AS AN ACTIVE DUTY MILITARY MEMBER. — For all tax years beginning on or after January 1, 2016, for purposes of calculating the Missouri taxable income as required under section 143.011, one hundred percent of the income received by any person as salary or compensation in any form as a member of the active duty component of the Armed Forces of the United States, and to the extent that such income is included in the federal adjusted gross income, may be deducted from the taxpayer's Missouri adjusted gross income to determine such taxpayer's Missouri taxable income. If such person files a combined return with a spouse, any military income received while engaging in the performance of active duty may be deducted from their Missouri combined adjusted gross income.

Approved June 28, 2016

SB 823 [CCS HCS SCS SB 823]

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 sales and use taxes

AN ACT to repeal sections 137.016, 144.030, and 144.087, RSMo, and to enact in lieu thereof four new sections relating to taxation.

SECTION

A. Enacting clause.
137.016. Real property, subclasses of, defined — political subdivision may adjust operating levy to recoup revenue, when — reclassification to apply, when — placement of certain property within proper subclass, factors considered.
144.026. Director of revenue prohibited from notifying taxpayers of a particular court decision before August 28, 2017.
144.030. Exemptions from state and local sales and use taxes.
144.087. Retail sales licensee to give bond, when — cash bond deposit and refund — licensee in default has option to provide letter of credit or certificate of deposit.

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

SECTION A. ENACTING CLAUSE. — Sections 137.016, 144.030, and 144.087, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 137.016, 144.026, 144.030, and 144.087, to read as follows:

137.016. REAL PROPERTY, SUBCLASSES OF, DEFINED — POLITICAL SUBDIVISION MAY ADJUST OPERATING LEVY TO RECOUP REVENUE, WHEN — RECLASSIFICATION TO APPLY, WHEN — PLACEMENT OF CERTAIN PROPERTY WITHIN PROPER SUBCLASS, FACTORS CONSIDERED. — 1. As used in section 4(b) of article X of the Missouri Constitution, the following terms mean:

(1) "Residential property", all real property improved by a structure which is used or intended to be used for residential living by human occupants, vacant land in connection with an airport, land used as a golf course, manufactured home parks**, bed and breakfast inns in which the owner resides and uses as a primary residence with six or fewer rooms for rent**, and time-share units as defined in section 407.600, except to the extent such units are actually rented and subject to sales tax under subdivision (6) of subsection 1 of section 144.020, but residential property shall not include other similar facilities used primarily for transient housing. For the purposes of this section, "transient housing" means all rooms available for rent or lease for which the receipts from the rent or lease of such rooms are subject to state sales tax pursuant to subdivision (6) of subsection 1 of section 144.020;

(2) "Agricultural and horticultural property", all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding and management of livestock which shall include breeding, showing, and boarding of horses; to dairying, or to any other combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. Agricultural and horticultural property shall also include land devoted to and qualifying for payments or other compensation under a soil conservation or agricultural assistance program under an agreement with an agency of the federal government. Agricultural and horticultural property shall further include land and improvements, exclusive of structures, on privately owned airports that qualify as reliever airports under the National Plan of Integrated Airports System, to receive federal airport improvement project funds through the Federal Aviation Administration. Real property classified as forest croplands shall not be agricultural or horticultural property so long as it is classified as forest croplands and shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution. Agricultural and horticultural property shall also include any sawmill or planing mill defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number 2421;

(3) "Utility, industrial, commercial, railroad and other real property", all real property used directly or indirectly for any commercial, mining, industrial, manufacturing, trade, professional, business, or similar purpose, including all property centrally assessed by the state tax commission but shall not include floating docks, portions of which are separately owned and the remainder of which is designated for common ownership and in which no one person or business entity owns more than five individual units. All other real property not included in the property listed in subclasses (1) and (2) of section 4(b) of article X of the Missouri Constitution, as such property is defined in this section, shall be deemed to be included in the term "utility, industrial, commercial, railroad and other real property".

2. Pursuant to article X of the state constitution, any taxing district may adjust its operating levy to recoup any loss of property tax revenue, except revenues from the surtax imposed pursuant to article X, subsection 2 of section 6 of the constitution, as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units if such adjustment of the levy does not exceed the highest tax rate in effect subsequent to the 1980 tax year. For purposes of this section, loss in revenue shall include the difference between the revenue that would have been collected on such property under its classification prior to enactment of this section and the amount to be collected under its classification under this section. The county assessor of each county or city not within a county shall provide information to each taxing district within its boundaries regarding the difference in assessed valuation of such property as the result of such change in classification.

3. All reclassification of property as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units shall apply to assessments made after December 31, 1994.

4. Where real property is used or held for use for more than one purpose and such uses result in different classifications, the county assessor shall allocate to each classification the percentage of the true value in money of the property devoted to each use; except that, where agricultural and horticultural property, as defined in this section, also contains a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to five acres immediately surrounding such farm dwelling shall be residential property, as defined in this section.

5. All real property which is vacant, unused, or held for future use; which is used for a private club, a not-for-profit or other nonexempt lodge, club, business, trade, service organization, or similar entity; or for which a determination as to its classification cannot be made under the definitions set out in subsection 1 of this section, shall be classified according to its immediate most suitable economic use, which use shall be determined after consideration of:

(1) Immediate prior use, if any, of such property;

(2) Location of such property;

(3) Zoning classification of such property; except that, such zoning classification shall not be considered conclusive if, upon consideration of all factors, it is determined that such zoning classification does not reflect the immediate most suitable economic use of the property;

(4) Other legal restrictions on the use of such property;

(5) Availability of water, electricity, gas, sewers, street lighting, and other public services for such property;

(6) Size of such property;

(7) Access of such property to public thoroughfares; and

(8) Any other factors relevant to a determination of the immediate most suitable economic use of such property.

6. All lands classified as forest croplands shall not, for taxation purposes, be classified as subclass (1), subclass (2), or subclass (3) real property, as such classes are prescribed in section 4(b) of article X of the Missouri Constitution and defined in this section, but shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution.

144.026. DIRECTOR OF REVENUE PROHIBITED FROM NOTIFYING TAXPAYERS OF A PARTICULAR COURT DECISION BEFORE AUGUST 28, 2017. — The director of revenue shall not send notice to any taxpayer under subsection 2 of section 144.021 regarding the decision in IBM Corporation v. Director of Revenue, Case No. 94999 (Mo. banc 2016) prior to August 28, 2017.

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;

(44) Any new or used aircraft sold or delivered in this state to a person who is not a resident of this state or a corporation that is not incorporated in this state, and such aircraft is not to be based in this state and shall not remain in this state more than ten business days subsequent to the last to occur of:

(a) The transfer of title to the aircraft to a person who is not a resident of this state or a corporation that is not incorporated in this state; or

(b) The date of the return to service of the aircraft in accordance with 14 CFR 91.407 for any maintenance, preventive maintenance, rebuilding, alterations, repairs, or installations that are completed contemporaneously with the transfer of title to the aircraft to a person who is not a resident of this state or a corporation that is not incorporated in this state**;**

(45) All internet access or the use of internet access regardless of whether the tax is imposed on a provider of internet access or a buyer of internet access. For purposes of this subdivision, the following terms shall mean:

(a) "Direct costs", costs incurred by a governmental authority solely because of an internet service provider's use of the public right-of-way. The term shall not include costs that the governmental authority would have incurred if the internet service provider did not make such use of the public right-of-way. Direct costs shall be determined in a manner consistent with generally accepted accounting principles;

(b) "Internet", computer and telecommunications facilities, including equipment and operating software, that comprises the interconnected worldwide network that employ the Transmission Control Protocol or Internet Protocol, or any predecessor or successor protocols to that protocol, to communicate information of all kinds by wire or radio;

(c) "Internet access", a service that enables users to connect to the internet to access content, information, or other services without regard to whether the service is referred to as telecommunications, communications, transmission, or similar services, and without regard to whether a provider of the service is subject to regulation by the Federal Communications Commission as a common carrier under 47 U.S.C. Section 201, et seq. For purposes of this subdivision, "internet access" also includes: the purchase, use, or sale of communications services, including telecommunications services as defined in section 144.010, to the extent the communications services are purchased, used, or sold to provide the service described in this subdivision or to otherwise enable users to access content, information, or other services offered over the internet; services that are incidental to the provision of a service described in this subdivision, when furnished to users as part of such service, including a home page, electronic mail, and instant messaging, including voice-capable and video-capable electronic mail and instant messaging, video clips, and personal electronic storage capacity; a home page electronic mail and instant messaging, including voice-capable and video-capable electronic mail and instant messaging, video clips, and personal electronic storage capacity that are provided independently or that are not packed with internet access. As used in this subdivision, "internet access" does not include voice, audio, and video programming or other products and services, except services described in this paragraph or this subdivision, that use internet protocol or any successor protocol and for which there is a charge, regardless of whether the charge is separately stated or aggregated with the charge for services described in this paragraph or this subdivision;

(d) "Tax", any charge imposed by the state or a political subdivision of the state for the purpose of generating revenues for governmental purposes and that is not a fee imposed for a specific privilege, service, or benefit conferred, except as described as otherwise under this subdivision, or any obligation imposed on a seller to collect and to remit to the state or a political subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer by such a governmental entity. The term "tax" shall not include any franchise fee or similar fee imposed or authorized under sections 67.1830 or 67.2689; sections 622 or 653 of the Communications Act of 1934, 47 U.S.C. Section 542 and 47

U.S.C. Section 573; or any other fee related to obligations of telecommunications carriers under the Communications Act of 1934, 47 U.S.C. Section 151 et seq., except to the extent that:

a. The fee is not imposed for the purpose of recovering direct costs incurred by the franchising or other governmental authority from providing the specific privilege, service, or benefit conferred to the payer of the fee; or

b. The fee is imposed for the use of a public right-of-way based on a percentage of the service revenue, and the fee exceeds the incremental direct costs incurred by the governmental authority associated with the provision of that right-of-way to the provider of internet access service.

Nothing in this subdivision shall be interpreted as an exemption from taxes due on goods or services that were subject to tax on January 1, 2016.

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.

144.087. RETAIL SALES LICENSEE TO GIVE BOND, WHEN — CASH BOND DEPOSIT AND REFUND — LICENSEE IN DEFAULT HAS OPTION TO PROVIDE LETTER OF CREDIT OR CERTIFICATE OF DEPOSIT. — 1. The director of revenue shall require all applicants for retail sales licenses and all licensees in default in filing a return and paying their taxes when due to file a bond in an amount to be determined by the director, which may be a corporate surety bond or a cash bond, but such bond shall not be more than **[**three**]** **two** times the average monthly tax liability of the taxpayer, estimated in the case of a new applicant, otherwise based on the previous twelve months' experience. At such time as the director of revenue shall deem the amount of a bond required by this section to be insufficient to cover the average monthly tax liability of a given taxpayer, he may require such taxpayer to adjust the amount of the bond to the level satisfactory to the director which will cover the amount of such liability. The director shall, after a reasonable period of satisfactory tax compliance for **[**two years**]** **one year** from the initial date of bonding, release such taxpayer from the bonding requirement as set forth in this section. All itinerant or temporary businesses shall be required to procure the license and post the bond required under the provisions of sections 144.083 and 144.087 prior to the selling of goods at retail, and in the event that such business is to be conducted for less than one month, the amount of the bond shall be determined by the director.

2. All cash bonds shall be deposited by the director of revenue into the state general revenue fund, and shall be released to the taxpayer pursuant to subsection 1 of this section from funds appropriated by the general assembly for such purpose. If appropriated funds are available, the commissioner of administration and the state treasurer shall cause such refunds to be paid within thirty days of the receipt of a warrant request for such payment from the director of the department of revenue.

3. An applicant or licensee in default may, in lieu of filing any bond required under this section, provide the director of revenue with an irrevocable letter of credit, as defined in section 400.5-103, issued by any state or federally chartered financial institution, in an amount to be determined by the director or may obtain a certificate of deposit issued by any state or federally

chartered financial institution, in an amount to be determined by the director, where such certificate of deposit is pledged to the department of revenue until released by the director in the same manner as bonds are released pursuant to subsection 1 of this section. As used in this subsection, the term "certificate of deposit" means a certificate representing any deposit of funds in a state or federally chartered financial institution for a specified period of time which earns interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a specified time without forfeiture of some or all of the earned interest.

Approved June 28, 2016

SB 833 [CCS HCS SB 833]

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 financial transactions

AN ACT to repeal sections 313.800, 313.817, 327.272, 381.022, and 381.058, RSMo, and to enact in lieu thereof ten new sections relating to financial transactions, with existing penalty provisions.

SECTION

A. Enacting clause.
313.800. Definitions — additional games of skill, commission approval, procedures.
313.817. Wagering, conduct of, requirements — persons under twenty-one years of age not allowed to wager or be employed as a dealer — invasion of privacy protections — presentation of false identification a misdemeanor — credit instruments, use of, requirements.
327.272. Practice as professional land surveyor defined.
376.998. Health insurance mandate exemption for excepted benefit plans — definitions — procedure to exempt.
381.022. Title insurer, agency or agent not affiliated with a title agency may operate as an escrow, security, settlement or closing agent, when, penalty for violations.
381.058. License required for insurer to transact business of title insurance, exclusive to other types of insurance business, limitations — closing or settlement protection authorized.
408.800. Definitions.
408.810. Savings promotion program authorized, conditions.
408.820. Compliance with federal American Savings Promotion Act.
408.830. Programs not gambling, gaming, lottery, raffle, or sweepstake.

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

SECTION A. ENACTING CLAUSE. — Sections 313.800, 313.817, 327.272, 381.022, and 381.058, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 313.800, 313.817, 327.272, 376.998, 381.022, 381.058, 408.800, 408.810, 408.820, and 408.830, to read as follows:

313.800. DEFINITIONS — ADDITIONAL GAMES OF SKILL, COMMISSION APPROVAL, PROCEDURES. — 1. As used in sections 313.800 to 313.850, unless the context clearly requires otherwise, the following terms mean:

(1) "Adjusted gross receipts", the gross receipts from licensed gambling games and devices less winnings paid to wagerers;

(2) "Applicant", any person applying for a license authorized under the provisions of sections 313.800 to 313.850;

(3) "Bank", the elevations of ground which confine the waters of the Mississippi or Missouri Rivers at the ordinary high water mark as defined by common law;

(4) "Capital, cultural, and special law enforcement purpose expenditures" shall include any disbursement, including disbursements for principal, interest, and costs of issuance and trustee administration related to any indebtedness, for the acquisition of land, land improvements, buildings and building improvements, vehicles, machinery, equipment, works of art, intersections, signing, signalization, parking lot, bus stop, station, garage, terminal, hanger, shelter, dock, wharf, rest area, river port, airport, light rail, railroad, other mass transit, pedestrian shopping malls and plazas, parks, lawns, trees, and other landscape, convention center, roads, traffic control devices, sidewalks, alleys, ramps, tunnels, overpasses and underpasses, utilities, streetscape, lighting, trash receptacles, marquees, paintings, murals, fountains, sculptures, water and sewer systems, dams, drainage systems, creek bank restoration, any asset with a useful life greater than one year, cultural events, and any expenditure related to a law enforcement officer deployed as horse-mounted patrol, school resource or drug awareness resistance education (D.A.R.E) officer;

(5) "Cheat", to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game;

(6) "Commission", the Missouri gaming commission;

(7) "Credit instrument", a written check, negotiable instrument, automatic bank draft or other authorization from a qualified person to an excursion gambling boat licensee or any of its affiliated companies licensed by the commission authorizing the licensee to withdraw the amount of credit extended by the licensee to such person from the qualified person's banking account **in an amount determined under section 313.817** on or after a date certain of not more than thirty days from the date the credit was extended, and includes any such writing taken in consolidation, redemption or payment of a previous credit instrument, but does not include any interest-bearing installment loan or other extension of credit secured by collateral;

(8) "Dock", the location in a city or county authorized under subsection 10 of section 313.812 which contains any natural or artificial space, inlet, hollow, or basin, in or adjacent to a bank of the Mississippi or Missouri Rivers, next to a wharf or landing devoted to the embarking of passengers on and disembarking of passengers from a gambling excursion but shall not include any artificial space created after May 20, 1994, and is located more than one thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers;

(9) "Excursion gambling boat", a boat, ferry or other floating facility licensed by the commission on which gambling games are allowed;

(10) "Fiscal year" shall for the purposes of subsections 3 and 4 of section 313.820 mean the fiscal year of a home dock city or county;

(11) "Floating facility", any facility built or originally built as a boat, ferry or barge licensed by the commission on which gambling games are allowed;

(12) "Gambling excursion", the time during which gambling games may be operated on an excursion gambling boat whether docked or during a cruise;

(13) "Gambling game" includes, but is not limited to, games of skill or games of chance on an excursion gambling boat but does not include gambling on sporting events; provided such games of chance are approved by amendment to the Missouri Constitution;

(14) "Games of chance", any gambling game in which the player's expected return is not favorably increased by his or her reason, foresight, dexterity, sagacity, design, information or strategy;

(15) "Games of skill", any gambling game in which there is an opportunity for the player to use his or her reason, foresight, dexterity, sagacity, design, information or strategy to favorably increase the player's expected return; including, but not limited to, the gambling games known as "poker", "blackjack" (twenty-one), "craps", "Caribbean stud", "pai gow poker", "Texas hold'em", "double down stud", and any video representation of such games;

(16) "Gross receipts", the total sums wagered by patrons of licensed gambling games;

(17) "Holder of occupational license", a person licensed by the commission to perform an occupation within excursion gambling boat operations which the commission has identified as requiring a license;

(18) "Licensee", any person licensed under sections 313.800 to 313.850;

(19) "Mississippi River" and "Missouri River", the water, bed and banks of those rivers, including any space filled by the water of those rivers for docking purposes in a manner approved by the commission but shall not include any artificial space created after May 20, 1994, and is located more than one thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers;

(20) "Supplier", a person who sells or leases gambling equipment and gambling supplies to any licensee.

2. In addition to the games of skill defined in this section, the commission may approve other games of skill upon receiving a petition requesting approval of a gambling game from any applicant or licensee. The commission may set the matter for hearing by serving the applicant or licensee with written notice of the time and place of the hearing not less than five days prior to the date of the hearing and posting a public notice at each commission office. The commission shall require the applicant or licensee to pay the cost of placing a notice in a newspaper of general circulation in the applicant's or licensee's home dock city or county. The burden of proof that the gambling game is a game of skill is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing his or her case by a preponderance of evidence including:

(1) Is it in the best interest of gaming to allow the game; and

(2) Is the gambling game a game of chance or a game of skill?

All testimony shall be given under oath or affirmation. Any citizen of this state shall have the opportunity to testify on the merits of the petition. The commission may subpoena witnesses to offer expert testimony. Upon conclusion of the hearing, the commission shall evaluate the record of the hearing and issue written findings of fact that shall be based exclusively on the evidence and on matters officially noticed. The commission shall then render a written decision on the merits which shall contain findings of fact, conclusions of law and a final commission order. The final commission order shall be within thirty days of the hearing. Copies of the final commission order shall be served on the petitioner by certified or overnight express mail, postage prepaid, or by personal delivery.

313.817. WAGERING, CONDUCT OF, REQUIREMENTS — PERSONS UNDER TWENTY-ONE YEARS OF AGE NOT ALLOWED TO WAGER OR BE EMPLOYED AS A DEALER — INVASION OF PRIVACY PROTECTIONS — PRESENTATION OF FALSE IDENTIFICATION A MISDEMEANOR — CREDIT INSTRUMENTS, USE OF, REQUIREMENTS. — 1. Except as permitted in this section, the licensee licensed to operate gambling games shall permit no form of wagering on gambling games.

2. The licensee may receive wagers only from a person present on a licensed excursion gambling boat.

3. Wagering shall not be conducted with money or other negotiable currency. The licensee shall exchange the money or credit instrument of each wagerer for electronic or physical tokens, chips, or other forms of credit to be wagered on the gambling games. The licensee shall exchange the tokens, chips, or other forms of wagering credit for money at the request of the wagerer.

4. A person under twenty-one years of age shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted; provided that employees of the licensed operator of the excursion gambling boat who have attained eighteen years of age shall be permitted in the area in which gambling is being conducted when performing employment-related duties, except that no one under twenty-one years of age may be employed as a dealer or accept a wager on an excursion

gambling boat. The governing body of a home dock city or county may restrict the age of entrance onto an excursion gambling boat by passage of a local ordinance.

5. In order to help protect patrons from invasion of privacy and the possibility of identity theft, patrons shall not be required to provide fingerprints, retinal scans, biometric forms of identification, any type of patron-tracking cards, or other types of identification prior to being permitted to enter the area where gambling is being conducted on an excursion gambling boat or to make a wager, except that, for purposes of establishing that a patron is at least twenty-one years of age as provided in subsection 4 above, a licensee operating an excursion gambling boat shall be authorized to request such patron to provide a valid state or federal photo identification or a valid passport. This section shall not prohibit enforcement of identification requirements that are required by federal law. This section shall not prohibit enforcement of any Missouri statute requiring identification of patrons for reasons other than being permitted to enter the area of an excursion gambling boat where gambling is being conducted or to make a wager.

6. A licensee shall only allow wagering and conduct gambling games at the times allowed by the commission.

7. It shall be unlawful for a person to present false identification to a licensee or a gaming agent in order to gain entrance to an excursion gambling boat, cash a check or verify that such person is legally entitled to be present on the excursion gambling boat. Any person who violates the provisions of this subsection shall be guilty of a class B misdemeanor for the first offense and a class A misdemeanor for second and subsequent offenses.

8. Credit instruments executed on or after August 28, **[**2014**]** **2016**, are valid contracts creating debt that is enforceable by legal process. A licensee may accept credit instruments from a qualified person in exchange for currency, chips, tokens, or electronic tokens that can be wagered on gambling games at the licensee's excursion gambling boat. For the purposes of this subsection, "qualified person" means a person who has completed a credit application provided by the licensee and who is determined by the licensee, after performing a credit check and applying usual standards to establish creditworthiness, to qualify for a line of credit **[**of at least ten thousand dollars**]** **and in an amount to be determined by the licensee under the restrictions in subsection 9 of this section based on such person's demand deposit account or accounts, including any checking account and savings account**. Once the licensee makes the determination that a person is a qualified person, additional credit checks are not required. Approval to accept a credit instrument from a qualified person shall be made by the holder of an occupational license. **[**A licensee may accept multiple credit instruments from the same person to consolidate or redeem a previous credit instrument.**]** **If a new credit instrument is issued to consolidate or replace an existing credit instrument or instruments, the new credit instrument shall use the oldest date of the credit instrument or instruments being replaced.** A lost or destroyed credit instrument shall remain valid and enforceable if the party seeking enforcement can prove its existence and terms. Any person who violates this subsection is subject only to the penalties provided in section 313.812. The commission shall have no authority to determine the validity or enforceability of a credit instrument or the enforceability of the debt that the credit instrument represents. Failure to comply with any regulation promulgated by the commission shall not impact the validity or enforceability of the credit instrument or the debt that the credit instrument represents.

9. In addition to the other creditor protections contained in this section, a licensee **[**may**]** **shall** not lend anything of value or extend credit to any person for the purpose of permitting that person to wager on any gambling game except through the use of a credit instrument**; credit instruments of ten thousand dollars or less may be accepted only if the licensee determines the qualified person's creditworthiness to be at least twice the amount of the credit instrument or ten thousand dollars, whichever is less; credit instruments of more than ten thousand dollars may be accepted only if the licensee determines the qualified person's creditworthiness to be equal or in excess of the amount of the credit instrument; and no credit instrument shall be secured by any individual's house or other real property,**

tangible personal property, investments, IRAs, a 401(k), pensions or other retirement accounts, any college savings plans, or any assets whatsoever other than a demand deposit account or accounts. All credit instruments shall provide that any credit extended shall be due no later than thirty days from the date credit is extended. Credit instruments shall be considered an unsecured loan and shall not bear interest.

10. No credit shall be extended to a person who is intoxicated.

327.272. PRACTICE AS PROFESSIONAL LAND SURVEYOR DEFINED. — 1. A professional land surveyor shall include any person who practices in Missouri as a professional land surveyor who uses the title of "surveyor" alone or in combination with any other word or words including, but not limited to "registered", "professional" or "land" indicating or implying that the person is or holds himself or herself out to be a professional land surveyor who by word or words, letters, figures, degrees, titles or other descriptions indicates or implies that the person is a professional land surveyor or is willing or able to practice professional land surveying or who renders or offers to render, or holds himself or herself out as willing or able to render, or perform any service or work, the adequate performance of which involves the special knowledge and application of the principles of land surveying, mathematics, the related physical and applied sciences, and the relevant requirements of law, all of which are acquired by education, training, experience and examination, that affect real property rights on, under or above the land and which service or work involves:

(1) The determination, location, relocation, establishment, reestablishment, layout, or retracing of land boundaries and positions of the United States Public Land Survey System;

(2) The monumentation of land boundaries, land boundary corners and corners of the United States Public Land Survey System;

(3) The subdivision of land into smaller tracts and preparation of property descriptions;

(4) The survey and location of rights-of-way and easements;

(5) Creating, preparing, or modifying electronic or computerized data relative to the performance of the activities in subdivisions (1) to (4) of this subsection;

(6) Consultation, investigation, design surveys, evaluation, planning, design and execution of surveys;

(7) The preparation of any drawings showing the shape, location, dimensions or area of tracts of land;

(8) Monumentation of geodetic control and the determination of their horizontal and vertical positions;

(9) Establishment of state plane coordinates;

(10) Topographic surveys and the determination of the horizontal and vertical location of any physical features on, under or above the land;

(11) The preparation of plats, maps or other drawings showing elevations and the locations of improvements and the measurement and preparation of drawings showing existing improvements after construction;

(12) Layout of proposed improvements;

(13) The determination of azimuths by astronomic observations.

2. None of the specific duties listed in subdivisions (4) to (13) of subsection 1 of this section are exclusive to professional land surveyors unless they affect real property rights. For the purposes of this section, the term "real property rights" means a recordable interest in real estate as it affects the location of land boundary lines. The validity of any document prepared between August 27, 2014, and August 28, 2015, by a provider of utility or communications services purporting to affect real property rights shall remain valid and enforceable notwithstanding that any legal description contained therein was not prepared by a professional land surveyor.

3. Professional land surveyors shall be in responsible charge of all drawings, maps, surveys, and other work product that can affect the health, safety, and welfare of the public within their scope of practice.

4. Nothing in this section shall be construed to preclude the practice of architecture or professional engineering or professional landscape architecture as provided in sections 327.091, 327.181, and 327.600.

5. Nothing in this section shall be construed to preclude the practice of title insurance business or the business of title insurance as provided in chapter 381, or to preclude the practice of law or law business as governed by the Missouri supreme court and as provided in chapter 484.

376.998. HEALTH INSURANCE MANDATE EXEMPTION FOR EXCEPTED BENEFIT PLANS — DEFINITIONS — PROCEDURE TO EXEMPT. — 1. As used in this section, the following terms shall mean:

(1) "Excepted benefit plan", a policy or certificate of insurance extending the following coverages or any combination thereof:

(a) Coverage under short-term major medical policies;

(b) Coverage only for accident, including accidental death and dismemberment, insurance;

(c) Coverage only for disability income insurance;

(d) Credit-only insurance;

(e) Other similar insurance coverage under which benefits for medical care are supplemental to other insurance benefits;

(f) Coverage only for a specified disease or illness; or

(g) Hospital indemnity or other fixed indemnity insurance;

(2) "Health benefit plan", "health care services", "health carrier", and "health care provider", the same meaning as under section 376.1350;

(3) "Health insurance mandate", a requirement under state law for a health carrier to offer or provide coverage for:

(a) A treatment by a particular type of health care provider;

(b) A certain treatment or service, including procedures, medical equipment, or drugs that are used in connection with a treatment or service; or

(c) Screening, diagnosis, or treatment of a particular disease or condition;

(4) "Notice", a requirement under Missouri law to disclose information regarding the availability of certain benefits or services under a health benefit plan.

2. Excepted benefit plans shall be exempt from any health insurance mandate enacted on or after August 28, 2016, unless the statute enacting such mandate expressly declares that it is applicable to excepted benefit plans as defined in this section.

3. Notwithstanding the provisions of any other law to the contrary, the director may, by bulletin, exempt a type of excepted benefit plan from notice or disclosure requirements required by statute for specific services that by custom, are not covered by the particular type of excepted benefit plans being exempted.

4. This section shall apply to an excepted benefit plan to the extent the excepted benefit plan does not materially change coverage to provide for the reimbursement of health care services which extend beyond the types of health care services customarily provided by the specific type of excepted benefit plan or where the combination of coverages and benefits would otherwise meet the definition of a health benefit plan.

381.022. TITLE INSURER, AGENCY OR AGENT NOT AFFILIATED WITH A TITLE AGENCY MAY OPERATE AS AN ESCROW, SECURITY, SETTLEMENT OR CLOSING AGENT, WHEN, PENALTY FOR VIOLATIONS. — 1. As used in sections 381.011 to 381.412, the following terms mean:

(1) "Escrow", written instruments, money or other items deposited by one party with a depository, escrow agent, or escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event;

(2) "Qualified depository institution", an institution that is:

(a) Organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(b) Regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies;

(c) Insured by the appropriate federal entity; and

(d) Qualified under any additional rules established by the director;

(3) "Security" or "security deposit", funds or other property received by the title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement under which the insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage.

2. A title insurer, title agency, or title agent not affiliated with a title agency may operate as an escrow, security, settlement, or closing agent, provided that all funds deposited with the title insurer, title agency, or title agent not affiliated with a title agency, pursuant to written instructions in connection with any escrow, settlement, closing, or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository institution no later than the close of the second business day after receipt, in accordance with the following requirements:

(1) The funds regulated under this section shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit, or closing agreement and shall be segregated for each depository by escrow, settlement, security deposit, or closing in the records of the title insurer, title agency, or title agent not affiliated with a title agency, in a manner that permits the funds to be identified on an individual basis and in accordance with the terms of the individual written instructions or agreements under which the funds were accepted; and

(2) The funds shall be applied only in accordance with the terms of the individual written instructions or agreements under which the funds were accepted.

3. It is unlawful for any person to:

(1) Commingle personal or any other moneys with escrow funds regulated under this section;

(2) Use such escrow funds to pay or indemnify against debts of the title insurance agent or of any other person;

(3) Use such escrow funds for any purpose other than to fulfill the terms of the individual written escrow instructions after the necessary conditions of the written escrow instructions have been met;

(4) Disburse any funds held in an escrow account unless the disbursement is made under a written instruction or agreement specifying under what conditions and to whom such funds may be disbursed or under an order of a court of competent jurisdiction; or

(5) Disburse any funds held in a security deposit account unless the disbursement is made under a written agreement specifying:

(a) What actions the indemnitor shall take to satisfy his or her obligation under the agreement;

(b) The duties of the title insurer, title agency, or title agent not affiliated with a title agency with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(c) Any other provisions the director may require by rule or order.

4. Notwithstanding the provisions of subsection 3 of this section, any bank credits, bank services, interest, or similar consideration received on funds deposited in connection with any escrow, settlement, security deposit, or closing may be retained by the title insurer, title agency, or title agent not affiliated with a title agency as compensation for administration of the escrow

or security deposit, unless the specific written instructions for the funds or a governing statute provides otherwise.

5. Notwithstanding the provisions of subsection 2 of this section, a title insurer, title agency, or title agent is not authorized to provide such services as an escrow, security, settlement, or closing agent in a residential real estate transaction unless as part of the same transaction the title insurer, title agency, or title agent issues a commitment, binder, or title insurance policy and closing protection letters have been issued protecting the buyer's**, lender's,** and the seller's interests, or **if a title insurance policy is not being issued by the title insurer, title agency, or title agent, the title insurer,** the title agency**,** or **title** agent has given written notice to the affected person in a title insurance commitment or on a form approved by rule promulgated by the director that the person's interest in the closing or settlement is not protected by the title insurer, title agency, or title agent.

6. It is unlawful for any **title insurer,** title agency**,** or **title** agent to engage in the handling of an escrow, settlement or closing of a residential real estate transaction unless the escrow handling, settlement or closing is conducted or performed in contemplation of and in conjunction with the issuance of a title insurance policy **[**or**]** **and** a closing protection letter, or **if a title insurance policy is not being issued by the title insurer, title agency, or title agent,** prior to the receipt of any funds, the **title insurer,** title agency**,** or **title** agent clearly discloses to the seller, buyer or lender involved in such escrow, settlement or closing, that no title insurer is providing any protection for closing or settlement funds received by the title agency or agent.

7. A violation of any provision under this section is a level three violation under section 374.049.

381.058. LICENSE REQUIRED FOR INSURER TO TRANSACT BUSINESS OF TITLE INSURANCE, EXCLUSIVE TO OTHER TYPES OF INSURANCE BUSINESS, LIMITATIONS — CLOSING OR SETTLEMENT PROTECTION AUTHORIZED. — 1. No insurer that transacts any class, type, or kind of business other than title insurance shall be eligible for the issuance or renewal of a license to transact the business of title insurance in this state nor shall title insurance be transacted, underwritten, or issued by any insurer transacting or licensed to transact any other class, type, or kind of business.

2. A title insurer shall not engage in the business of guaranteeing payment of the principal or the interest of bonds or mortgages.

3. (1) Notwithstanding subsection 1 of this section or anything else to the contrary in sections 381.011 to 381.405, a title insurer is expressly authorized to issue closing or settlement protection letters (and to collect a fee for such issuance) in all transactions where its title insurance policies are issued and where its issuing agent or agency is performing settlement services and shall do so in favor of **[**and upon request by**]** the applicable buyer, lender, or seller in **[**such transaction**]** **all residential real estate transactions**. Such closing or settlement protection letter form shall be filed with the director under section 381.085 and shall conform to the terms of coverage and form of instrument as required by rule of the director and shall indemnify a buyer, lender, or seller solely against losses not to exceed the amount of the settlement funds only because of the following acts of the title insurer's named issuing title agency or title agent:

(a) Acts of theft of settlement funds or fraud with regard to settlement funds; and

(b) Failure to comply with written closing instructions by the proposed insured when agreed to by the title agency or title agent relating to title insurance coverage.

(2) The rate for issuance of a closing or settlement protection letter in a residential real estate transaction indemnifying a lessee or purchaser of an interest in land, a borrower, or a lender secured by a mortgage, including any other security instrument, of an interest in land shall be filed as a rate with the director.

(3) The rate for issuance of a closing or settlement protection letter in a residential real estate transaction indemnifying a seller of an interest in land shall be filed as a separate rate with the director.

(4) Such filed rate shall not be excessive or inadequate. The entire rate for the closing or settlement protection letter shall be retained by the title insurer.

(5) Except as provided under this section or section 381.403, a title insurer shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.

408.800. DEFINITIONS. — As used in sections 408.800 to 408.830, the following terms shall mean:

(1) "American Savings Promotion Act", Public Law 113-251, enacted by the 113th United States Congress;

(2) "Eligible account", an insured deposit account offered by an eligible financial institution that provides an incentive savings program authorized under sections 408.800 to 408.830. This shall include any account in which an individual has either a joint or individual interest, any trust account, or similar account held for a beneficiary. For individual accounts, one individual account holder shall be eighteen years of age or older to be eligible. The eligibility of the account shall not be affected by the designation of a transfer on death beneficiary;

(3) "Eligible financial institution", a federally insured depository institution that is state or federally chartered and is authorized to accept deposits that are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration;

(4) "Eligible financial program":

(a) Any savings program or product that an eligible financial institution offers to participants for the purpose of:

a. Encouraging savings by participants; or

b. Providing participants the opportunity to use and control their own moneys in order to improve his or her economic and social condition;

(b) Programs or products that encourage or require participants to:

a. Open one or more eligible accounts; or

b. Increase deposits or contributions to one or more eligible accounts; or

(c) Programs or products that encourage or require participants to deposit or transfer moneys into one or more eligible accounts on a recurring or automatic basis;

(5) "Participant", any owner of an eligible account;

(6) "Savings promotion program", a promotion in which a chance of winning designated prizes is obtained by the deposit of a specified amount of moneys in a savings account or other savings program offered by an eligible financial institution to participants in which each entry has an equal chance of being drawn where the participants own the savings account or other savings program.

408.810. SAVINGS PROMOTION PROGRAM AUTHORIZED, CONDITIONS. — Eligible financial institutions may offer and conduct a savings promotion program under the following conditions:

(1) The terms and conditions of the savings promotion program shall allow an eligible account to obtain one or more entries to win a specified prize. Eligible accounts shall obtain entry for a savings promotion program by maintaining an eligible account with a minimum specified amount of moneys in accordance with the terms and conditions of the savings promotion program;

(2) Beyond meeting the requirement in subdivision (1) of this section, participants in the savings promotion program shall not be required to provide any consideration to obtain chances to win prizes. By meeting the requirement in subdivision (1) of this section, participants shall not be deemed to have given consideration;

(3) Participants shall not be deemed to have provided consideration merely because:

(a) The participant makes deposits into savings accounts or other savings programs that remain under the ownership of the participant;

(b) The interest rate, if any, of the participant's account is lower than the interest rate associated with comparable accounts; or

(c) The participant pays any fee or amount to administer or maintain the participant's account that the financial institution ordinarily and customarily charges an individual who does not participate in the savings promotion program; and

(4) Each entry into the savings promotion program shall have an equal chance of being drawn.

408.820. COMPLIANCE WITH FEDERAL AMERICAN SAVINGS PROMOTION ACT. — Eligible financial institutions that choose to offer savings promotion programs shall comply with the requirements of the American Savings Promotion Act and the regulations promulgated by the federal prudential regulators of the eligible financial institutions applicable to the savings promotion program.

408.830. PROGRAMS NOT GAMBLING, GAMING, LOTTERY, RAFFLE, OR SWEEPSTAKE — Savings promotion programs under sections 408.800 to 408.830 shall not constitute gambling, gaming, a lottery, raffle, or sweepstakes as defined by any other statute.

Approved July 1, 2016

SB 838 [SS SCS SB 838]

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 court to order a wireless service provider to transfer the rights of a wireless telephone number to a petitioner under certain circumstances

AN ACT to repeal sections 455.050 and 455.523, RSMo, and to enact in lieu thereof two new sections relating to the transfer of wireless telephone numbers.

SECTION

A. Enacting clause.

455.050. Full or ex parte order of protection, abuse, stalking, or sexual assault, contents — relief available — court may order transfer billing responsibility of wireless telephone, when, procedure.

455.523. Full order of protection — relief available.

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

SECTION A. ENACTING CLAUSE. — Sections 455.050 and 455.523, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 455.050 and 455.523, to read as follows:

455.050. FULL OR EX PARTE ORDER OF PROTECTION, ABUSE, STALKING, OR SEXUAL ASSAULT, CONTENTS — RELIEF AVAILABLE — COURT MAY ORDER TRANSFER BILLING RESPONSIBILITY OF WIRELESS TELEPHONE, WHEN, PROCEDURE. — 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.

9. (1) The court may, in order to ensure that a petitioner can maintain an existing wireless telephone number or numbers, issue an order, after notice and an opportunity to be heard, directing a wireless service provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers to the petitioner, if the petitioner is not the wireless service accountholder.

(2) (a) The order transferring billing responsibility for and rights to the wireless telephone number or numbers to the petitioner shall list the name and billing telephone number of the accountholder, the name and contact information of the person to whom the telephone number or numbers will be transferred, and each telephone number to be transferred to that person. The court shall ensure that the contact information of the petitioner is not provided to the accountholder in proceedings held under this chapter.

(b) Upon issuance, a copy of the full order of protection shall be transmitted, either electronically or by certified mail, to the wireless service provider's registered agent listed with the secretary of state, or electronically to the email address provided by the wireless service provider. Such transmittal shall constitute adequate notice for the wireless service provider acting under sections 455.050 and 455.523.

(c) If the wireless service provider cannot operationally or technically effectuate the order due to certain circumstances, the wireless service provider shall notify the petitioner within three business days. Such circumstances shall include, but not be limited to, the following:

a. The accountholder has already terminated the account;

b. The differences in network technology prevent the functionality of a device on the network; or

c. There are geographic or other limitations on network or service availability.

(3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone number or numbers to the petitioner under this subsection by a wireless service provider, the petitioner shall assume all financial responsibility for the transferred wireless telephone number or numbers, monthly service costs, and costs for any mobile device associated with the wireless telephone number or numbers.

(b) This section shall not preclude a wireless service provider from applying any routine and customary requirements for account establishment to the petitioner as part of this transfer of billing responsibility for a wireless telephone number or numbers and any devices attached to that number or numbers including, but not limited to, identification, financial information, and customer preferences.

(4) This section shall not affect the ability of the court to apportion the assets and debts of the parties as provided for in law, or the ability to determine the temporary use, possession, and control of personal property.

(5) No cause of action shall lie against any wireless service provider, its officers, employees, or agents, for actions taken in accordance with the terms of a court order issued under this section.

(6) As used in this section and section 455.523, a "wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Federal Telecommunications Act of 1996 (47 U.S.C. Section 151, et seq.).

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, 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**;**

(9) Order a wireless service provider, in accordance with the process, provisions, and requirements set out in subdivisions (1) to (6) of subsection 9 of section 455.050, to transfer the billing responsibility for and rights to the wireless telephone number or numbers of any minor children in the petitioner's care to the petitioner, if the petitioner is not the wireless service accountholder.

Approved June 6, 2016

SB 852 [CCS SB 852]

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 Trooper Gary Snodgrass Memorial Bridge

AN ACT to amend chapter 227, RSMo, by adding thereto seven new sections relating to designation of certain memorial infrastructure.

SECTION
A. Enacting clause.
227.432. Judge Vincent E. Baker Memorial Highway designated for a portion of I-470 in Jackson County.
227.435. Trooper Gary Snodgrass Memorial Bridge designated for a Highway 32 bridge in Dent County.
227.443. Special Agent Tom Crowell Memorial Highway designated for a portion of I-49 in Newton County.
227.445. Deputy Sheriff Matthew S. Chism Memorial Highway designated for a portion of State Highway 32 in Cedar County.
227.446. Phyllis D. Shelley Memorial Highway designated for a portion of U.S. Highway 50 in Moniteau County.
227.522. Purple Heart Trail designated for portions of I-49.
227.531. Rosemary Straub Davison Highway designated for a portion of I-270 in St. Louis County.

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

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto seven new sections, to be known as sections 227.432, 227.435, 227.443, 227.445, 227.446, 227.522, and 227.531, to read as follows:

227.432. JUDGE VINCENT E. BAKER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-470 IN JACKSON COUNTY. — The portion of Interstate 470 at the interchange with Woods Chapel Road continuing to Lakewood Boulevard in Jackson County shall be designated as the "Judge Vincent E. Baker Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.435. TROOPER GARY SNODGRASS MEMORIAL BRIDGE DESIGNATED FOR A HIGHWAY 32 BRIDGE IN DENT COUNTY. — The bridge on Highway 32 crossing over the Meramec River in Dent County shall be designated the "Trooper Gary Snodgrass Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating the bridge, with the costs for such designation to be paid for by private donation.

227.443. SPECIAL AGENT TOM CROWELL MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-49 IN NEWTON COUNTY. — The portion of Interstate 49 from its intersection with State Highway 86 continuing north to Iris Road in Newton County shall be designated the "Special Agent Tom Crowell Memorial Highway". Costs for such designation shall be paid for by private donations.

227.445. DEPUTY SHERIFF MATTHEW S. CHISM MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY 32 IN CEDAR COUNTY. — The portion of State Highway 32 from Stockton Dam Road continuing west to State Highway 39/County Road 1401 within the city limits of Stockton in Cedar County shall be designated as the "Deputy Sheriff Matthew S. Chism Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with costs for such designation to be paid for by private donation.

227.446. PHYLLIS D. SHELLEY MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 50 IN MONITEAU COUNTY. — The portion of U.S. Highway 50 from County Line Road continuing west to Mockingbird Road in Moniteau County shall be designated as the "Phyllis D. Shelley Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with costs to be paid for by private donation.

227.522. PURPLE HEART TRAIL DESIGNATED FOR PORTIONS OF I-49. — The portion of Interstate 49 from the city of Pineville in McDonald County north to the intersection of Interstate 435 in Jackson County, except for those portions of Interstate 49 previously

designated as of August 28, 2016, shall be designated the "Purple Heart Trail". Costs for such designation shall be paid by private donations.

227.531. ROSEMARY STRAUB DAVISON HIGHWAY DESIGNATED FOR A PORTION OF I-270 IN ST. LOUIS COUNTY. — The portion of Interstate 270 from the city of Hazelwood in St. Louis County east to the intersection of Florissant Road in Florissant in St. Louis County, except for those portions previously designated as of August 28, 2016, shall be designated the "Rosemary Straub Davison Highway". Costs for such designation shall be paid for by private donations.

Approved July 8, 2016

SB 861 [CCS HCS SCS SB 861]

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 transportation facilities

AN ACT to repeal sections 227.600 and 447.708, RSMo, and to enact in lieu thereof eight new sections relating to tax incentives.

SECTION
A. Enacting clause.
68.075. AIM zones — definitions — establishment, boundaries — retention of tax withholdings on new jobs, amount — fund created, use of moneys — approval of projects — expiration date.
143.1100. Bring jobs home act — definitions — income tax deduction allowed, amount — restrictions — rulemaking authority — sunset.
143.2100. Definitions — report, contents — rulemaking authority.
143.2105. Definitions — income tax deduction for port cargo volume increase, calculation — claiming procedure.
143.2110. Income tax deduction for cargo — amount, claiming procedure.
143.2115. Definitions — income tax deduction for increased qualified trade activities or capital investment for trade activities — amount, claiming procedure, exclusions — aggregation of claims — recapture — guidelines.
227.600. Citation of law — definitions.
447.708. Tax credits, criteria, conditions — definitions — eligibility of certain demolition costs.

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

SECTION A. ENACTING CLAUSE. — Sections 227.600 and 447.708, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 68.075, 143.1100, 143.2100, 143.2105, 143.2110, 143.2115, 227.600, and 447.708, to read as follows:

68.075. AIM ZONES — DEFINITIONS — ESTABLISHMENT, BOUNDARIES — RETENTION OF TAX WITHHOLDINGS ON NEW JOBS, AMOUNT — FUND CREATED, USE OF MONEYS — APPROVAL OF PROJECTS — EXPIRATION DATE. — 1. This section shall be known and may be cited as the "Advanced Industrial Manufacturing Zones Act".

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

(1) "AIM zone", an area identified through a resolution passed by the port authority board of commissioners appointed under section 68.045 that is being developed or redeveloped for any purpose so long as any infrastructure and building built or improved is in the development area. The port authority board of commissioners shall file an annual report indicating the established AIM zones with the department of revenue;

(2) "New job", the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time

employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the employee's work time at the facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage.

3. Any port authority located in this state may establish an AIM zone. Such zone may only include the area within the port authority's jurisdiction and may include any such area. The port authority shall determine the boundaries for each AIM zone, and more than one AIM zone may exist within the port authority's jurisdiction.

4. Fifty percent of the state tax withholdings imposed by sections 143.191 to 143.265 on new jobs within such zone after development or redevelopment has commenced shall not be remitted to the general fund of the state of Missouri. Such moneys shall be deposited into the port authority AIM zone fund established under subsection 5 of this section for the purpose of continuing to expand, develop, and redevelop AIM zones identified by the port authority board of commissioners and may be used for managerial, engineering, legal, research, promotion, planning, satisfaction of bonds issued under section 68.040, and any other expenses.

5. There is hereby created in the state treasury the "Port Authority AIM Zone Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180 to the port authorities from which the funds were collected, less the pro-rata portion appropriated by the general assembly to be used solely for the administration of this section which shall not exceed ten percent of the total amount collected within the zones of a port authority. 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.

6. The port authority shall approve any projects that begin construction and disperse any money collected under this section. The port authority shall submit an annual budget for the funds to the department of economic development explaining how and when such money will be spent.

7. The provision of section 23.253 notwithstanding, no AIM zone may be established after August 28, 2023. Any AIM zone created prior to that date shall continue to exist and be coterminous with the retirement of all debts incurred under subsection 4 of this section. No debts may be incurred or reauthorized using AIM zone revenue after August 28, 2023.

143.1100. BRING JOBS HOME ACT — DEFINITIONS — INCOME TAX DEDUCTION ALLOWED, AMOUNT — RESTRICTIONS — RULEMAKING AUTHORITY — SUNSET. — 1. This section shall be known and may be cited as the "Bring Jobs Home Act".

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

(1) "Business unit":

(a) Any trade or business; and

(b) Any line of business or function unit which is part of any trade or business;

(2) "Deduction":

(a) For individuals, an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income for the tax year in which such deduction is claimed; and

(b) For corporations, an amount subtracted from the taxpayer's Federal taxable income to determine Missouri taxable income for the tax year in which such deduction is claimed;

(3) "Department", the department of economic development;

(4) "Eligible expenses":

(a) Any amount for which a deduction is allowed to the taxpayer under Section 162 of the Internal Revenue Code of 1986, as amended; and

(b) Permit and license fees, lease brokerage fees, equipment installation costs, and other similar expenses;

(5) "Eligible insourcing expenses":

(a) Eligible expenses paid or incurred by the taxpayer in connection with the elimination of any business unit of the taxpayer or of any member of any expanded affiliated group in which the taxpayer is also a member located outside the state of Missouri; and

(b) Eligible expenses paid or incurred by the taxpayer in connection with the establishment of any business unit of the taxpayer or of any member of any expanded affiliated group in which the taxpayer is also a member located within the state of Missouri if such establishment constitutes the relocation of the business unit so eliminated. For purposes of this subdivision, expenses shall be eligible if such elimination of the business unit in another state or country occurs in a different taxable year from the establishment of the business unit in Missouri;

(6) "Expanded affiliated group", an affiliated group as defined under Section 1504(a) of the Internal Revenue Code of 1986, as amended, except to be determined without regard to Section 1504(b)(3) of the Internal Revenue Code of 1986, as amended, and determined by substituting "at least eighty percent" with "more than fifty percent" each place the phrase appears under Section 1504(a) of the Internal Revenue Code of 1986, as amended. A partnership or any other entity other than a corporation shall be treated as a member of an expanded affiliated group if such entity is controlled by members of such group including any entity treated as a member of such group by reason of this subdivision;

(7) "Full-time equivalent employee", a number of employees equal to the number determined by dividing the total number of hours of service for which wages were paid by the employer to employees during the taxable year, by two thousand eighty;

(8) "Insourcing plan", a written plan to carry out the establishment of a business unit in Missouri;

(9) "Taxpayer", any individual, firm, partner in a firm, corporation, partnership, shareholder in an S corporation, or member of a limited liability company subject to the income tax imposed under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265.

3. For all taxable years beginning on or after January 1, 2016, a taxpayer shall be allowed a deduction equal to fifty percent of the taxpayer's eligible insourcing expenses in the taxable year chosen under subsection 5 of this section. The amount of the deduction claimed shall not exceed the amount of:

(1) For individuals, the taxpayer's Missouri adjusted gross income for the taxable year the deduction is claimed; and

(2) For corporations, the taxpayer's Missouri taxable income for the taxable year the deduction is claimed.

However, any amount of the deduction that cannot be claimed in the taxable year may be carried over to the next five succeeding taxable years until the full deduction has been claimed.

4. No deduction shall be allowed under this section until the department determines that the number of full-time equivalent employees of the taxpayer in the taxable year the deduction is claimed exceeds the number of full-time equivalent employees of the taxpayer in the taxable year prior to the taxpayer incurring any eligible insourcing expenses.

5. Only eligible insourcing expenses that occur in the taxable year such expenses are paid or incurred and:

(1) The taxpayer's insourcing plan is completed; or

(2) The first taxable year after the taxpayer's insourcing plan is completed;

shall be used to calculate the deduction allowed under this section.

6. Notwithstanding any other provision of law to the contrary, no deduction shall be allowed for any expenses incurred due to dissolving a business unit in Missouri and relocating such business unit to another state.

7. The total amount of deductions authorized under this section shall not exceed five million dollars in any taxable year. In the event that more than five million dollars in deductions are claimed in a taxable year, deductions shall be issued on a first-come, first-served filing basis.

8. A taxpayer who receives a deduction under the provisions of this section shall be ineligible to receive incentives under the provisions of any other state tax deduction program for the same expenses incurred.

9. Any taxpayer allowed a deduction under this section who, within ten years of receiving such deduction, eliminates the business unit for which the deduction was allowed shall repay the amount of tax savings realized from the deduction to the state, prorated by the number of years the business unit was in this state.

10. The department of economic development and the department of revenue shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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, 2016, shall be invalid and void.

11. Under section 23.253:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date, 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.

143.2100. DEFINITIONS — REPORT, CONTENTS — RULEMAKING AUTHORITY. — 1. As used in sections 143.2100 to 143.2115, unless the context requires a different meaning, the following terms shall mean:

(1) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income for the tax year in which such deduction is claimed;

(2) "Department", the department of economic development;

(3) "Director", the director of the department of economic development;

(4) "Taxpayer", a person, firm, partner in a firm, member of a limited liability company, corporation, or shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state under chapter 153.

2. Prior to March 1, 2018, and every two years thereafter, the department, with information provided by the port authorities, airports, and the department of revenue,

shall provide a report on the deductions claimed under sections 143.2100 to 143.2115. Such report shall include the following:

(1) The names and locations of participating companies;

(2) The annual amount of benefits provided;

(3) The estimated net state fiscal impact, including both direct and indirect new state taxes derived from the program;

(4) The number of new jobs created;

(5) The average wages of each project; and

(6) The types of qualified companies using the program.

3. The department shall promulgate rules to implement the provisions of sections 143.2100 to 143.2115. 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, 2016, shall be invalid and void.

143.2105. DEFINITIONS — INCOME TAX DEDUCTION FOR PORT CARGO VOLUME INCREASE, CALCULATION — CLAIMING PROCEDURE. — 1. As used in this section, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Airport", any publicly or privately owned facility located within Missouri through which cargo is transported by way of airplane to or from destinations outside the state and which handles cargo owned by third parties in addition to cargo owned by the airport's owner;

(2) "Base year port cargo volume", the total amount of net tons of noncontainerized cargo or twenty-foot equivalent units (TEUs) of cargo actually transported by way of a waterborne ship, waterborne vehicle, or airplane through a water port facility or airport during the period from January 1, 2015, through December 31, 2015. Base year port cargo volume shall be at least seventy-five net tons of noncontainerized cargo or ten loaded TEUs for a taxpayer to be eligible for the deductions claimed under this section. For a taxpayer that does not transport that amount in the year ending December 31, 2015, including a taxpayer who locates to Missouri after December 31, 2015, the base year port cargo volume will be measured by the initial January first through December thirty-first calendar year in which it meets the requirements of seventy-five net tons of noncontainerized cargo or ten loaded TEUs. Base year port cargo volume shall be recalculated each calendar year after the initial base year;

(3) "Major facility", a new facility to be located in Missouri that is projected to import or export cargo through a water port facility or airport in excess of twenty-five thousand TEUs or the noncontainerized cargo equivalent in its first calendar year;

(4) "Port cargo volume", the total amount of net tons of noncontainerized cargo or containers measured in TEUs of cargo transported by way of a waterborne ship, waterborne vehicle, or airplane through a water port facility or airport;

(5) "TEU" or "Twenty-foot equivalent unit", a volumetric measure based on the size of a container that is twenty feet long by eight feet wide by eight feet, six inches high. If using weight as a measure, then one TEU shall equal sixteen tons of noncontainerized cargo; and

(6) "Water port facility", any publicly or privately owned facility located within Missouri through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside the state and which handles cargo owned by third parties in addition to cargo owned by the water port facility's owner.

2. (1) For tax years beginning on or after January 1, 2017, but before January 1, 2023, a taxpayer engaged in the manufacturing of goods or the distribution of manufactured goods that uses water port facilities or airports in this state and increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume shall be allowed to claim a deduction in an amount determined by the department. The department may waive the requirement that port cargo volume be increased by a minimum of five percent over base year port cargo volume for any taxpayer that qualifies as a major facility.

(2) Qualifying taxpayers that increase their port cargo volume by a minimum of five percent in a qualifying calendar year shall be allowed to claim a fifty-dollar deduction for each TEU or the noncontainerized cargo equivalent above the base year port cargo volume. A qualifying taxpayer that is a major facility as defined in this section shall be allowed to claim a fifty-dollar deduction for each TEU or the noncontainerized cargo equivalent transported through a water port facility or airport during the major facility's first calendar year. A qualifying taxpayer shall not claim a deduction of more than two hundred fifty thousand dollars for each calendar year except as provided for in subdivision (2) of subsection 3 of this section. The maximum amount of deductions for all qualifying taxpayers under this section shall not exceed three million five hundred thousand dollars for each calendar year.

(3) The deduction may be claimed by the taxpayer as provided in subdivision (1) of this subsection only if the taxpayer owns the cargo at the time the water port facilities or airports are used.

3. (1) For every year in which a taxpayer claims the deduction, the taxpayer shall submit an application to the department by March first of the calendar year after the calendar year in which the increase in port cargo volume occurs. The taxpayer shall attach a schedule to the taxpayer's application to the department with the following information and any other information requested by the department:

(a) A description of how the base year port cargo volume and the increase in port cargo volume were determined;

(b) The amount of the base year port cargo volume;

(c) The amount of the increase in port cargo volume for the tax year stated both as a percentage increase and as a total increase in net tons of noncontainerized cargo and TEUs of cargo, including information that demonstrates an increase in port cargo volume in excess of the minimum amount required to claim the deductions under this section; and

(d) Any deduction utilized by the taxpayer in prior years.

(2) The taxpayer shall claim the deduction on its income tax return in a manner prescribed by the department of revenue, and the department of revenue may require a copy of the certification form issued by a Missouri port authority or airport be attached to the return or otherwise provided.

143.2110. INCOME TAX DEDUCTION FOR CARGO — AMOUNT, CLAIMING PROCEDURE. — 1. As used in this section, unless the context clearly indicates otherwise, the term "international trade facility" shall mean a company that:

(1) Is doing business in the state and engaged in water port or airport related activities including, but not limited to, warehousing, distribution, freight forwarding and handling, and goods processing;

(2) Has the sole discretion and authority to move cargo in containers or noncontainerized, originating or terminating in the state;

(3) Uses water-connected port facilities or airport facilities located in the state; and

(4) Uses airplanes, barges, trucks, or rail systems to move cargo, in containers or noncontainerized, through water port facilities or airports in the state.

2. For tax years beginning on or after January 1, 2017, but before January 1, 2023, a company that is an international trade facility shall be allowed a twenty-five-dollar

deduction per TEU or equivalent of noncontainerized cargo moved by airplane, barge, or rail.

3. In no case shall more than two million dollars in deductions be claimed under this section in any fiscal year of the state. The international trade facility shall not be allowed to claim any deduction under this section unless it has applied to the department for the deduction and the department has approved the deduction. The department shall determine the deduction amount allowable for the year and provide a written certification to the international trade facility, which certification shall report the amount of the deduction approved by the department. The international trade facility shall attach the certification to the applicable tax return.

143.2115. DEFINITIONS — INCOME TAX DEDUCTION FOR INCREASED QUALIFIED TRADE ACTIVITIES OR CAPITAL INVESTMENT FOR TRADE ACTIVITIES — AMOUNT, CLAIMING PROCEDURE, EXCLUSIONS — AGGREGATION OF CLAIMS — RECAPTURE — GUIDELINES. — 1. As used in this section, unless the context requires a different meaning, the following terms shall mean:

(1) "Affiliated companies", two or more companies related to each other so that:

(a) One company owns at least eighty percent of the voting power of the other or others; or

(b) The same interest owns at least eighty percent of the voting power of two or more companies;

(2) "Capital investment", the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable real property placed in service during the tax year and the cost of machinery, tools, and equipment used in an international trade facility directly related to the movement of cargo. "Capital investment" includes expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to expand or rehabilitate a building for commercial or industrial use and excavations, grading, paving, driveways, roads, sidewalks, landscaping, or other land improvements. For purposes of this section, machinery, tools, and equipment shall be deemed to include only that property placed in service by the international trade facility on or after January 1, 2017. Machinery, tools, and equipment excludes property:

(a) For which a deduction under this section was previously granted;

(b) Placed in service by the taxpayer, a related party as defined in Subsection (b) of Section 267 of the Internal Revenue Code, as amended, or by a trade or business under common control as described in Subsection (b) of Section 52 of the Internal Revenue Code, as amended; or

(c) Previously in service in the state that has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom it was acquired or Subsection (a) of Section 1014 of the Internal Revenue Code, as amended. "Capital investment" shall not include:

a. The cost of acquiring any real property or building;

b. The cost of furnishings;

c. Any expenditure associated with appraisal, architectural, engineering, or interior design fees;

d. Loan fees, points, or capitalized interest;

e. Legal, accounting, realtor, sales and marketing, or other professional fees;

f. Closing costs, permit fees, user fees, zoning fees, impact fees, and inspection fees;

g. Bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities costs incurred during construction;

h. Utility hook-up or access fees;

i. Outbuildings; or

j. The cost of any well or septic system;

(3) "Deduction year", the first tax year following the tax year in which the international trade facility commenced or expanded its operations. A separate deduction year and a three-year allowance shall exist for each distinct international trade facility of a single taxpayer;

(4) "International trade facility", a company that:

(a) Is engaged in port related activities including, but not limited to, warehousing, distribution, freight forwarding and handling, and goods processing;

(b) Uses water-connected port facilities or airports located in the state; and

(c) Transports at least ten percent more cargo, measured in TEU containers or the noncontainerized cargo equivalent, through water-connected port facilities or airport in the state during the tax year than was transported by the company through such facilities during the preceding tax year;

(5) "New, permanent full-time position", a job of indefinite duration, created by the company after establishing or expanding an international trade facility in the state, requiring a minimum of thirty-five hours of employment per week for each employee for the entire normal year of the company's operations, or a position of indefinite duration that requires a minimum of thirty-five hours of employment per week for each employee for the portion of the tax year that the employee was initially hired for, or transferred to the international trade facility in the state. Seasonal or temporary positions, or a job created if a job function is shifted from an existing location in the state to the international trade facility, and positions in building and grounds maintenance, security, and other such positions that are ancillary to the principal activities performed by the employees at the international trade facility shall not qualify as new, permanent full-time positions;

(6) "Normal year", at least forty-eight weeks in a calendar year;

(7) "Qualified full-time employee", an employee filling a new, permanent full-time position in an international trade facility in the state;

(8) "Qualified trade activities", the completed exportation or importation of at least one International Organization for Standardization ocean container or the noncontainerized equivalent with a minimum twenty-foot length, through a Missouri port authority-operated cargo facility or an airport in this state. An export container or the noncontainerized cargo equivalent with an ultimate international destination shall be loaded on a barge or airplane and an import container or the noncontainerized cargo equivalent originating from an international destination shall be discharged from a barge or airplane at such facility.

2. For tax years beginning on or after January 1, 2017, but before January 1, 2023, a taxpayer satisfying the requirements of this section shall be allowed to claim a deduction in an amount equal to either three thousand five hundred dollars per qualified full-time employee that results from increased qualified trade activities by the taxpayer or an amount equal to two percent of the capital investment made by the taxpayer to facilitate the increased qualified trade activities. The election of which deduction amount to claim shall be the responsibility of the taxpayer. Both deductions shall not be claimed for the same activities that occur within a calendar year. The portion of the three thousand five hundred dollars deduction earned with respect to any qualified full-time employee who works in the state for less than twelve full months during the deduction year shall be determined by multiplying the deduction amount by a fraction, the numerator of which is the number of full months such employee worked for the international trade facility in the state during the deduction year and the denominator of which is twelve.

3. In no case shall more than five hundred thousands dollars in deductions be claimed under this section in any fiscal year of the state. The taxpayer shall not be allowed to claim any deduction under this section unless it has applied to the department for the deduction and the department has approved the deduction. The department shall determine the deduction amount allowable for the tax year and shall provide a written certification to the taxpayer, which certification shall report the amount of the deduction

approved by the department. The taxpayer shall attach the certification to the applicable income tax return.

4. The amount of the deduction allowed under this section shall not exceed fifty percent of the taxpayer's Missouri adjusted gross income.

5. No deduction shall be earned for any employee:

(1) For whom a deduction under this section was previously earned by a related party as defined in Subsection (b) of Section 267 of the Internal Revenue Code, as amended, or a trade or business under common control as described in Subsection (b) of Section 52 of the Internal Revenue Code, as amended;

(2) Who was previously employed in the same job function in Missouri by a related party as defined in Subsection (b) of Section 267 of the Internal Revenue Code, as amended, or a trade or business under common control as described in Subsection (b) of Section 52 of the Internal Revenue Code, as amended; or

(3) Whose job function was previously performed at a different location in Missouri by an employee of the taxpayer, by a related party as defined in Subsection (b) of Section 267 of the Internal Revenue Code, as amended, or by a trade or business under common control as described in Subsection (b) of Section 52 of the Internal Revenue Code, as amended.

6. For the purposes of this section, two or more affiliated companies may elect to aggregate the number of jobs created for qualified full-time employees or the amounts of capital investments as the result of the establishment or expansion by the individual companies in order to qualify for the deduction allowed under this section.

7. Recapture of the deduction amount under the following circumstances shall be accomplished by increasing the tax in any of the five years succeeding the tax year in which a deduction has been earned pursuant to this section if the number of qualified full-time employees falls below the average number of qualified full-time employees during the tax year. The Missouri taxable income increase amount shall be determined by recalculating the deduction that would have been earned for the original tax year using the decreased number of qualified full-time employees and subtracting the recalculated deduction amount from the amount previously earned. In the event that the average number of qualified full-time employees employed at an international trade facility falls below the number employed by the taxpayer prior to claiming any deductions under this section in any of the five tax years succeeding the year in which the deductions were earned, all deductions earned with respect to the international trade facility shall be recaptured. No deduction amount shall be recaptured more than once under this subsection. Any recapture under this subsection shall reduce deductions earned, but not yet allowed, before the taxpayer's Missouri taxable income is increased.

8. The department shall issue guidelines for:

(1) The computation and recapture of the deductions provided under this section;

(2) The establishment of criteria for:

(a) International trade facilities;

(b) Qualified full-time employees at such facilities; and

(c) Capital investments; and

(3) The computation, recapture, and redemption of the deductions by affiliated companies.

227.600. CITATION OF LAW — DEFINITIONS. — 1. Sections 227.600 to 227.669 shall be known and may be cited as the "Missouri Public-Private Partnerships Transportation Act".

2. As used in sections 227.600 to 227.669, unless the context clearly requires otherwise, the following terms mean:

(1) "Commission", the Missouri highways and transportation commission;

(2) "Comprehensive agreement", the final binding written comprehensive project agreement between a private partner and the commission required in section 227.621 to finance, develop, and/or operate the project;

(3) "Department", the Missouri department of transportation;

(4) "Develop" or "development", to plan, locate, relocate, establish, acquire, lease, design, or construct;

(5) "Finance", to fund the costs, expenses, liabilities, fees, profits, and all other charges incurred to finance, develop, and/or operate the project;

(6) "Interim agreement", a preliminary binding written agreement between a private partner and the commission that provides for completion of studies and any other activities to advance the financing, development, and/or operation of the project required by section 227.618;

(7) "Material default", any uncured default by a private partner in the performance of its duties that jeopardizes adequate service to the public from the project as determined by the commission;

(8) "Operate" or "operation", to improve, maintain, equip, modify, repair, administer, or collect user fees;

(9) "Private partner", any natural person, corporation, partnership, limited liability company, joint venture, business trust, nonprofit entity, other business entity, or any combination thereof;

(10) "Project", exclusively includes any pipeline, ferry, **[**river**]** port **facility, water facility, water way, water supply facility or pipeline, wastewater or wastewater treatment facility, public building**, airport, railroad, light rail**, vehicle parking facility, mass transit facility,** or other **[**mass transit facility,**]** **similar facility currently available or to be made available to a government entity for public use, including any structure, parking area, appurtenance and other property required to operate the structure or facility** to be financed, developed, and/or operated under agreement between the commission and a private partner. **The commission or private partner shall not have the authority to collect user fees in connection with the project from motor carriers as defined in section 227.630. "Project" shall not include any highway, interstate or bridge construction, or any rest area, rest stop, or truck parking facility connected to an interstate or other highway under the authority of the commission.** Any project not specifically included in this subdivision shall not be financed, developed, or operated by a private partner until such project is approved by a vote of the people;

(11) "Public use", a finding by the commission that the project to be financed, developed, and/or operated by a private partner under sections 227.600 to 227.669 will improve or is needed as a necessary addition to the state transportation system;

(12) "Revenues", include but are not limited to the following which arise out of or in connection with the financing, development, and/or operation of the project:

(a) Income;

(b) Earnings;

(c) Proceeds;

(d) User fees;

(e) Lease payments;

(f) Allocations;

(g) Federal, state, and local moneys; or

(h) Private sector moneys, grants, bond proceeds, and/or equity investments;

(13) "State", the state of Missouri;

(14) "State highway system", the state system of highways and bridges planned, located, relocated, established, acquired, constructed, and maintained by the commission under Section 30(b), Article IV, Constitution of Missouri;

(15) "State transportation system", the state system of nonhighway transportation programs, including but not limited to aviation, transit and mass transportation, railroads, ports, waterborne commerce, freight and intermodal connections;

(16) "User fees", tolls, fees, or other charges authorized to be imposed by the commission and collected by the private partner for the use of all or a portion of a project under a comprehensive agreement.

447.708. TAX CREDITS, CRITERIA, CONDITIONS — DEFINITIONS — ELIGIBILITY OF CERTAIN DEMOLITION COSTS. — 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150 and sections 135.200 to 135.257. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax otherwise imposed by chapter 147, or the tax otherwise imposed by chapter 148. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

(2) For receipt of the income tax exemption pursuant to section 135.220 and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax credits described in section 135.225 are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars per year for each person who is a person difficult to employ as defined by section 135.240, and investment tax credits at the same amounts and levels as provided in subdivision (4) of subsection 1 of section 135.225;

(3) For eligibility to receive the income tax refund pursuant to section 135.245, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245 for application and use of the refund and the eligibility requirements of this section;

(4) The eligible project operates in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements;

(5) The eligible project operator shall file such reports as may be required by the director of economic development or the director's designee;

(6) The taxpayer may claim the state tax credits authorized by this subsection and the state income exemption for a period not in excess of ten consecutive tax years. For the purpose of this section, "taxpayer" means an individual proprietorship, partnership or corporation described in section 143.441 or 143.471 who operates an eligible project. The director shall determine the number of years the taxpayer may claim the state tax credits and the state income exemption based on the projected net state economic benefits attributed to the eligible project;

(7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained during the taxpayer's tax period for which the credits are earned, in the case of an eligible project that does not replace a similar facility in Missouri. "New job" means a person who was not previously employed by the taxpayer or related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee

works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned. For the purposes of this section, related taxpayer has the same meaning as defined in subdivision (9) of section 135.100;

(8) For the purpose of meeting the existing job retention requirement, if the eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a person who was previously employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, within the tax period immediately preceding the time the person was employed by the taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned;

(9) In the case where an eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner and operator of the eligible project shall provide the director with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a comparison of the activities performed at the closed facility prior to the date the facility ceased operating, to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If the director finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, and that such move was detrimental to the overall economic development efforts of the state, the director may deny the taxpayer's request to claim tax benefits;

(10) Notwithstanding any provision of law to the contrary, for the purpose of this section, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment used at the eligible project during any tax year shall be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month of the tax year. If the eligible project is in operation for less than the entire tax year, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment created at the eligible project during any tax year shall be determined by dividing the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month during the portion of the tax year during which the eligible project was in operation, by the number of full calendar months during such period;

(11) For the purpose of this section, "new qualified investment" means new business facility investment as defined and as determined in subdivision (7) of section 135.100 which is used at and in connection with the eligible project. "New qualified investment" shall not include small tools, supplies and inventory. "Small tools" means tools that are portable and can be hand held.

2. The determination of the director of economic development pursuant to subsection 1 of this section shall not affect requirements for the prospective purchaser to obtain the approval of the granting of real property tax abatement by the municipal or county government where the eligible project is located.

3. (1) The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits allowed in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct

utility charges for performing the voluntary remediation activities for the preexisting hazardous substance contamination and releases, including, but not limited to, the costs of performing operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575. The tax credit may also include up to one hundred percent of the costs of demolition that are not directly part of the remediation activities, provided that the demolition is on the property where the voluntary remediation activities are occurring, the demolition is necessary to accomplish the planned use of the facility where the remediation activities are occurring, and the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development. The demolition may occur on an adjacent property if the project is located in a municipality which has a population less than twenty thousand and the above conditions are otherwise met. The adjacent property shall independently qualify as abandoned or underutilized. The amount of the credit available for demolition not associated with remediation cannot exceed the total amount of credits approved for remediation including demolition required for remediation.

(2) The amount of remediation tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.

(3) The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax otherwise imposed by chapter 147, or the tax otherwise imposed by chapter 148. The remediation tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years.

(4) The project facility shall be projected to create at least ten new jobs or at least twenty-five retained jobs, or a combination thereof, as determined by the department of economic development, to be eligible for tax credits pursuant to this section.

(5) No more than seventy-five percent of earned remediation tax credits may be issued when the remediation costs were paid, and the remaining percentage may be issued when the department of natural resources issues a letter of completion letter or covenant not to sue following completion of the voluntary remediation activities. It shall not include any costs associated with ongoing operational environmental compliance of the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility. In the event the department of natural resources issues a letter of completion for a portion of a property, an impacted media such as soil or groundwater, or for a site or a portion of a site improvement, a prorated amount of the remaining percentage may be released based on the percentage of the total site receiving a letter of completion.

4. In the exercise of the sound discretion of the director of the department of economic development or the director's designee, the tax credits and exemptions described in this section may be terminated, suspended or revoked, if the eligible project fails to continue to meet the conditions set forth in this section. In making such a determination, the director shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any condition violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and operator. The director shall also consider changes in general economic conditions and the recommendation of the director of the department of natural resources, or his or her designee, concerning the severity, scope, nature, frequency and extent of any violations of the

environmental compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 **[**to 6**] and 5** of section 135.250. The director of the department of economic development shall notify the directors of the departments of natural resources and revenue of the termination, suspension or revocation of any tax credits as determined in this section or pursuant to the provisions of section 447.716.

5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

(1) That portion of the taxpayer's income attributed to the eligible project; or

(2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225 and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section to any other person, for the purpose of this subsection referred to as assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the

tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

11. For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471 or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:

(1) The shareholders of the corporation described in section 143.471;

(2) The partners of the partnership. The credit provided in this subsection shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

12. Notwithstanding any provision of law to the contrary, in any county of the first classification that has a charter form of government and that has a population of over nine hundred thousand inhabitants, all demolition costs incurred during the redevelopment of any former automobile manufacturing plant shall be allowable costs eligible for tax credits under sections 447.700 to 447.718 so long as the redevelopment of such former automobile manufacturing plant shall be projected to create at least two hundred fifty new jobs or at least three hundred retained jobs, or a combination thereof, as determined by the department of economic development. The amount of allowable costs eligible for tax credits shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development, provided that no tax credit shall be issued under this subsection until July 1, 2017. For purposes of this subsection, "former automobile manufacturing plant" means a redevelopment area that qualifies as an eligible project under section 447.700, that consists of at least one hundred acres, and that was used primarily for the manufacture of automobiles but, after 2007, ceased such manufacturing.

Approved July 1, 2016

SB 865 [CCS HCS SS SCS SBs 865 & 866]

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

Changes the laws relating to health care

AN ACT to repeal sections 338.270, 338.347, 374.185, 376.1237, 379.934, 379.936, 379.938, and 379.940, RSMo, and to enact in lieu thereof sixteen new sections relating to health care.

SECTION

A. Enacting clause.
191.1075. Definitions.
191.1080. Council created, purpose, members, terms, duties — report — expiration date.
191.1085. Program established, purpose, website information — rulemaking authority.
338.075. Adverse actions against licensee, notification to board of pharmacy, when — rulemaking authority.

338.202. Maintenance medications, pharmacist may exercise professional judgment on quantity dispensed, when.
338.270. Renewal applications to be made, when.
338.347. Renewal of license, application.
374.185. Uniformity of regulation, director to cooperate.
376.379. Medication synchronization services, offer of coverage required.
376.388. Maximum allowable costs — definitions — contract requirements — reimbursement — appeals process required.
376.465. Missouri health insurance rate transparency act — definitions — rate filing requirements, procedure — rulemaking authority.
376.1237. Refills for prescription eye drops, required, when — definitions — termination date.
379.934. Establishment of class of business, reasons — number of classes that may be established — promulgation of rules for period of transition — establishment of additional classes.
379.936. Premium rates, subject to conditions — no transfer out of class of business — disclosure required, contents — rating and renewal records required to be kept.
379.938. Renewability, exceptions — carrier not renewing prohibited from writing new business in market, when — application of section in certain geographic areas.
379.940. Carriers to offer all health plans in market — health benefit plans, requirements — exclusion of coverage for certain employees.

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

SECTION A. ENACTING CLAUSE. — Sections 338.270, 338.347, 374.185, 376.1237, 379.934, 379.936, 379.938, and 379.940, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 191.1075, 191.1080, 191.1085, 338.075, 338.202, 338.270, 338.347, 374.185, 376.379, 376.388, 376.465, 376.1237, 379.934, 379.936, 379.938, and 379.940, to read as follows:

191.1075. DEFINITIONS. — As used in sections 191.1075 to 191.1085, the following terms shall mean:

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

(2) "Health care professional", a physician or other health care practitioner licensed, accredited, or certified by the state of Missouri to perform specified health services;

(3) "Hospital":

(a) A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of not less than twenty-four consecutive hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or

(b) A place devoted primarily to provide for not less than twenty-four consecutive hours in any week medical or nursing care for three or more unrelated individuals. "Hospital" does not include convalescent, nursing, shelter, or boarding homes as defined in chapter 198.

191.1080. COUNCIL CREATED, PURPOSE, MEMBERS, TERMS, DUTIES — REPORT — EXPIRATION DATE. — 1. There is hereby created within the department the "Missouri Palliative Care and Quality of Life Interdisciplinary Council", which shall be a palliative care consumer and professional information and education program to improve quality and delivery of patient-centered and family-focused care in this state.

2. On or before December 1, 2016, the following members shall be appointed to the council:

(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) Two board-certified hospice and palliative medicine physicians licensed in this state, appointed by the governor with the advice and consent of the senate;

(4) Two certified hospice and palliative nurses licensed in this state, appointed by the governor with the advice and consent of the senate;

(5) A certified hospice and palliative social worker, appointed by the governor with the advice and consent of the senate;

(6) A patient and family caregiver advocate representative, appointed by the governor with the advice and consent of the senate; and

(7) A spiritual professional with experience in palliative care and health care, appointed by the governor with the advice and consent of the senate.

3. Council members shall serve for a term of three years. The members of the council shall elect a chair and vice chair whose duties shall be established by the council. The department shall determine a time and place for regular meetings of the council, which shall meet at least biannually.

4. Members of the council shall serve without compensation, but shall, subject to appropriations, be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council.

5. The council shall consult with and advise the department on matters related to the establishment, maintenance, operation, and outcomes evaluation of palliative care initiatives in this state, including the palliative care consumer and professional information and education program established in section 191.1085.

6. The council shall submit an annual report to the general assembly, which includes an assessment of the availability of palliative care in this state for patients at early stages of serious disease and an analysis of barriers to greater access to palliative care.

7. The council authorized under this section shall automatically expire August 28, 2022.

191.1085. PROGRAM ESTABLISHED, PURPOSE, WEBSITE INFORMATION — RULEMAKING AUTHORITY. — 1. There is hereby established the "Palliative Care Consumer and Professional Information and Education Program" within the department.

2. The purpose of the program is to maximize the effectiveness of palliative care in this state by ensuring that comprehensive and accurate information and education about palliative care is available to the public, health care providers, and health care facilities.

3. The department shall publish on its website information and resources, including links to external resources, about palliative care for the public, health care providers, and health care facilities including, but not limited to:

(1) Continuing education opportunities for health care providers;

(2) Information about palliative care delivery in the home, primary, secondary, and tertiary environments; and

(3) Consumer educational materials and referral information for palliative care, including hospice.

4. Each hospital in this state is encouraged to have a palliative care presence on its intranet or internet website which provides links to one or more of the following organizations: the Institute of Medicine, the Center to Advance Palliative Care, the Supportive Care Coalition, the National Hospice and Palliative Care Organization, the American Academy of Hospice and Palliative Medicine, and the National Institute on Aging.

5. Each hospital in this state is encouraged to have patient education information about palliative care available for distribution to patients.

6. The department shall consult with the palliative care and quality of life interdisciplinary council established in section 191.1080 in implementing the section.

7. The department may promulgate rules to implement the provisions of sections 191.1075 to 191.1085. 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 191.1075 to 191.1085 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. Sections 191.1075 to 191.1085 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, 2016, shall be invalid and void.

8. Notwithstanding the provisions of section 23.253 to the contrary, the program authorized under this section shall automatically expire on August 28, 2022.

338.075. ADVERSE ACTIONS AGAINST LICENSEE, NOTIFICATION TO BOARD OF PHARMACY, WHEN — RULEMAKING AUTHORITY. — 1. All licensees, registrants, and permit holders of the board of pharmacy shall report to the board of pharmacy:

(1) Any final adverse action taken by another licensing state, jurisdiction, or government agency against any license, permit, or authorization held by the person or entity to practice or operate as a pharmacist, intern pharmacist, pharmacy technician, pharmacy, drug distributor, drug manufacturer, or drug outsourcing facility. For purposes of this section, "adverse action" shall include, but is not limited to, revocation, suspension, censure, probation, disciplinary reprimand, or disciplinary restriction of a license, permit, or other authorization or a voluntary surrender of such license, permit, or other authorization in lieu of discipline or adverse action;

(2) Any surrender of a license or authorization to practice or operate as a pharmacist, intern pharmacist, pharmacy technician, pharmacy, drug distributor, drug manufacturer, or drug outsourcing facility while under disciplinary investigation by another licensing state, jurisdiction, or governmental agency; and

(3) Any exclusion to participate in any state or federally funded health care program such as Medicare, Medicaid, or MO HealthNet for fraud, abuse, or submission of any false or fraudulent claim, payment, or reimbursement request.

2. Reports shall be submitted as provided by the board of pharmacy by rule.

3. The board of pharmacy 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, 2016, shall be invalid and void.

338.202. MAINTENANCE MEDICATIONS, PHARMACIST MAY EXERCISE PROFESSIONAL JUDGMENT ON QUANTITY DISPENSED, WHEN. — 1. Notwithstanding any other provision of law to the contrary, unless the prescriber has specified on the prescription that dispensing a prescription for a maintenance medication in an initial amount followed by periodic refills is medically necessary, a pharmacist may exercise his or her professional judgment to dispense varying quantities of maintenance medication per fill up to the total number of dosage units as authorized by the prescriber on the original prescription, including any refills. Dispensing of the maintenance medication based on refills authorized by the prescriber on the prescription shall be limited to no more than a ninety-day supply of the medication, and the maintenance medication shall have been previously prescribed to the patient for at least a three-month period.

2. For purposes of this section, "maintenance medication" means a medication prescribed for chronic, long-term conditions that is taken on a regular, recurring basis; except that, it shall not include controlled substances, as defined under section 195.010.

338.270. RENEWAL APPLICATIONS TO BE MADE, WHEN. — 1. Application blanks for renewal permits shall be mailed to each permittee on or before the first day of the month in

which the permit expires and, if application for renewal of permit is not made before the first day of the following month, the existing permit, or renewal thereof, shall lapse and become null and void upon the last day of that month.

2. The board of pharmacy shall not renew a nonresident pharmacy license if the renewal applicant does not hold a current pharmacy license or its equivalent in the state in which the nonresident pharmacy is located.

338.347. RENEWAL OF LICENSE, APPLICATION. — 1. Application blanks for renewal of license shall be mailed to each licensee on or before the first day of the month in which the license expires and, if application for renewal of license with required fee is not made before the first day of the following month, the existing license, or renewal thereof, shall lapse and become null and void upon the last day of that month.

2. The board of pharmacy shall not renew an out-of-state wholesale drug distributor, out-of-state pharmacy distributor, or drug distributor license or registration if the renewal applicant does not hold a current distributor license or its equivalent in the state or jurisdiction in which the distribution facility is located or, if a drug distributor registrant, the entity is not authorized and in good standing to operate as a drug manufacturer with the Food and Drug Administration or within the state or jurisdiction where the facility is located.

374.185. UNIFORMITY OF REGULATION, DIRECTOR TO COOPERATE. — 1. The director may cooperate, coordinate, and consult with other members of the National Association of Insurance Commissioners, the commissioner of securities, state securities regulators, the division of finance, the division of credit unions, the attorney general, federal banking and securities regulators, the National Association of Securities Dealers (NASD), the United States Department of Justice, the Commodity Futures Trading Commission, **[**and**]** the Federal Trade Commission**, and the United States Department of Health and Human Services** to effectuate greater uniformity in insurance and financial services regulation among state and federal governments, and self-regulatory organizations. The director may share records with any aforesaid entity, except that any record that is confidential, privileged, or otherwise protected from disclosure by law shall not be disclosed unless such entity agrees in writing prior to receiving such record to provide it the same protection. No waiver of any applicable privilege or claim of confidentiality regarding any record shall occur as the result of any disclosure.

2. In cooperating, coordinating, consulting, and sharing records and information under this section and in acting by rule, order, or waiver under the laws relating to insurance, the director shall, at the discretion of the director, take into consideration in carrying out the public interest the following general policies:

(1) Maximizing effectiveness of regulation for the protection of insurance consumers;

(2) Maximizing uniformity in regulatory standards; and

(3) Minimizing burdens on the business of insurance, without adversely affecting essentials of consumer protection.

3. The cooperation, coordination, consultation, and sharing of records and information authorized by this section includes:

(1) Establishing or employing one or more designees as a central electronic depository for licensing and rate and form filings with the director and for records required or allowed to be maintained;

(2) Encouraging insurance companies and producers to implement electronic filing through a central electronic depository;

(3) Developing and maintaining uniform forms;

(4) Conducting joint market conduct examinations and other investigations through collaboration and cooperation with other insurance regulators;

(5) Holding joint administrative hearings;

(6) Instituting and prosecuting joint civil or administrative enforcement proceedings;

(7) Sharing and exchanging personnel;

(8) Coordinating licensing under section 375.014;

(9) Formulating rules, statements of policy, guidelines, forms, no action determinations, and bulletins; and

(10) Formulating common systems and procedures.

376.379. MEDICATION SYNCHRONIZATION SERVICES, OFFER OF COVERAGE REQUIRED. — 1. A health carrier or managed care plan offering a health benefit plan in this state that provides prescription drug coverage shall offer, as part of the plan, medication synchronization services developed by the health carrier or managed care plan that allow for the alignment of refill dates for an enrollee's prescription drugs that are covered benefits.

2. Under its medication synchronization services, a health carrier or managed care plan shall:

(1) Not charge an amount in excess of the otherwise applicable co-payment amount under the health benefit plan for dispensing a prescription drug in a quantity that is less than the prescribed amount if:

(a) The pharmacy dispenses the prescription drug in accordance with the medication synchronization services offered under the health benefit plan; and

(b) A participating provider dispenses the prescription drug; and

(2) Provide a full dispensing fee to the pharmacy that dispenses the prescription drug to the covered person.

3. For purposes of this section, the terms "health carrier", "managed care plan", "health benefit plan", "enrollee", and "participating provider" shall have the same meanings given to such terms under section 376.1350.

376.388. MAXIMUM ALLOWABLE COSTS — DEFINITIONS — CONTRACT REQUIREMENTS — REIMBURSEMENT — APPEALS PROCESS REQUIRED. — 1. As used in this section, unless the context requires otherwise, the following terms shall mean:

(1) "Contracted pharmacy" or "pharmacy", a pharmacy located in Missouri participating in the network of a pharmacy benefits manager through a direct or indirect contract;

(2) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services, except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy;

(3) "Maximum allowable cost", the per unit amount that a pharmacy benefits manager reimburses a pharmacist for a prescription drug, excluding a dispensing or professional fee;

(4) "Maximum allowable cost list" or "MAC list", a listing of drug products that meet the standard described in this section;

(5) "Pharmacy", as such term is defined in chapter 338;

(6) "Pharmacy benefits manager", an entity that contracts with pharmacies on behalf of health carriers or any health plan sponsored by the state or a political subdivision of the state.

2. Upon each contract execution or renewal between a pharmacy benefits manager and a pharmacy or between a pharmacy benefits manager and a pharmacy's contracting

representative or agent, such as a pharmacy services administrative organization, a pharmacy benefits manager shall, with respect to such contract or renewal:

(1) Include in such contract or renewal the sources utilized to determine maximum allowable cost and update such pricing information at least every seven days; and

(2) Maintain a procedure to eliminate products from the maximum allowable cost list of drugs subject to such pricing or modify maximum allowable cost pricing at least every seven days, if such drugs do not meet the standards and requirements of this section, in order to remain consistent with pricing changes in the marketplace.

3. A pharmacy benefits manager shall reimburse pharmacies for drugs subject to maximum allowable cost pricing that has been updated to reflect market pricing at least every seven days as set forth under subdivision (1) of subsection 2 of this section.

4. A pharmacy benefits manager shall not place a drug on a maximum allowable cost list unless there are at least two therapeutically equivalent multi-source generic drugs, or at least one generic drug available from at least one manufacturer, generally available for purchase by network pharmacies from national or regional wholesalers.

5. All contracts between a pharmacy benefits manager and a contracted pharmacy or between a pharmacy benefits manager and a pharmacy's contracting representative or agent, such as a pharmacy services administrative organization, shall include a process to internally appeal, investigate, and resolve disputes regarding maximum allowable cost pricing. The process shall include the following:

(1) The right to appeal shall be limited to fourteen calendar days following the reimbursement of the initial claim; and

(2) A requirement that the pharmacy benefits manager shall respond to an appeal described in this subsection no later than fourteen calendar days after the date the appeal was received by such pharmacy benefits manager.

6. For appeals that are denied, the pharmacy benefits manager shall provide the reason for the denial and identify the national drug code of a drug product that may be purchased by contracted pharmacies at a price at or below the maximum allowable cost and, when applicable, may be substituted lawfully.

7. If the appeal is successful, the pharmacy benefits manager shall:

(1) Adjust the maximum allowable cost price that is the subject of the appeal effective on the day after the date the appeal is decided;

(2) Apply the adjusted maximum allowable cost price to all similarly situated pharmacies as determined by the pharmacy benefits manager; and

(3) Allow the pharmacy that succeeded in the appeal to reverse and rebill the pharmacy benefits claim giving rise to the appeal.

8. Appeals shall be upheld if:

(1) The pharmacy being reimbursed for the drug subject to the maximum allowable cost pricing in question was not reimbursed as required under subsection 3 of this section; or

(2) The drug subject to the maximum allowable cost pricing in question does not meet the requirements set forth under subsection 4 of this section.

376.465. MISSOURI HEALTH INSURANCE RATE TRANSPARENCY ACT — DEFINITIONS — RATE FILING REQUIREMENTS, PROCEDURE — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Missouri Health Insurance Rate Transparency Act".

2. It is the intent of the Missouri general assembly that the review of health insurance rates as specified in this section is consistent with the general powers of the department as outlined under section 374.010.

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

(1) "Director", the director of the department of insurance, financial institutions and professional registration, or his or her designee;

(2) "Excepted health benefit plan", a health benefit plan providing the following coverage or any combination thereof:

(a) Coverage only for accident insurance, including accidental death and dismemberment insurance;

(b) Coverage only for disability income insurance;

(c) Credit-only insurance;

(d) Short-term medical insurance of less than twelve months' duration; or

(e) If provided under a separate policy, certificate, or contract of insurance, any of the following:

a. Dental or vision benefits;

b. Coverage only for a specified disease or illness; or

c. Hospital indemnity or other fixed indemnity insurance;

(3) "Grandfathered health benefit plan", a health benefit plan in the small group market that was issued, or a health benefit plan in the individual market that was purchased, on or before March 23, 2010;

(4) "Health benefit plan", the same meaning given to such term under section 376.1350; however, for purposes of this section, the term shall exclude plans sold in the large group market, as that term is defined under section 376.450, and shall exclude long-term care and Medicare supplement plans;

(5) "Health carrier", the same meaning given to such term under section 376.1350;

(6) "Individual market", the market for health insurance coverage offered directly to individuals and their dependents and not in connection with a group health benefit plan;

(7) "Small group market", the health insurance market under which individuals obtain health insurance coverage, directly or through an arrangement on behalf of themselves and their dependents, through a group health plan maintained by a small employer, as defined under section 379.930.

4. No health carrier shall deliver, issue for delivery, continue, or renew any health benefit plan until rates have been filed with the director.

5. For excepted health benefit plans, such rates shall be filed, thirty days prior to use, for informational purposes only. Rates shall not be excessive, inadequate, or unfairly discriminatory.

6. For grandfathered health benefit plans, such rates shall be filed, thirty days prior to use, for informational purposes only.

7. (1) For health benefit plans that are not grandfathered health benefit plans or excepted health benefit plans, a health carrier may use rates on the earliest of:

(a) The date the director determines the rates are reasonable;

(b) The date the health carrier notifies the director of its intent to use rates that the director has deemed unreasonable; or

(c) Sixty days after the date of filing rates with the director.

(2) The director may notify the health carrier within sixty days of the date of filing rates with the director that the health carrier has failed to provide sufficient rate filing documentation to review the proposed rates. The health carrier may, as described in this section, provide additional information to support the rate filing.

8. For health benefit plans described under subsection 7 of this section, all proposed rates and rate filing documentation shall be submitted in the form and content prescribed by rule, which is consistent with the requirements of 45 CFR 154, and shall include review standards and criteria consistent with 45 CFR 154.

9. The director shall determine by rule when rates filed under this section shall be made publicly available. Rate filing documentation and other supporting information that is a trade secret or of a proprietary nature, and has been designated as such by the health carrier, shall not be considered a public record.

10. For rates filed for health benefit plans described under subsection 7 of this section, the director shall:

(1) Provide a means by which the public can submit written comments concerning proposed rate increases;

(2) Review proposed rates and rate filing documentation;

(3) Determine that a proposed rate is an unreasonable rate if the increase is an excessive rate, an inadequate rate, an unfairly discriminatory rate, or an unjustified rate, consistent with 45 CFR 154; and

(4) Within sixty days after submission, provide a written notice to the health carrier detailing whether the proposed rates are reasonable or unreasonable. For proposed rates deemed unreasonable, the written notice shall specify deficiencies and provide detailed reasons for the director's decision that the proposed rate is excessive, inadequate, unjustified, or unfairly discriminatory.

11. Within thirty days after receiving written notice of the director's determination that the proposed rates are unreasonable, as described under subsection 10 of this section, a health carrier may amend its rates, request reconsideration based upon additional information, or implement the proposed rates. The health carrier shall notify the director of its intention no later than thirty days after its receipt of the written notice of the determination of unreasonable rates.

12. If a health carrier implements a rate that the director has determined is unreasonable under subsection 10 of this section, the department shall make such determination public, in a form and manner determined by rule.

13. For health benefit plans described under subsection 7 of this section, the director shall publish final rates on the department's website no earlier than thirty days prior to the first day of the annual open enrollment period in the individual market for the applicable calendar year. The final rate is the rate that will be implemented by the health carrier on a specified date.

14. Time frames described under this section may be extended upon mutual agreement between the director and the health carrier.

15. The director may promulgate rules to promote health insurance rate transparency including, but not limited to, prescribing the form and content of the information required to be submitted and of the standards of review that are consistent with 45 CFR 154. 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, 2016, shall be invalid and void.

16. This section shall apply to health benefit plans that are delivered, issued for delivery, continued, or renewed on or after January 1, 2018. In order to ensure that health benefit plans comply with the provisions of this section, the director shall promulgate rules regarding the initial implementation of the provisions of this section. Such rules shall be effective no later than March 1, 2017, and, for health benefit plans described under subsection 7 of this section, shall include, but not be limited to, the form and content of the information required to be submitted and of the standards of review, consistent with 45 CFR 154.

376.1237. REFILLS FOR PRESCRIPTION EYE DROPS, REQUIRED, WHEN — DEFINITIONS — TERMINATION DATE. — 1. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2014, and that provides coverage for prescription eye drops shall provide

coverage for the refilling of an eye drop prescription prior to the last day of the prescribed dosage period without regard to a coverage restriction for early refill of prescription renewals as long as the prescribing health care provider authorizes such early refill, and the health carrier or the health benefit plan is notified.

2. For the purposes of this section, health carrier and health benefit plan shall have the same meaning as defined in section 376.1350.

3. The coverage required by this section shall not be subject to any greater deductible or co-payment than other similar health care services provided by the health benefit plan.

4. The provisions of this section shall not apply to 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 policies of six months' or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

5. The provisions of this section shall terminate on January 1, **[**2017**]** **2020**.

379.934. ESTABLISHMENT OF CLASS OF BUSINESS, REASONS — NUMBER OF CLASSES THAT MAY BE ESTABLISHED — PROMULGATION OF RULES FOR PERIOD OF TRANSITION — ESTABLISHMENT OF ADDITIONAL CLASSES. — 1. **For health benefit plans purchased on or before March 23, 2010,** a small employer carrier may establish a class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following reasons:

(1) The small employer carrier uses more than one type of system for the marketing and sale of health benefit plans to small employers;

(2) The small employer carrier has acquired a class of business from another small employer carrier; or

(3) The small employer carrier provides coverage to one or more association groups that meet the requirements of subdivision (5) of subsection 1 of section 376.421.

2. A small employer carrier may establish up to nine separate classes of business under subsection 1 of this section. A small employer carrier which immediately prior to the effective date of sections 379.930 to 379.952 had established more than nine separate classes of business may, on the effective date of sections 379.930 to 379.952, establish no more than twelve separate classes of business, and shall reduce the number of such classes to eleven within one year after the effective date of sections 379.930 to 379.952; ten within two years after such date; and nine within three years after such date.

3. The director may promulgate rules to provide for a period of transition in order for a small employer carrier to come into compliance with subsection 2 of this section in the instance of acquisition of an additional class of business from another small employer carrier.

4. The director may approve the establishment of additional classes of business upon application to the director and a finding by the director that such action would enhance the efficiency and fairness of the small employer marketplace.

379.936. PREMIUM RATES, SUBJECT TO CONDITIONS — NO TRANSFER OUT OF CLASS OF BUSINESS — DISCLOSURE REQUIRED, CONTENTS — RATING AND RENEWAL RECORDS REQUIRED TO BE KEPT. — 1. Premium rates for health benefit plans **purchased on or before March 23, 2010, and that are** subject to sections 379.930 to 379.952**,** shall be subject to the following provisions:

(1) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent;

(2) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that

could be charged to such employers under the rating system for that class of business shall not vary from the index rate by more than thirty-five percent of the index rate;

(3) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(b) Any adjustment, not to exceed fifteen percent annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the small employer carrier's rate manual for the class of business;

(4) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer;

(5) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by small employer carriers pursuant to sections 379.942 and 379.943;

(6) A small employer carrier may utilize the employer's industry as a case characteristic in establishing premium rates, provided that the rate factor associated with any industry classification shall not vary by more than ten percent from the arithmetic mean of the highest and lowest rate factors associated with all industry classifications;

(7) In the case of health benefit plans issued prior to July 1, 1993, a premium rate for a rating period may exceed the ranges set forth in subdivisions (1) and (2) of this subsection for a period of three years following July 1, 1993. In such case, the percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(b) Any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the carrier's rate manual for the class of business;

(8) (a) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans;

(b) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period;

(9) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs;

(10) A small employer carrier shall not use case characteristics, other than age, sex, industry, geographic area, family composition, and group size without prior approval of the director;

(11) The director may promulgate rules to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of sections 379.930 to 379.952, including:

(a) Assuring that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans; and

(b) Prescribing the manner in which case characteristics may be used by small employer carriers.

2. A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage.

3. The director may suspend for a specified period the application of subdivision (1) of subsection 1 of this section as to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

4. In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(1) The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

(2) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and factors, other than claim experience, that affect changes in premium rates;

(3) The provisions relating to renewability of policies and contracts; and

(4) The provisions relating to any preexisting condition provision.

5. (1) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(2) Each small employer carrier shall file with the director annually on or before March fifteenth an actuarial certification certifying that the carrier is in compliance with sections 379.930 to 379.952 and that the rating methods of the small employer carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(3) A small employer carrier shall make the information and documentation described in subdivision (1) of this **[**section**]** **subsection** available to the director upon request.

379.938. RENEWABILITY, EXCEPTIONS — CARRIER NOT RENEWING PROHIBITED FROM WRITING NEW BUSINESS IN MARKET, WHEN — APPLICATION OF SECTION IN CERTAIN GEOGRAPHIC AREAS. — 1. A health benefit plan subject to sections 379.930 to 379.952 shall be renewable with respect to all eligible employees and dependents, at the option of the small employer, except in any of the following cases:

(1) The plan sponsor fails to pay a premium or contribution in accordance with the terms of a health benefit plan or the health carrier has not received a timely premium payment;

(2) The plan sponsor performs an act or practice that constitutes fraud, or makes an intentional misrepresentation of material fact under the terms of the coverage;

(3) Noncompliance with the carrier's minimum participation requirements;

(4) Noncompliance with the carrier's employer contribution requirements;

(5) In the case of a small employer carrier that offers coverage through a network plan, there is no longer any enrollee under the health benefit plan who lives, resides or works in the service area of the health insurance issuer and the small employer carrier would deny enrollment with respect to such plan under subsection 4 of this section;

(6) The small employer carrier elects to discontinue offering a **[**particular type of health benefit plan**]** **product, as defined in 45 CFR 144.103,** in the state's small group market. A type of **[**health benefit plan**]** **product** may be discontinued by a small employer carrier in such market only if such carrier:

(a) Issues a notice to each plan sponsor provided coverage of such type in the small group market (and participants and beneficiaries covered under such coverage) of the discontinuation at least ninety days prior to the date of discontinuation of the coverage;

(b) Offers to each plan sponsor provided coverage of such type the option to purchase all other health benefit plans currently being offered by the small employer carrier in the state's small group market; and

(c) Acts uniformly without regard to the claims experience of those plan sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage;

(7) A small employer carrier elects to discontinue offering all health insurance coverage in the small group market in this state. A small employer carrier shall not discontinue offering all health insurance coverage in the small employer market unless:

(a) The carrier provides notice of discontinuation to the director and to each plan sponsor (and participants and beneficiaries covered under such coverage) at least one hundred eighty days prior to the date of the discontinuation of coverage; and

(b) All health insurance issued or delivered for issuance in Missouri in the small employer market is discontinued and coverage under such health insurance is not renewed;

(8) In the case of health insurance coverage that is made available in the small group market only through one or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this subdivision uniformly without regard to any health status-related factor relating to any covered individual;

(9) The director finds that the continuation of the coverage would:

(a) Not be in the best interests of the policyholders or certificate holders; or

(b) Impair the carrier's ability to meet its contractual obligations.

In such instance the director shall assist affected small employers in finding replacement coverage.

2. A small employer carrier that elects not to renew a health benefit plan under subdivision (7) of subsection 1 of this section shall be prohibited from writing new business in the small employer market in this state for a period of five years from the date of notice to the director.

3. In the case of a small employer carrier doing business in one established geographic service area of the state, the provisions of this section shall apply only to the carrier's operations in such service area.

4. At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan in the small group market if, for coverage that is available in such market other than only through one or more bona fide associations, such modification is consistent with state law and effective on a uniform basis among group health plans with that product. For purposes of this subsection, renewal shall be

deemed to occur not more often than annually on the anniversary of the effective date of the group health plan's health insurance coverage unless a longer term is specified in the policy or contract.

5. In the case of health insurance coverage that is made available by a small employer carrier only through one or more bona fide associations, references to plan sponsor in this section is deemed, with respect to coverage provided to a small employer member of the association, to include a reference to such employer.

379.940. CARRIERS TO OFFER ALL HEALTH PLANS IN MARKET — HEALTH BENEFIT PLANS, REQUIREMENTS — EXCLUSION OF COVERAGE FOR CERTAIN EMPLOYEES. — 1. (1) Every small employer carrier shall, as a condition of transacting business in this state with small employers, actively offer to small employers all health benefit plans it actively markets to small employers in this state, except for plans developed for health benefit trust funds.

(2) (a) A small employer carrier shall issue a health benefit plan to any eligible small employer that applies for either such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with sections 379.930 to 379.952.

(b) **For health benefit plans purchased on or before March 23, 2010,** in the case of a small employer carrier that establishes more than one class of business pursuant to section 379.934, the small employer carrier shall maintain and issue to eligible small employers all health benefit plans in each class of business so established. A small employer carrier may apply reasonable criteria in determining whether to accept a small employer into a class of business, provided that:

a. The criteria are not intended to discourage or prevent acceptance of small employers applying for a health benefit plan;

b. The criteria are not related to the health status or claim experience of the small employer;

c. The criteria are applied consistently to all small employers applying for coverage in the class of business; and

d. The small employer carrier provides for the acceptance of all eligible small employers into one or more classes of business. The provisions of this paragraph shall not apply to a class of business into which the small employer carrier is no longer enrolling new small employers.

2. Health benefit plans **purchased on or before March 23, 2010** covering small employers shall comply with the following provisions:

(1) A health benefit plan shall comply with the provisions of sections 376.450 and 376.451.

(2) (a) Except as provided in paragraph (d) of this subdivision, requirements used by a small employer carrier in determining whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.

(b) A small employer carrier shall not require a minimum participation level greater than:

a. One hundred percent of eligible employees working for groups of three or less employees; and

b. Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met.

(d) A small employer carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(3) (a) If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and

their dependents who apply for enrollment during the period in which the employee first becomes eligible to enroll under the terms of the plan. A small employer carrier shall not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group.

(b) A small employer carrier shall not modify a health benefit plan with respect to a small employer or any eligible employee or dependent through riders, endorsements or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(c) An eligible employee may choose to retain their individually underwritten health benefit plan at the time such eligible employee is entitled to enroll in a small employer health benefit plan. If the eligible employee retains their individually underwritten health benefit plan, a small employer may provide a defined contribution through the establishment of a cafeteria 125 plan under section 379.953. Small employers shall establish an equal amount of defined contribution for all plans. If an eligible employee retains their individually underwritten health benefit plan under this subdivision, the provisions of sections 379.930 to 379.952 shall not apply to the individually underwritten health benefit plan.

3. (1) Subject to subdivision (3) of this subsection, a small employer carrier shall not be required to offer coverage or accept applications pursuant to subsection 1 of this section in the case of the following:

(a) To a small employer, where the small employer is not physically located in the carrier's established geographic service area;

(b) To an employee, when the employee does not live, work or reside within the carrier's established geographic service area; or

(c) Within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to the members of such groups because of its obligations to existing group policyholders and enrollees.

(2) A small employer carrier that cannot offer coverage pursuant to paragraph (c) of subdivision (1) of this subsection may not offer coverage in the applicable area to new cases of employer groups with more than fifty eligible employees or to any small employer groups until the later of one hundred eighty days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to small employer groups.

(3) A small employer carrier shall apply the provisions of this subsection uniformly to all small employers without regard to the claims experience of a small employer and its employees and their dependents or any health status-related factor relating to such employees and their dependents.

4. A small employer carrier shall not be required to provide coverage to small employers pursuant to subsection 1 of this section for any period of time for which the director determines that requiring the acceptance of small employers in accordance with the provisions of subsection 1 of this section would place the small employer carrier in a financially impaired condition, and the small employer is applying this subsection uniformly to all small employers in the small group market in this state consistent with applicable state law and without regard to the claims experience of a small employer and its employees and their dependents or any health status-related factor relating to such employees and their dependents.

Approved July 5, 2016

SB 875 [SB 875]

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

Allows a pharmacist to select an interchangeable biological product when filling a biological product prescription

AN ACT to repeal sections 338.056, 338.059, and 338.100, RSMo, and to enact in lieu thereof four new sections relating to interchangeable biological products.

SECTION
A. Enacting clause.
338.056. Generic substitutions may be made, when, form required for prescription blanks, exception — penalty.
338.059. Prescriptions, how labeled.
338.085. Interchangeable biological products, pharmacist may dispense as substitute, when — recordkeeping — rulemaking authority.
338.100. Records required to be kept — requirements.

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

SECTION A. ENACTING CLAUSE. — Sections 338.056, 338.059, and 338.100, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 338.056, 338.059, 338.085, and 338.100, to read as follows:

338.056. GENERIC SUBSTITUTIONS MAY BE MADE, WHEN, FORM REQUIRED FOR PRESCRIPTION BLANKS, EXCEPTION — PENALTY. — 1. Except as provided in subsection 2 of this section, the pharmacist filling prescription orders for drug products prescribed by trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity and dosage form, and of the same generic drug **or interchangeable biological product** type, as determined by the United States Adopted Names and accepted by the Federal Food and Drug Administration. Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subsection 2 of this section. The pharmacist who selects the drug **or interchangeable biological** product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug **or biological** product as would be incurred in filling a prescription for a drug **or interchangeable biological** product prescribed by generic **or interchangeable biologic** name. The pharmacist shall not select a drug **or interchangeable biological** product pursuant to this section unless the product selected costs the patient less than the prescribed product.

2. A pharmacist who receives a prescription for a brand name drug **or biological product** may, unless requested otherwise by the purchaser, select a less expensive generically equivalent **or interchangeable biological** product under the following circumstances:

(1) If a written prescription is involved, the prescription form used shall have two signature lines at opposite ends at the bottom of the form. Under the line at the right side shall be clearly printed the words: "Dispense as Written". Under the line at the left side shall be clearly printed the words "Substitution Permitted". The prescriber shall communicate the instructions to the pharmacist by signing the appropriate line. No prescription shall be valid without the signature of the prescriber on one of these lines;

(2) If an oral prescription is involved, the practitioner or the practitioner's agent, communicating the instructions to the pharmacist, shall instruct the pharmacist as to whether or not a therapeutically equivalent generic drug **or interchangeable biological product** may be substituted. The pharmacist shall note the instructions on the file copy of the prescription.

3. All prescriptions written in the state of Missouri by practitioners authorized to write prescriptions shall be on forms which comply with subsection 2 hereof.

4. Notwithstanding the provisions of subsection 2 of this section to the contrary, a pharmacist may fill a prescription for a brand name drug by substituting a generically equivalent drug **or interchangeable biological product** when **[**generic**]** substitution is allowed in accordance with the laws of the state where the prescribing practitioner is located.

5. Violations of this section are infractions.

338.059. PRESCRIPTIONS, HOW LABELED. — 1. It shall be the duty of a licensed pharmacist or a physician to affix or have affixed by someone under the pharmacist's or physician's supervision a label to each and every container provided to a consumer in which is placed any prescription drug **or biological product** upon which is typed or written the following information:

(1) The date the prescription is filled;

(2) The sequential number or other unique identifier;

(3) The patient's name;

(4) The prescriber's directions for usage;

(5) The prescriber's name;

(6) The name and address of the pharmacy;

(7) The exact name and dosage of the drug dispensed;

(8) There may be one line under the information provided in subdivisions (1) to (7) of this subsection stating "Refill" with a blank line or squares following or the words "No Refill";

(9) When a generic **or interchangeable biological** substitution is dispensed, the name of the manufacturer or an abbreviation thereof shall appear on the label or in the pharmacist's records as required in section 338.100.

2. The label of any drug **or biological product** which is sold at wholesale in this state and which requires a prescription to be dispensed at retail shall contain the name of the manufacturer, expiration date, if applicable, batch or lot number and national drug code.

338.085. INTERCHANGEABLE BIOLOGICAL PRODUCTS, PHARMACIST MAY DISPENSE AS SUBSTITUTE, WHEN — RECORDKEEPING — RULEMAKING AUTHORITY. — 1. As used in this chapter, the following terms shall mean:

(1) "Biological product", the same meaning as such term is defined under 42 U.S.C. Section 262;

(2) "Interchangeable biological product", a biological product that the Food and Drug Administration:

(a) Has licensed and determined meets the standards for interchangeability under 42 U.S.C. Section 262(k)(4); or

(b) Has determined is therapeutically equivalent as set forth in the latest edition of or supplement to the Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book).

2. A pharmacist may substitute an interchangeable biological product for a prescribed product only if all of the following conditions are met:

(1) The substituted product has been determined by the Food and Drug Administration to be an interchangeable biological product with the prescribed biological product;

(2) The substitution occurs according to the provisions of section 338.056; and

(3) The pharmacy informs the patient of the substitution.

3. Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product provided to the patient including the name of the product and manufacturer. The communication shall be conveyed by making an entry that can be electronically accessed by the prescriber through one of the following means:

(1) An interoperable electronic medical records system;

(2) An electronic prescribing technology;

(3) A pharmacy benefit management system; or

(4) A pharmacy record.

4. Entry into an electronic records system as described in this subsection is presumed to provide notice to the prescriber. Otherwise, if an entry cannot be made under the provisions of subsection 3 of this section, the pharmacist shall communicate the biological

product dispensed to the prescriber using facsimile, telephone, electronic transmission, or other prevailing means, except that communication shall not be required if:

(1) There is no Food and Drug Administration approved interchangeable biological product for the product prescribed; or

(2) A refill prescription is not changed from the product dispensed on the prior filling of the prescription.

5. The pharmacist shall maintain records in a manner consistent with section 338.100.

6. The pharmacist shall label prescriptions in a manner consistent with section 338.059.

7. The board of pharmacy shall maintain a link on its website to the current list of all biological products determined by the Food and Drug Administration to be interchangeable with a specific biological product.

8. The board of pharmacy may promulgate rules for compliance with 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, 2016, shall be invalid and void.

338.100. RECORDS REQUIRED TO BE KEPT — REQUIREMENTS. — 1. Every permit holder of a licensed pharmacy shall cause to be kept in a uniform fashion consistent with this section a suitable book, file, or electronic record-keeping system in which shall be preserved, for a period of not less than five years, the original or order of each drug **or biological product** which has been compounded or dispensed at such pharmacy, according to and in compliance with standards provided by the board, and shall produce the same in court or before any grand jury whenever lawfully required. A licensed pharmacy may maintain its prescription file on readable microfilm for records maintained over three years. After September, 1999, a licensed pharmacy may preserve prescription files on microfilm or by electronic media storage for records maintained over three years. The pharmacist in charge shall be responsible for complying with the permit holder's record-keeping system in compliance with this section. Records maintained by a pharmacy that contain medical or drug information on patients or their care shall be considered as confidential and shall only be released according to standards provided by the board. Upon request, the pharmacist in charge of such pharmacy shall furnish to the prescriber, and may furnish to the person for whom such prescription was compounded or dispensed, a true and correct copy of the original prescription. The file of original prescriptions kept in any format in compliance with this section, and other confidential records, as defined by law, shall at all times be open for inspection by board of pharmacy representatives. Records maintained in an electronic record-keeping system shall contain all information otherwise required in a manual record-keeping system. Electronic records shall be readily retrievable. Pharmacies may electronically maintain the original prescription or prescription order for each drug **or biological product** and may electronically annotate any change or alteration to a prescription record in the electronic record-keeping system as authorized by law; provided however, original written and faxed prescriptions shall be physically maintained on file at the pharmacy under state and federal controlled substance laws.

2. An institutional pharmacy located in a hospital shall be responsible for maintaining records of the transactions of the pharmacy as required by federal and state laws and as necessary to maintain adequate control and accountability of all drugs. This shall include a system of controls and records for the requisitioning and dispensing of pharmaceutical supplies where applicable to patients, nursing care units and to other departments or services of the institution.

Inspection performed pursuant to this subsection shall be consistent with the provisions of section 197.100.

3. "Electronic record-keeping system", as used in this section, shall mean a system, including machines, methods of organization, and procedures, that provides input, storage, processing, communications, output, and control functions for digitized images of original prescriptions.

Approved June 8, 2016

SB 905 [SCS SBs 905 & 992]

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 effective date of the repeal and enactment of certain provisions of the Uniform Interstate Family Support Act

AN ACT to repeal sections 454.849 and 454.1728, RSMo, and to enact in lieu thereof two new sections relating to the uniform interstate family support act, with an emergency clause.

SECTION
A. Enacting clause.
454.849. Effective date of repeal of act.
454.1728. Effective date.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 454.849 and 454.1728, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 454.849 and 454.1728, to read as follows:

454.849. EFFECTIVE DATE OF REPEAL OF ACT. — The repeal of sections 454.850 to 454.999 shall become effective upon the **[**United States filing its instrument of ratification of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague Conference on Private International Law on November 23, 2007**]** **effective date of this act**.

454.1728. EFFECTIVE DATE. — Sections 454.1500 to 454.1728 shall become effective upon the **[**United States filing its instrument of ratification of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague Conference on Private International Law on November 23, 2007**]** **effective date of this act**.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to prevent any loss of federal funding for the child support enforcement program, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 15, 2016

SB 915 [SB 915]

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

Designates two memorial highways in Boone County

AN ACT to amend chapter 227, RSMo, by adding thereto two new sections relating to memorial highway designations.

SECTION
A. Enacting clause.
227.436. U.S. Army Specialist Steven Paul Farnen Memorial Highway designated for a portion of U.S. Highway 63 in Boone County.
227.437. U.S. Navy Lieutenant Patrick Kelly Connor Memorial Highway designated for a portion of U.S. Highway 63 in Boone 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 two new sections, to be known as sections 227.436 and 227.437, to read as follows:

227.436. U.S. ARMY SPECIALIST STEVEN PAUL FARNEN MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 63 IN BOONE COUNTY. — The portion of U.S. Highway 63 from Breedlove Drive to Peabody Road in Boone County shall be designated as "U.S. Army Specialist Steven Paul Farnen Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with costs to be paid by private donations.

227.437. U.S. NAVY LIEUTENANT PATRICK KELLY CONNOR MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 63 IN BOONE COUNTY. — The portion of U.S. Highway 63 from the interchange with Discovery Parkway to Interstate 70 in Boone County shall be designated as "U.S. Navy Lieutenant Patrick Kelly Connor Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with costs to be paid by private donations.

Approved June 24, 2016

SB 919 [SS SCS SB 919]

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 intoxicating liquor

AN ACT to repeal sections 311.090, 311.195, 311.200, 311.205, 311.220, 311.328, and 311.665, RSMo, and to enact in lieu thereof ten new sections relating to intoxicating liquor, with an effective date for a certain section and penalty provisions.

SECTION
A. Enacting clause.
311.090. Sale of liquor by the drink, cities, requirements.
311.195. Microbrewery, defined — license, fee — retail license allowed, procedure — sale to wholesalers allowed, when — certain exemptions, when.

311.198. Portable refrigeration units, lease to retail licensee, when — requirements — duration of lease — rulemaking authority — expiration date.
311.200. Licenses — retail liquor dealers — fees — applications.
311.201. Draft beer, sale of 32 to 128 fluid ounces dispensed on premises for consumption off premises — requirements.
311.205. Self-dispensing of beer permitted, when.
311.220. Counties and cities may charge for licenses — amount — display of license.
311.328. Identification, acceptable forms.
311.665. Sales and use tax must be paid to renew license — statement required.
311.915. Special permit for festivals — limit on shipment in state — excise taxes — duration of permit.
B. Delayed effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 311.090, 311.195, 311.200, 311.205, 311.220, 311.328, and 311.665, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 311.090, 311.195, 311.198, 311.200, 311.201, 311.205, 311.220, 311.328, 311.665, and 311.915, to read as follows:

311.090. SALE OF LIQUOR BY THE DRINK, CITIES, REQUIREMENTS. — 1. Any person who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter, and the ordinances, rules and regulations of the incorporated city in which such licensee proposes to operate his business, may apply for, and the supervisor of alcohol and tobacco control may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises described in the application; provided, that no license shall be issued for the sale of intoxicating liquor, other than malt liquor **[**containing alcohol not in excess of five percent by weight**]** **as defined in section 311.490**, and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by the drink at retail for consumption on the premises where sold to any person other than a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of federal income taxes as provided in section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended, in any incorporated city having a population of less than nineteen thousand five hundred inhabitants, until the sale of such intoxicating liquor, by the drink at retail for consumption on the premises where sold, shall have been authorized by a vote of the majority of the qualified voters of the city. Such authority shall be determined by an election to be held in those cities having a population of less than nineteen thousand five hundred inhabitants as determined by the last preceding federal decennial census, under the provisions and methods set out in this chapter. Once such licenses are issued in a city with a population of at least nineteen thousand five hundred inhabitants, any subsequent loss of population shall not require the qualified voters of such a city to approve the sale of such intoxicating liquor prior to the issuance or renewal of such licenses. No license shall be issued for the sale of intoxicating liquor, other than malt liquor **[**containing alcohol not in excess of five percent by weight**]** **as defined in section 311.490**, and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by the drink at retail for consumption on the premises where sold, outside the limits of such incorporated cities unless the licensee is a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of federal income taxes as provided in section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended.

2. If any charitable, fraternal, religious, service, or veterans' organization has a license to sell intoxicating liquor on its premises pursuant to this section and such premises includes two or more buildings in close proximity, such permit shall be valid for the sale of intoxicating liquor at any such building.

311.195. MICROBREWERY, DEFINED — LICENSE, FEE — RETAIL LICENSE ALLOWED, PROCEDURE — SALE TO WHOLESALERS ALLOWED, WHEN — CERTAIN EXEMPTIONS, WHEN. — 1. As used in this section, the term "microbrewery" means a business whose primary activity is the brewing and selling of beer, with an annual production of ten thousand barrels or less.

2. A microbrewer's license shall authorize the licensee to manufacture beer and malt liquor in quantities not to exceed ten thousand barrels per annum. In lieu of the charges provided in section 311.180, a license fee of five dollars for each one hundred barrels or fraction thereof, up to a maximum license fee of two hundred fifty dollars, shall be paid to and collected by the director of revenue.

3. Notwithstanding any other provision of this chapter to the contrary, the holder of a microbrewer's license may apply for, and the supervisor of alcohol and tobacco control may issue, a license to sell **all kinds of** intoxicating liquor**, as defined in this chapter,** by the drink at retail for consumption on the premises **of the microbrewery or in close proximity to the microbrewery**. No holder of a microbrewer's license, or any employee, officer, agent, subsidiary, or affiliate thereof, shall have more than ten licenses to sell intoxicating liquor by the drink at retail for consumption on the premises. **[**The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of section 311.085, 311.090, 311.095, or 311.097.**]**

4. The holder of a microbrewer's license may also sell beer and malt liquor produced on the brewery premises to duly licensed wholesalers. However, holders of a microbrewer's license shall not, under any circumstances, directly or indirectly, have any financial interest in any wholesaler's business, and all such sales to wholesalers shall be subject to the restrictions of sections 311.181 and 311.182.

5. A microbrewer who is a holder of a license to sell intoxicating liquor by the drink at retail for consumption on the premises shall be exempt from the provisions of section 311.280, for such intoxicating liquor that is produced on the premises in accordance with the provisions of this chapter. For all other intoxicating liquor sold by the drink at retail for consumption on the premises that the microbrewer possesses a license for must be obtained in accordance with section 311.280.

311.198. PORTABLE REFRIGERATION UNITS, LEASE TO RETAIL LICENSEE, WHEN — REQUIREMENTS — DURATION OF LEASE — RULEMAKING AUTHORITY — EXPIRATION DATE. — **1. Notwithstanding any other provision of law, rule, or regulation to the contrary, a brewer may lease to the retail licensee and the retail licensee may accept portable refrigeration units at a total lease value equal to the cost of the unit to the brewer plus two percent of the total lease value as of the execution of the lease. Such portable refrigeration units shall remain the property of the brewer. The brewer may also enter into lease agreements with wholesalers, who may enter into sublease agreements with retail licensees in which the value contained in the sublease is equal to the unit cost to the brewer plus two percent of the total lease value as of the execution of the lease. If the lease agreement is with a wholesaler, the portable refrigeration units shall become the property of the wholesaler at the end of the lease period, which is to be defined between the brewer and the wholesaler. A wholesaler may not directly or indirectly fund the cost or maintenance of the portable refrigeration units. Brewers shall be responsible for maintaining adequate records of retailer payments to be able to verify fulfillment of lease agreements. No portable refrigeration unit may exceed forty cubic feet in storage space. A brewer may lease, or wholesaler may sublease, not more than one portable refrigeration unit per retail location. Such portable refrigeration unit may bear in a conspicuous manner substantial advertising matter about a product or products of the brewer and shall be visible to consumers inside the retail outlet. Notwithstanding any other provision**

of law, rule, regulation, or lease to the contrary, the retail licensee is hereby authorized to stock, display, and sell any product in and from the portable refrigeration units. No dispensing equipment shall be attached to a leased portable refrigeration unit, and no beer, wine, or intoxicating liquor shall be dispensed directly from a leased portable refrigeration unit. Any brewer or wholesaler that provides portable refrigeration units shall within thirty days thereafter notify the division of alcohol and tobacco control on forms designated by the division of the location, lease terms, and total cubic storage space of the units. The division is hereby given authority, including rulemaking authority, to enforce this section and to ensure compliance by having access to and copies of lease, payment, and portable refrigeration unit records and information.

2. Any lease or sublease executed under this section shall not exceed five years in duration and shall not contain any provision allowing for or requiring the automatic renewal of the lease or sublease.

3. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

4. This section shall expire on January 1, 2020. Any lease or sublease executed under this section prior to January 1, 2020, shall remain in effect until the expiration of such lease or sublease.

311.200. LICENSES — RETAIL LIQUOR DEALERS — FEES — APPLICATIONS. — 1. No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his store a stock of goods having a value according to invoices of at least one thousand dollars, exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this law. For every license for sale at retail in the original package, the licensee shall pay to the director of revenue the sum of one hundred dollars per year.

2. For a permit authorizing the sale of malt liquor **[**not in excess of five percent by weight**], as defined in section 311.490,** by grocers and other merchants and dealers in the original package direct to consumers but not for resale, a fee of fifty dollars per year payable to the director of the department of revenue shall be required. The phrase "original package" shall be construed and held to refer to any package containing one or more standard bottles, cans, or pouches of beer. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

3. For every license issued for the sale of malt liquor**, as defined in section 311.490,** at retail by drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

4. For every license issued for the sale of malt liquor**, as defined in section 311.490,** and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively

from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year.

5. For every license issued for the sale of all kinds of intoxicating liquor, at retail by the drink for consumption on premises of the licensee, the licensee shall pay to the director of revenue the sum of three hundred dollars per year, which shall include the sale of intoxicating liquor in the original package.

6. For every license issued to any railroad company, railway sleeping car company operated in this state, for sale of all kinds of intoxicating liquor, as defined in this chapter, at retail for consumption on its dining cars, buffet cars and observation cars, the sum of one hundred dollars per year. A duplicate of such license shall be posted in every car where such beverage is sold or served, for which the licensee shall pay a fee of one dollar for each duplicate license.

7. All applications for licenses shall be made upon such forms and in such manner as the supervisor of alcohol and tobacco control shall prescribe. No license shall be issued until the sum prescribed by this section for such license shall be paid to the director of revenue**.**

311.201. DRAFT BEER, SALE OF 32 TO 128 FLUID OUNCES DISPENSED ON PREMISES FOR CONSUMPTION OFF PREMISES — REQUIREMENTS. — 1. Any person who is licensed to sell intoxicating liquor in the original package at retail as provided in subsection 1 of section 311.200 may sell from thirty-two to one hundred twenty-eight fluid ounces of draft beer to customers in containers filled by any employee of the retailer on the premises for consumption off such premises. Any employee of the licensee shall be at least twenty-one years of age to fill containers with draft beer.

2. No provision of law, rule, or regulation of the supervisor of alcohol and tobacco control shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish dispensing or cooling equipment, or containers that are filled or refilled under subsection 1 of this section, to any person who is licensed to sell intoxicating liquor in the original package at retail as provided in subsection 1 of section 311.200.

3. (1) Containers that are filled or refilled under subsection 1 of this section shall be affixed with a label or a tag that shall contain the following information in type not smaller than three millimeters in height and not more than twelve characters per inch:

(a) Brand name of the product dispensed;

(b) Name of brewer or bottler;

(c) Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented beverage;

(d) Net contents;

(e) Name and address of the business that filled or refilled the container;

(f) Date of fill or refill;

(g) The following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times.".

(2) Containers that are filled or refilled under subsection 1 of this section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 CFR Sections 16.20 to 16.22.

4. (1) The filling and refilling of containers shall only occur on demand by a customer and containers shall not be prefilled by the retailer or its employee.

(2) Containers shall only be filled or refilled by an employee of the retailer.

(3) Containers shall be filled or refilled as follows:

(a) Containers shall be filled or refilled with a tube as described in subdivision (4) of this subsection and:

a. Food grade sanitizer shall be used in accordance with the Environmental Protection Agency registered label use instructions;

b. A container of liquid food-grade sanitizer shall be maintained for no more than ten malt beverage taps that will be used for filling and refilling containers;

c. Each container shall contain no less than five tubes that will be used only for filling and refilling containers;

d. The container shall be inspected visually for contamination;

e. After each filling or refilling of a container, the tube shall be immersed in the container with the liquid food-grade sanitizer; and

f. A different tube from the container shall be used for each filling or refilling of a container; or

(b) Containers shall be filled or refilled with a contamination-free process and:

a. The container shall be inspected visually for contamination;

b. The container shall only be filled or refilled by the retailer's employee; and

c. The filling or refilling shall be in compliance with the Food and Drug Administration Code 2009, Section 3-304.17(c).

(4) Containers shall be filled or refilled from the bottom of the container to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the container or with a commercial filling machine.

(5) When not in use, tubes to fill or refill shall be immersed and stored in a container with liquid food-grade sanitizer.

(6) After filling or refilling a container, the container shall be sealed as set forth in subsection 1 of this section.

311.205. SELF-DISPENSING OF BEER PERMITTED, WHEN. — 1. Any person licensed to sell liquor at retail by the drink for consumption on the premises where sold may use a **[**table tap dispensing**]** **self-dispensing** system **[**to allow**], which is monitored and controlled by the licensee and allows** patrons of the licensee to **[**dispense**]** **self-dispense** beer **[**at a table**]** **or wine**. Before a patron may dispense beer **or wine**, an employee of the licensee must first authorize an amount of beer **or wine**, not to exceed thirty-two ounces **of beer or sixteen ounces of wine** per patron per authorization, to be dispensed by the **[**table tap dispensing**]** **self-dispensing** system.

2. No provision of law or rule or regulation of the supervisor shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish **[**table tap dispensing**]** **self-dispensing** or cooling equipment or provide services for the maintenance, sanitation, or repair of **[**table tap dispensing**]** **self-dispensing** systems.

311.220. COUNTIES AND CITIES MAY CHARGE FOR LICENSES — AMOUNT — DISPLAY OF LICENSE. — 1. In addition to the permit fees and license fees and inspection fees by this law required to be paid into the state treasury, every holder of a permit or license authorized by this law shall pay into the county treasury of the county wherein the premises described and covered by such permit or license are located, or in case such premises are located in the city of St. Louis, to the collector of revenue of said city, a fee in such sum not in excess of the amount by this law required to be paid into the state treasury for such state permit or license, as the county commission, or the corresponding authority in the city of St. Louis, as the case may be, shall by order of record determine, and shall pay into the treasury of the municipal corporation, wherein said premises are located, a license fee in such sum, not exceeding one and one-half times the amount by this law required to be paid into the state treasury for such state permit or license, as the lawmaking body of such municipality, including the city of St. Louis may by ordinance determine.

2. The board of aldermen, city council or other proper authorities of incorporated cities, may charge for licenses issued to manufacturers, distillers, brewers, wholesalers and retailers of all intoxicating liquor, located within their limits, fix the amount to be charged for such license, subject to the limitations of this law, and provide for the collection thereof, make and enforce ordinances for the regulation and control of the sale of all intoxicating liquors within their limits,

provide for penalties for the violation of such ordinances, where not inconsistent with the provisions of this law.

3. Every licensee shall keep displayed prominently at all times on their licensed premises any city or county license designating their premises as a place licensed by the city or county to sell intoxicating liquors. Nonetheless, no application shall be disapproved by the supervisor of alcohol and tobacco control for failure to possess a city or county license when making application for a license. Within ten days from the issuance of said city or county license, the licensee shall file with the supervisor of alcohol and tobacco control a copy of such city or county license.

311.328. IDENTIFICATION, ACCEPTABLE FORMS. — 1. A valid and unexpired operator's or chauffeur's license issued under the provisions of section 302.177, or a valid and unexpired operator's or chauffeur's license issued under the laws of any state or territory of the United States to residents of those states or territories, or a valid and unexpired identification card **or nondriver's license** as provided for under section 302.181, **or a valid and unexpired nondriver's license issued under the laws of any state or territory of the United States to residents of those states or territories,** or a valid and unexpired identification card issued by any uniformed service of the United States, or a valid and unexpired passport shall be presented by the holder thereof upon request of any agent of the division of alcohol and tobacco control or any licensee or the servant, agent or employee thereof for the purpose of aiding the licensee or the servant, agent or employee to determine whether or not the person is at least twenty-one years of age when such person desires to purchase or consume alcoholic beverages procured from a licensee. Upon such presentation the licensee or the servant, agent or employee thereof shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

2. Upon proof by the licensee of full compliance with the provisions of this section, no penalty shall be imposed if the supervisor of the division of alcohol and tobacco control or the courts are satisfied that the licensee acted in good faith.

3. Any person who shall, without authorization from the department of revenue, reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars, and confinement for not more than one year, or by both such fine and imprisonment.

311.665. SALES AND USE TAX MUST BE PAID TO RENEW LICENSE — STATEMENT REQUIRED. — **1.** Before any license is **[**issued or**]** renewed under the provisions of this chapter, the supervisor of liquor control shall require a statement from the director of revenue that the applicant has paid all sales and use taxes due, including all penalties and interest or does not owe any sales or use tax.

2. Within ten days from the issuance of a sales and use tax statement by the director of revenue, the licensee shall file with the supervisor of alcohol and tobacco control a copy of such sales and use tax statement.

311.915. SPECIAL PERMIT FOR FESTIVALS — LIMIT ON SHIPMENT IN STATE — EXCISE TAXES — DURATION OF PERMIT. — A special permit shall be issued to an out of state manufacturer of intoxicating liquor who is not licensed in the state of Missouri for participation in festivals, bazaars, or similar events. Registration requirements under section 311.275 shall be waived for such event. The amount of intoxicating liquor shipped in the state under this permit shall not exceed two hundred gallons. Excise taxes shall be paid by the licensed manufacturer that holds a retail license organizing the event in the same manner as if it were produced or purchased by the manufacturer. A permit issued under this section by the division of alcohol and tobacco control shall be valid for no more

than seventy-two hours. An applicant shall complete a form provided by the supervisor of alcohol and tobacco control and pay a fee of twenty-five dollars before a special permit shall be issued.

SECTION B. DELAYED EFFECTIVE DATE. — The enactment of section 311.198 of section A of this act shall become effective January 1, 2017.

Approved July 1, 2016

SB 921 [CCS SCS SB 921]

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

Modifies requirements for the reporting of crimes and domestic violence incidents by law enforcement agencies

AN ACT to repeal sections 43.545, 455.543, 455.545, 595.030, and 595.209, RSMo, and to enact in lieu thereof seven new sections relating to victims of crime.

SECTION

A. Enacting clause.
9.172. Teen dating violence awareness month, February designated as.
43.545. Highway patrol to include incidents of domestic violence in reporting system.
173.2050. Memorandum of understanding between institution and law enforcement agency, contents — rulemaking authority.
455.543. Homicides or suicides, determination of domestic violence, factors to be considered — reports made to highway patrol, forms.
455.545. Annual report by highway patrol.
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.
595.209. Rights of victims and witnesses — written notification, requirements.

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

SECTION A. ENACTING CLAUSE. — Sections 43.545, 455.543, 455.545, 595.030, and 595.209, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 9.172, 43.545, 173.2050, 455.543, 455.545, 595.030, and 595.209, to read as follows:

9.172. TEEN DATING VIOLENCE AWARENESS MONTH, FEBRUARY DESIGNATED AS. — The month of February is hereby designated as "Teen Dating Violence Awareness Month" in the state of Missouri. One in three teens in the United States will experience physical, sexual, or emotional abuse by someone with whom they are in a relationship before they become adults. The citizens of this state are encouraged to observe the month with appropriate activities and events to raise awareness of abuse in teen relationships.

43.545. HIGHWAY PATROL TO INCLUDE INCIDENTS OF DOMESTIC VIOLENCE IN REPORTING SYSTEM. — The state highway patrol shall include **[**in its voluntary system of reporting for compilation in the "Crime in Missouri"**]** all reported incidents of domestic violence as defined in section 455.010, whether or not an arrest is made**, in its system of reporting for compilation in the annual crime report published under section 43.505**. All incidents shall be reported on forms provided by the highway patrol and in a manner prescribed by the patrol.

173.2050. MEMORANDUM OF UNDERSTANDING BETWEEN INSTITUTION AND LAW ENFORCEMENT AGENCY, CONTENTS — RULEMAKING AUTHORITY. — 1. The governing board of each public institution of higher education in this state shall engage in discussions with law enforcement agencies with jurisdiction over the premises of an institution to develop and enter into a memorandum of understanding concerning sexual assault, domestic violence, dating violence, and stalking, as defined in the federal Higher Education Act of 1965, 20 U.S.C. Section 1092(f), involving students both on and off campus.

2. The memorandum of understanding shall contain detailed policies and protocols regarding sexual assault, domestic violence, dating violence, and stalking involving a student that comport with best practices and current professional practices. At a minimum, the memorandum shall set out procedural requirements for the reporting of an offense, protocol for establishing who has jurisdiction over an offense, and criteria for determining when an offense is to be reported to law enforcement.

3. The department of public safety in cooperation with the department of higher education shall promulgate rules and regulations to facilitate the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

455.543. HOMICIDES OR SUICIDES, DETERMINATION OF DOMESTIC VIOLENCE, FACTORS TO BE CONSIDERED — REPORTS MADE TO HIGHWAY PATROL, FORMS. — 1. In any incident investigated by a law enforcement agency involving a homicide or suicide, the law enforcement agency shall make a determination as to whether the homicide or suicide is related to domestic violence.

2. In making such determination, the local law enforcement agency may consider a number of factors including, but not limited to, the following:

(1) If the relationship between the perpetrator and the victim is or was that of a family or household member;

(2) Whether the victim or perpetrator had previously filed for an order of protection;

(3) Whether any of the subjects involved in the incident had previously been investigated for incidents of domestic violence; and

(4) Any other evidence regarding the homicide or suicide that assists the agency in making its determination.

3. After making a determination as to whether the homicide or suicide is related to domestic violence, the law enforcement agency shall forward the information required **[**within fifteen days**]** to the Missouri state highway patrol on a form or format approved by the patrol. The required information shall include the gender and age of the victim, the type of incident investigated, the disposition of the incident and the relationship of the victim to the perpetrator. The state highway patrol shall develop a form for this purpose which shall be distributed by the department of public safety to all law enforcement agencies by October 1, 2000. **[**Completed forms shall be forwarded to the highway patrol without undue delay as required by section 43.500; except that all such reports shall be forwarded no later than seven days after an incident is determined or identified as a homicide or suicide involving domestic violence.**]**

455.545. ANNUAL REPORT BY HIGHWAY PATROL. — The highway patrol shall compile an annual report of homicides and suicides related to domestic violence. Such report shall be presented by **[**February**]** **March** first of the subsequent year to the governor, speaker of the house of representatives, and president pro tempore of the senate.

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**; or**

(5) Board certified psychiatric-mental health clinical nurse specialist or board certified psychiatric-mental health nurse practitioner licensed under chapter 335 or licensed in the state in which the service is provided.

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 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 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.

595.209. RIGHTS OF VICTIMS AND WITNESSES — WRITTEN NOTIFICATION, REQUIREMENTS. — 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, victims of murder in the first degree, as defined in section 565.020, victims of voluntary manslaughter, as defined in section 565.023, **[**and**]** **victims of any offense under chapter 566,** victims of an attempt to commit one of the preceding crimes, as defined in section 564.011**, and victims of domestic assault, as defined in sections 565.072 to 565.076**; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

(1) For victims, the right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult, even if the victim is called to testify or may be called to testify as a witness in the case;

(2) For victims, the right to information about the crime, as provided for in subdivision (5) of this subsection;

(3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final disposition of the case. Final disposition information shall be provided within five days;

(4) For victims, the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552 or its successors, hearings, sentencing and probation revocation hearings and the right to be heard at such hearings, including juvenile proceedings, unless in the determination of the court the interests of justice require otherwise;

(5) The right to be informed by local law enforcement agencies, the appropriate juvenile authorities or the custodial authority of the following:

(a) The status of any case concerning a crime against the victim, including juvenile offenses;

(b) The right to be informed by local law enforcement agencies or the appropriate juvenile authorities of the availability of victim compensation assistance, assistance in obtaining documentation of the victim's losses, including, but not limited to and subject to existing law concerning protected information or closed records, access to copies of complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon request to the appropriate law enforcement agency by the victim or the victim's representative, and emergency crisis intervention services available in the community;

(c) Any release of such person on bond or for any other reason;

(d) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(6) For victims, the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape, counsel or a representative designated by the victim in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings, the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape, counsel or a

representative designated by the victim in lieu of a personal appearance, and the right to have, upon written request of the victim, a partition set up in the probation or parole hearing room in such a way that the victim is shielded from the view of the probationer or parolee, and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape, counsel or a representative designated by the victim in lieu of personal appearance;

(7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552 of the following:

(a) The projected date of such person's release from confinement;

(b) Any release of such person on bond;

(c) Any release of such person on furlough, work release, trial release, electronic monitoring program, or to a community correctional facility or program or release for any other reason, in advance of such release;

(d) Any scheduled parole or release hearings, including hearings under section 217.362, regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

(e) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court presiding over releases pursuant to the provisions of chapter 552, or by a circuit court presiding over releases under section 217.362, to release such person or any decision by the governor to commute the sentence of such person or pardon such person;

(g) Notification within thirty days of the death of such person;

(8) For witnesses who have been summoned by the prosecuting attorney and for victims, to be notified by the prosecuting attorney in a timely manner when a court proceeding will not go on as scheduled;

(9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(10) For victims and witnesses, on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability of victim compensation assistance and of financial assistance and emergency and crisis intervention services available within the community and information relative to applying for such assistance or services, and of any final decision by the prosecuting attorney not to file charges;

(11) For victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law;

(12) For victims and witnesses, to be informed by the court and the prosecuting attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(13) When a victim's property is no longer needed for evidentiary reasons or needs to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having possession of the property shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings, or provide written explanation of the reason why such property shall not be returned;

(14) An employer may not discharge or discipline any witness, victim or member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding, attending a criminal proceeding, or for participating in the preparation of a criminal proceeding, or require any witness, victim, or member of a victim's immediate family to use vacation time, personal time, or sick leave for honoring a subpoena to testify in a criminal proceeding, attending a criminal proceeding, or participating in the preparation of a criminal proceeding;

(15) For victims, to be provided with creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

(16) For victims and witnesses, the right to speedy disposition of their cases, and for victims, the right to speedy appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare such defendant's defense. The attorney general shall provide victims, upon their written request, case status information throughout the appellate process of their cases. The provisions of this subdivision shall apply only to proceedings involving the particular case to which the person is a victim or witness;

(17) For victims and witnesses, to be provided by the court, a secure waiting area during court proceedings and to receive notification of the date, time and location of any hearing conducted by the court for reconsideration of any sentence imposed, modification of such sentence or recall and release of any defendant from incarceration;

(18) For victims, the right to receive upon request from the department of corrections a photograph taken of the defendant prior to release from incarceration.

2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

3. Those persons entitled to notice of events pursuant to the provisions of subsection 1 of this section shall provide the appropriate person or agency with their current addresses and telephone numbers or the addresses or telephone numbers at which they wish notification to be given.

4. Notification by the appropriate person or agency utilizing the statewide automated crime victim notification system as established in section 650.310 shall constitute compliance with the victim notification requirement of this section. If notification utilizing the statewide automated crime victim notification system cannot be used, then written notification shall be sent by certified mail to the most current address provided by the victim.

5. Victims' rights as established in Section 32 of Article I of the Missouri Constitution or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant to exclude victims or prevent their full participation in each and every phase of parole hearings or probation revocation hearings. The rights of the victims granted in this section are absolute and the policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has an absolute right to be present at any hearing in which the defendant is present before a probation and parole hearing officer.

Approved July 1, 2016

SB 932 [HCS SB 932]

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 credit union account verification

AN ACT to repeal sections 370.230, 486.245, 486.275, 486.285, 486.305, 486.310, and 486.375, RSMo, and to enact in lieu thereof eight new sections relating to regulation of bonded entities, with a penalty provision.

SECTION
A. Enacting clause.
370.230. Powers and duties of supervisory committee.
375.971. Definitions — federal home loan bank duties and procedures upon delinquency proceedings of insurer — member — receiver duties during delinquency proceedings.
486.245. Register of notaries to be kept — bond, signature and oath to secretary of state — secretary of state notary seal database.
486.275. Signature of notary required, when — electronic signature sufficient , when — rulemaking authority.
486.285. Notary public seal manufacturer registration, penalty for violation seal, contents, form — application — property of notary.
486.305. Loss of seal or journal, notice to secretary of state — new commission issued, notice to public — destruction of seal, notice to secretary of state.
486.310. Resignation, notice to public, future applications — amendment of commission.
486.375. Impersonation of a notary, penalty for.

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

SECTION A. ENACTING CLAUSE. — Sections 370.230, 486.245, 486.275, 486.285, 486.305, 486.310, and 486.375, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 370.230, 375.971, 486.245, 486.275, 486.285, 486.305, 486.310, and 486.375, to read as follows:

370.230. POWERS AND DUTIES OF SUPERVISORY COMMITTEE. — 1. The supervisory committee shall make, or cause to be made, an examination of the affairs of the credit union, at least annually, including its books and accounts, and shall make or cause to be made**,** a **[**direct**]** verification of members' share and loan accounts **[**at least every two years with a reasonable statistical sampling of members accounts being made in alternate years**]** **in the same manner and with the same frequency as required by federal law for federal credit unions,** and shall review the acts of the board of directors, credit committee and officers, any or all of whom the supervisory committee may suspend at any time by a majority vote.

2. Within seven days after such suspension, the supervisory committee shall cause notice to be given the members of a special meeting to take action on such suspension, the call for the meeting to indicate clearly its purpose.

3. By a majority vote the committee may call a meeting of the members to consider any violation of this chapter or of the bylaws, or any practice of the credit union which, in the opinion of said committee, is unsafe and unauthorized.

4. During the fiscal year, the supervisory committee shall make or cause to be made a thorough audit of the receipts, disbursements, income, assets, and liabilities of the credit union, and shall make a full report on such audit to the directors. In the event that a credit union has over one million dollars in assets, an independent audit shall be required in lieu of the audit by the supervisory committee, and a report on such audit shall be read at the annual meeting and shall be filed and preserved with the records of the credit union.

5. The supervisory committee shall fill vacancies in their own number until the next annual meeting or, if the bylaws so provide, vacancies may be filled by appointment by the board of directors.

375.971. DEFINITIONS — FEDERAL HOME LOAN BANK DUTIES AND PROCEDURES UPON DELINQUENCY PROCEEDINGS OF INSURER — MEMBER — RECEIVER DUTIES DURING DELINQUENCY PROCEEDINGS. — 1. As used in this section, the following terms mean:

(1) "Federal home loan bank", a federal home loan bank established under the federal Home Loan Bank Act, 12 U.S.C. Section 1421, et seq.;

(2) "Insurer-member", an insurer who is a member of a federal home loan bank.

2. Notwithstanding any other provision to the contrary, no federal home loan bank shall be stayed or prohibited from exercising its rights regarding collateral pledged by an insurer-member.

3. If a federal home loan bank exercises its rights regarding collateral pledged by an insurer-member who is subject to a delinquency proceeding, the federal home loan bank shall repurchase any outstanding capital stock that is in excess of that amount of federal home loan bank stock that the insurer-member is required to hold as a minimum investment, to the extent the federal home loan bank in good faith determines the repurchase to be permissible under applicable laws, regulations, regulatory obligations, and the federal home loan bank's capital plan, and consistent with the federal home loan bank's current capital stock practices applicable to its entire membership.

4. Following the appointment of a receiver for an insurer-member, the federal home loan bank shall, within ten business days after a request from the receiver, provide a process and establish a timeline for the following:

(1) The release of collateral that exceeds the amount required to support secured obligations remaining after any repayment of loans as determined in accordance with the applicable agreements between the federal home loan bank and the insurer-member;

(2) The release of any of the insurer-member's collateral remaining in the federal home loan bank's possession following repayment of all outstanding secured obligations of the insurer-member in full;

(3) The payment of fees owed by the insurer-member and the operation of deposits and other accounts of the insurer-member with the federal home loan bank; and

(4) The possible redemption or repurchase of federal home loan bank stock or excess stock of any class that an insurer-member is required to own.

5. Upon request from a receiver, the federal home loan bank shall provide any available options for an insurer-member subject to a delinquency proceeding to renew or restructure a loan to defer associated prepayment fees, subject to market conditions, the terms of any loans outstanding to the insurer-member, the applicable policies of the federal home loan bank, and the federal home loan bank's compliance with federal laws and regulations.

6. Notwithstanding any other provision of law to the contrary, the receiver for an insurer-member shall not void any transfer of, or any obligation to transfer, money or any other property arising under or in connection with any federal home loan bank security agreement, or any pledge, security, collateral, or guarantee agreement, or any other similar arrangement or credit enhancement relating to a federal home loan bank security agreement made in the ordinary course of business and in compliance with the applicable federal home loan bank agreement. However, a transfer may be avoided under this subsection if the transfer was made with intent to hinder, delay, or defraud the insurer-member, the receiver for the insurer-member, or existing or future creditors. This subsection shall not affect a receiver's rights regarding advances to an insurer-member in delinquency proceedings under 12 CFR Part 1266.4.

486.245. REGISTER OF NOTARIES TO BE KEPT — BOND, SIGNATURE AND OATH TO SECRETARY OF STATE — SECRETARY OF STATE NOTARY SEAL DATABASE. — 1. The county clerk shall keep a register, listing the name and address of each person to whom he awards a notary commission and the date upon which he awards the commission. Within thirty days after receiving a bond, signature and oath, the county clerk shall forward the bond, signature and oath to the secretary of state by certified mail. All such bonds, signatures and oaths shall be preserved permanently by the secretary of state.

2. The secretary of state shall maintain a database that includes, but is not limited to, information that is contained on each notary's seal or any lost seal of a notary public.

486.275. SIGNATURE OF NOTARY REQUIRED, WHEN — ELECTRONIC SIGNATURE SUFFICIENT , WHEN — RULEMAKING AUTHORITY. — **1.** At the time of notarization a notary public shall sign his **or her** official signature on each notary certificate.

2. If a signature or record is required to be notarized, acknowledged, verified, or made under oath, notwithstanding the provisions of section 486.285 to the contrary, the requirement is satisfied if the electronic signature of the person authorized to perform such acts, together with all other information required to be included, is attached to or logically associated with the signature or record.

3. The secretary of state 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, 2016, shall be invalid and void.

486.285. NOTARY PUBLIC SEAL MANUFACTURER REGISTRATION, PENALTY FOR VIOLATION SEAL, CONTENTS, FORM — APPLICATION — PROPERTY OF NOTARY. — 1. **(1) A manufacturer of a notary public's seal shall register with the secretary of state and communicate to the secretary of state when it has issued a seal to a person in this state. After such communication, the secretary of state shall approve any seal issued by the manufacturer within ten days.**

(2) A copy of the notary's commission shall be maintained by such manufacturer.

(3) If a manufacturer violates the provisions of this subsection, the manufacturer shall be subject to a one thousand dollar fine for each violation.

2. Each notary public shall provide, keep, and use a seal which is either an engraved embosser seal or a black inked rubber stamp seal to be used on the document being notarized. The seal shall contain the notary's name exactly as indicated on the commission and the words "Notary Seal", "Notary Public", and "State of Missouri" and, after August 28, 2004, the commission number assigned by the secretary of state, provided that the notary public has been issued a commission number by the secretary of state, all of which shall be in print not smaller than eight-point type.

[2.**]** **3.** The indentations made by the seal embosser or printed by the black inked rubber stamp seal shall not be applied on the notarial certificate or document to be notarized in a manner that will render illegible or incapable of photographic reproduction any of the printed marks or writing on the certificate or document.

[3.**]** **4.** Every notary shall keep an official notarial seal that is the exclusive property of the notary and the seal may not be used by any other person or surrendered to an employer upon termination of employment.

486.305. LOSS OF SEAL OR JOURNAL, NOTICE TO SECRETARY OF STATE — NEW COMMISSION ISSUED, NOTICE TO PUBLIC — DESTRUCTION OF SEAL, NOTICE TO SECRETARY OF STATE. — **1.** Any notary public who loses or misplaces his **or her** journal of notarial acts or official seal shall **[**forthwith mail or deliver**]** **immediately provide written** notice of the fact to the secretary of state. **For a lost or misplaced official seal, upon receipt of the written notice, the secretary of state shall issue the notary a new commission number for the notary to order a new seal. The secretary of state may post notice on the secretary of state's website notifying the general public that the lost or misplaced notary seal and commission number of such notary is invalid and is not an acceptable notary commission number.**

2. If a notary public's official seal is destroyed, broken, damaged, or otherwise rendered inoperable, the notary shall immediately provide written notice of that fact to the secretary of state.

486.310. RESIGNATION, NOTICE TO PUBLIC, FUTURE APPLICATIONS — AMENDMENT OF COMMISSION. — **1.** If any notary public no longer desires to be a notary public, he or she shall forthwith mail or deliver to the secretary of state a letter of resignation **and his or her notary seal**, and his or her commission shall thereupon cease to be in effect. **The secretary of state may post notice on the secretary of state's website notifying the general public that the notary is no longer a commissioned notary public in the state of Missouri.** If a notary public resigns following the receipt of a complaint by the secretary of state regarding the notary public's conduct, the secretary of state may deny any future applications by such person for appointment and commission as a notary public.

2. If any notary public seeks to amend his or her commission, he or she shall forthwith mail or deliver to the secretary of state his or her notary seal unless a person, business, or manufacturer alters the existing seal in compliance with subsection 4 of section 486.285.

486.375. IMPERSONATION OF A NOTARY, PENALTY FOR. — Any person who acts as, or otherwise willfully impersonates, a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of a misdemeanor and punishable upon conviction by a fine not exceeding five hundred dollars or by imprisonment for not more than six months or both**, unless such act results in a fraudulent act involving property, such person shall be guilty of a class E felony**.

Approved July 1, 2016

SB 947 [SB 947]

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

Creates regulations for insurance requirements for transportation network companies and transportation network company drivers

AN ACT to amend chapter 379, RSMo, by adding thereto five new sections relating to transportation network company insurance.

SECTION
A. Enacting clause.
379.1700. Definitions.
379.1702. Primary automobile insurance to be maintained, requirements — lapsed coverage, effect of — proof of insurance required.
379.1704. Disclosure of insurance coverage, how made.
379.1706. Disclosure statement — display.
379.1708. Exclusions and limitations on coverage.

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

SECTION A. ENACTING CLAUSE. — Chapter 379, RSMo, is amended by adding thereto five new sections, to be known as sections 379.1700, 379.1702, 379.1704, 379.1706, and 379.1708, to read as follows:

379.1700. DEFINITIONS. — As used in sections 379.1700 to 379.1708, the following terms shall mean:

(1) "Digital network", any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers;

(2) "Personal vehicle", a vehicle that is used by a transportation network company driver and is:

(a) Owned, leased, or otherwise authorized for use by the transportation network company driver; and

(b) Not a taxicab, limousine, or for-hire vehicle under chapter 390;

(3) "Prearranged ride", the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride shall not include shared expense carpool or vanpool arrangements or transportation provided using a taxi, limousine, or other for-hire vehicle under chapter 390;

(4) "Transportation network company", a corporation, partnership, sole proprietorship, or other entity that is licensed and operating in Missouri that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct, or manage the personal vehicles or transportation network company drivers that connect to its digital network, except if agreed to by written contract;

(5) "Transportation network company driver" or "driver", an individual who:

(a) Receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(b) Uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee;

(6) "Transportation network company rider" or "rider", an individual or persons who use a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

379.1702. PRIMARY AUTOMOBILE INSURANCE TO BE MAINTAINED, REQUIREMENTS — LAPSED COVERAGE, EFFECT OF — PROOF OF INSURANCE REQUIRED. — 1. Beginning April 1, 2017, a transportation network company driver or transportation network company on the driver's behalf shall maintain primary automobile insurance that:

(1) Recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport riders for compensation; and

(2) Covers the driver while the driver is logged on to the transportation network company's digital network or while the driver is engaged in a prearranged ride.

2. The following automobile insurance requirements shall apply while a participating transportation network company driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(1) Primary automobile liability insurance in the amount of at least fifty thousand dollars for death and bodily injury per person, one hundred thousand dollars for death and bodily injury per incident, and twenty-five thousand dollars for property damage;

(2) Uninsured motorist coverage in an amount not less than the limits set forth in section 379.203;

(3) The coverage requirements of this subsection may be satisfied by any of the following:

(a) Automobile insurance maintained by the transportation network company driver;

(b) Automobile insurance maintained by the transportation network company; or

(c) Any combination of paragraphs (a) and (b) of this subdivision.

3. The following automobile insurance requirements shall apply while a transportation network company driver is engaged in a prearranged ride:

(1) Primary automobile liability insurance in the amount of at least one million dollars for death, bodily injury, and property damage;

(2) Uninsured motorist coverage in an amount not less than the limits set forth in section 379.203;

(3) The coverage requirements of this subsection may be satisfied by any of the following:

(a) Automobile insurance maintained by the transportation network company driver;

(b) Automobile insurance maintained by the transportation network company; or

(c) Any combination of paragraphs (a) and (b) of this subdivision.

4. If insurance maintained by a driver in subsection 2 or 3 of this section has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim and shall have the duty to defend such claim. If the insurance maintained by the driver does not otherwise exclude coverage for loss or injury while the driver is logged on to a transportation network's digital network or while the driver provides a prearranged ride, but does not provide insurance coverage at the minimum limits required by subsection 2 or 3 of this section, the transportation network company shall maintain insurance coverage that provides excess coverage beyond the driver's policy limits up to the limits required by subsection 2 or 3 of this section, as applicable.

5. Coverage under an automobile insurance policy maintained by the transportation network company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

6. Insurance required by this section may be placed with an insurer authorized to issue policies of automobile insurance in the state of Missouri or with an eligible surplus lines insurer under chapter 384.

7. Insurance satisfying the requirements of this section shall be deemed to satisfy the motor vehicle financial responsibility requirements for a motor vehicle under chapter 303.

8. A transportation network company driver shall carry proof of coverage satisfying subsections 2 and 3 of this section with him or her at all times during his or her use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and investigating police officers, upon request under section 303.024. Upon such request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers whether the driver was logged on to the transportation network company's digital network or on a prearranged ride at the time of an accident.

379.1704. DISCLOSURE OF INSURANCE COVERAGE, HOW MADE. — The transportation network company shall disclose in writing to transportation network company drivers the following before they are allowed to accept a request for a prearranged ride on the transportation network company's digital network:

(1) The insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network; and

(2) That the transportation network company driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the transportation network company's digital network and is available to receive transportation requests or is engaged in a prearranged ride depending on the policy's terms.

379.1706. DISCLOSURE STATEMENT — DISPLAY. — A transportation network company shall make the following disclosure to a prospective driver in the prospective driver's terms of service:

IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE TRANSPORTATION NETWORK COMPANY SERVICES HAS A LIEN AGAINST IT, USING THE VEHICLE FOR TRANSPORTATION NETWORK COMPANY SERVICES MAY VIOLATE THE TERMS OF YOUR CONTRACT WITH THE LIENHOLDER.

IF A TRANSPORTATION NETWORK COMPANY'S INSURER MAKES A PAYMENT FOR A CLAIM COVERED UNDER COMPREHENSIVE COVERAGE OR COLLISION COVERAGE, THE TRANSPORTATION NETWORK COMPANY SHALL CAUSE ITS INSURER TO ISSUE THE PAYMENT DIRECTLY TO THE BUSINESS REPAIRING THE VEHICLE OR JOINTLY TO THE OWNER OF THE VEHICLE AND THE PRIMARY LIENHOLDER ON THE COVERED VEHICLE.

The disclosure set forth in this subsection shall be placed prominently in the prospective driver's written terms of service, and the prospective driver shall acknowledge the terms of service electronically or by signature.

379.1708. EXCLUSIONS AND LIMITATIONS ON COVERAGE. — 1. Insurers that write automobile insurance in Missouri may exclude or limit any and all coverage afforded under an automobile insurance policy, including a motor vehicle liability policy, issued to an owner or operator of a personal vehicle for any loss or injury that occurs while:

(1) A driver is logged on to a transportation network company's digital network;

(2) A driver provides a prearranged ride; or

(3) A motor vehicle is being used to transport or carry persons or property for any compensation or suggested donation;

2. The right to exclude all coverage under subsection 1 of this section may apply to any coverage included in an automobile insurance policy including, but not limited to:

(1) Liability coverage for bodily injury and property damage;

(2) Uninsured and underinsured motorist coverage;

(3) Medical payments coverage;

(4) Comprehensive physical damage coverage; and

(5) Collision physical damage coverage.

Such exclusions shall apply notwithstanding any financial responsibility requirement or uninsured motorist coverage requirement under the motor vehicle financial responsibility law, chapter 303 or section 379.203, respectively. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers or property for compensation.

3. Nothing shall be deemed to preclude an insurer from providing coverage for the transportation network company driver's vehicle, if it chooses to do so by contract or endorsement.

4. Automobile insurers that exclude the coverage described in section 379.1702 shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this section shall be deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Missouri prior to the enactment of this section that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

5. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of section 379.1702 at the time of loss.

6. In a claims coverage investigation, transportation network companies and any insurer potentially providing coverage under section 379.1702 shall cooperate to facilitate the exchange of relevant information with each other and any insurer of the transportation network company driver if applicable, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network in the twelve-hour period immediately preceding and in the twelve-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions, and limits provided under any automobile insurance maintained under section 379.1702.

Approved June 23, 2016

SB 968 [SCS SB 968]

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

Allows current members of the Missouri National Guard and reserve components of the U.S. Armed Forces to receive instate residency status for the purposes of tuition at higher education institutions

AN ACT to repeal sections 173.234 and 173.900, RSMo, and to enact in lieu thereof three new sections relating to tuition rates for members of the military, with an emergency clause for a certain section.

SECTION
A. Enacting clause.
173.234. Definitions — grants to be awarded, when, duration — duties of the board — rulemaking authority — eligibility criteria — sunset provision.
173.900. Combat veteran defined — tuition limit for combat veterans, procedure.
173.1153. In-state tuition — Missouri National Guard members and U.S. Armed Forces reservists deemed domiciled in this state — effect of — rulemaking authority.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 173.234 and 173.900, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 173.234, 173.900, and 173.1153, to read as follows:

173.234. DEFINITIONS — GRANTS TO BE AWARDED, WHEN, DURATION — DUTIES OF THE BOARD — RULEMAKING AUTHORITY — ELIGIBILITY CRITERIA — SUNSET PROVISION. — 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

(1) "Board", the coordinating board for higher education;

(2) "Books", any books required for any course for which tuition was paid by a grant awarded under this section;

(3) "Eligible student", the natural, adopted, or stepchild of a qualifying military member, who is less than twenty-five years of age and who was a dependent of a qualifying military

member at the time of death or injury **or within five years subsequent to the injury**, or the spouse of a qualifying military member which was the spouse of a veteran at the time of death or injury **or within five years subsequent to the injury**;

(4) "Grant", the veteran's survivors grant as established in this section;

(5) "Institution of postsecondary education", any approved Missouri public institution of postsecondary education, as defined in subdivision (3) of section 173.1102;

(6) "Qualifying military member", any member of the military of the United States, whether active duty, reserve, or National Guard, who served in the military after September 11, 2001, during time of war and for whom the following criteria apply:

(a) A veteran was a Missouri resident when first entering the military service or at the time of death or injury;

(b) A veteran died or was injured as a result of combat action or a veteran's death or injury was certified by the Department of Veterans' Affairs medical authority to be attributable to an illness or accident that occurred while serving in combat, or became eighty percent disabled as a result of injuries or accidents sustained in combat action after September 11, 2001; and

(c) "Combat veteran", a Missouri resident who is discharged for active duty service having served since September 11, 2001, and received a DD214 in a geographic area entitled to receive combat pay tax exclusion exemption, hazardous duty pay, or imminent danger pay, or hostile fire pay;

(7) "Survivor", an eligible student of a qualifying military member;

(8) "Tuition", any tuition or incidental fee, or both, charged by an institution of postsecondary education for attendance at the institution by a student as a resident of this state. The tuition grant shall not exceed the amount of tuition charged a Missouri resident at the University of Missouri-Columbia for attendance.

2. Within the limits of the amounts appropriated therefor, the coordinating board for higher education shall award annually up to twenty-five grants to survivors of qualifying military members to attend institutions of postsecondary education in this state, which shall continue to be awarded annually to eligible recipients as long as the recipient achieves and maintains a cumulative grade point average of at least two and one-half on a four-point scale, or its equivalent. If the waiting list of eligible survivors exceeds fifty, the coordinating board may petition the general assembly to expand the quota. If the quota is not expanded, then the eligibility of survivors on the waiting list shall be extended.

3. A survivor may receive a grant under this section only so long as the survivor is enrolled in a program leading to a certificate, or an associate or baccalaureate degree. In no event shall a survivor receive a grant beyond the completion of the first baccalaureate degree, regardless of age.

4. The coordinating board for higher education shall:

(1) Promulgate all necessary rules and regulations for the implementation of this section; and

(2) Provide the forms and determine the procedures necessary for a survivor to apply for and receive a grant under this section.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

6. In order to be eligible to receive a grant under this section, a survivor shall be certified as eligible by the Missouri veterans' commission.

7. A survivor who is enrolled or has been accepted for enrollment as an undergraduate postsecondary student at an approved institution of postsecondary education, and who is selected to receive a grant under this section, shall receive the following:

(1) An amount not to exceed the actual tuition charged at the approved institution of postsecondary education where the survivor is enrolled or accepted for enrollment;

(2) An allowance of up to two thousand dollars per semester for room and board; and

(3) The actual cost of books, up to a maximum of five hundred dollars per semester.

8. A survivor who is a recipient of a grant may transfer from one approved public institution of postsecondary education to another without losing his or her entitlement under this section. The board shall make necessary adjustments in the amount of the grant. If a grant recipient at any time withdraws from the institution of postsecondary education so that under the rules and regulations of that institution he or she is entitled to a refund of any tuition, fees, room and board, books, or other charges, the institution shall pay the portion of the refund to which he or she is entitled attributable to the grant for that semester or similar grading period to the board.

9. If a survivor is granted financial assistance under any other student aid program, public or private, the full amount of such aid shall be reported to the board by the institution and the eligible survivor.

10. Nothing in this section shall be construed as a promise or guarantee that a person will be admitted to an institution of postsecondary education or to a particular institution of postsecondary education, will be allowed to continue to attend an institution of postsecondary education after having been admitted, or will be graduated from an institution of postsecondary education.

11. The benefits conferred by this section shall be available to any academically eligible student of a qualifying military member. Surviving children who are eligible shall be permitted to apply for full benefits conferred by this section until they reach twenty-five years of age.

12. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall **[**sunset automatically six years after August 28, 2008**]** **be reauthorized as of the effective date of this act and shall expire on August 28, 2020**, unless reauthorized by an act of the general assembly; and

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

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

173.900. COMBAT VETERAN DEFINED — TUITION LIMIT FOR COMBAT VETERANS, PROCEDURE. — 1. This act shall be known and may be cited as the "Missouri Returning Heroes' Education Act".

2. For the purpose of this section, the term "combat veteran" shall mean a person who served in armed combat in the military after September 11, 2001, and to whom the following criteria shall apply:

(1) The veteran was a Missouri resident when first entering the military; and

(2) The veteran was discharged from military service under honorable conditions.

3. All public institutions of higher education that receive any state funds appropriated by the general assembly shall limit the amount of tuition such institutions charge to combat veterans to fifty dollars per credit hour, as long as the veteran achieves and maintains a cumulative grade point average of at least two and one-half on a four-point scale, or its equivalent. The tuition limitation shall only be applicable if the combat veteran is enrolled in a program leading to a certificate, or an associate or baccalaureate degree. The period during which a combat veteran is eligible for a tuition limitation under this section shall expire at the end of the ten-year period beginning on the date of such veteran's last discharge from service.

4. The coordinating board for higher education shall ensure that all applicable institutions of higher education in this state comply with the provisions of this section and may promulgate rules for the efficient implementation of this section.

5. If a combat veteran is eligible to receive financial assistance under any other federal or state student aid program, public or private, the full amount of such aid shall be reported to the board by the institution and the veteran. The tuition limitation under this section shall be provided **[**after**]** **before** all other federal and state aid for which the veteran is eligible has been applied**[**, and no combat veteran shall receive more than the actual cost of attendance when the limitation is combined with other aid made available to such veteran**]**.

6. Each institution may report to the board the amount of tuition waived in the previous fiscal year under the provisions of this act. This information may be included in each institution's request for appropriations to the board for the following year. The board may include this information in its appropriations recommendations to the governor and the general assembly. The general assembly may reimburse institutions for the cost of the waiver for the previous year as part of the operating budget. Nothing in this subsection shall be construed to deny a combat veteran a tuition limitation if the general assembly does not appropriate money for reimbursement to an institution.

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

173.1153. IN-STATE TUITION — MISSOURI NATIONAL GUARD MEMBERS AND U.S. ARMED FORCES RESERVISTS DEEMED DOMICILED IN THIS STATE — EFFECT OF — RULEMAKING AUTHORITY. — 1. Notwithstanding any provision of law to the contrary, any individual who is currently serving in the Missouri National Guard or in a reserve component of the Armed Forces of the United States shall be deemed to be domiciled in this state for purposes of eligibility for in-state tuition at any approved public institution in Missouri.

2. To be eligible for in-state tuition under this section, any such individual shall demonstrate presence within the state of Missouri. For purposes of attending a community college, an individual shall demonstrate presence within the taxing district of the community college he or she attends.

3. If any such individual is eligible to receive financial assistance under any other federal or state student aid program, public or private, the full amount of such aid shall be reported to the coordinating board for higher education by the institution and the individual. The tuition limitation under this section shall be provided after all other federal and state aid for which the individual is eligible has been applied, and no individual shall receive more than the actual cost of attendance when the limitation is combined with other aid made available to such individual.

4. The coordinating board for higher education shall promulgate rules to implement this section.

5. For purposes of this section, "approved public institution" shall have the same meaning as provided in subdivision (3) of section 173.1102.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

SECTION B. EMERGENCY CLAUSE. — Because of the importance of providing educational assistance to members of the military and their families, the repeal and reenactment of section 173.234 is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, the repeal and reenactment of section 173.234 shall be in full force and effect upon its passage and approval.

Approved June 13, 2016

SB 973 [CCS HCS SCS SB 973]

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 a pharmacist may dispense varying quantities of medication

AN ACT to repeal sections 197.315, 376.1237, and 536.031, RSMo, and to enact in lieu thereof seventeen new sections relating to health care.

SECTION

A. Enacting clause.
197.065. Life safety code standards — waiver, when — rulemaking authority.
197.315. Certificate of need granted, when — forfeiture, grounds — application for certificate, fee — certificate not required, when.
334.1200. Purpose.
334.1203. Definitions.
334.1206. State participation in the compact.
334.1209. Compact privilege.
334.1212. Active duty military personnel or their spouses.
334.1215. Adverse actions.
334.1218. Establishment of the physical therapy compact commission.
334.1221. Data system.
334.1224. Rulemaking.
334.1227. Oversight, dispute resolution, and enforcement.
334.1230. Date of implementation of the interstate commission for physical therapy practice and associated rules, withdrawal, and amendment.
334.1233. Construction and severability.
338.202. Maintenance medications, pharmacist may exercise professional judgment on quantity dispensed, when.
376.1237. Refills for prescription eye drops, required, when — definitions — termination date.
536.031. Code to be published — to be revised monthly — incorporation by reference authorized, courts to take judicial notice — incorporation by reference of certain rules, how.

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

SECTION A. ENACTING CLAUSE. — Sections 197.315, 376.1237, and 536.031, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 197.065, 197.315, 334.1200, 334.1203, 334.1206, 334.1209, 334.1212, 334.1215, 334.1218, 334.1221, 334.1224, 334.1227, 334.1230, 334.1233, 338.202, 376.1237, and 536.031, to read as follows:

197.065. LIFE SAFETY CODE STANDARDS — WAIVER, WHEN — RULEMAKING AUTHORITY. — 1. The department of health and senior services shall promulgate regulations for the construction and renovation of hospitals that include life safety code standards for hospitals that exclusively reflect the life safety code standards imposed by the federal Medicare program under Title XVIII of the Social Security Act and its conditions of participation in the Code of Federal Regulations.

2. The department shall not require a hospital to meet the standards contained in the Facility Guidelines Institute for the Design and Construction of Health Care Facilities, but any hospital that complies with the 2010 or later version of such guidelines for the construction and renovation of hospitals shall not be required to comply with any regulation that is inconsistent or conflicts in any way with such guidelines.

3. The department may waive enforcement of the standards for licensed hospitals imposed by this section if the department determines that:

(1) Compliance with those specific standards would result in unreasonable hardship for the facility and if the health and safety of hospital patients would not be compromised by such waiver or waivers; or

(2) The hospital has used other standards that provide for equivalent design criteria.

4. Regulations promulgated by the department to establish and enforce hospital licensure regulations under this chapter that conflict with the standards established under subsections 1 and 3 of this section shall lapse on and after January 1, 2018.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

197.315. CERTIFICATE OF NEED GRANTED, WHEN — FORFEITURE, GROUNDS — APPLICATION FOR CERTIFICATE, FEE — CERTIFICATE NOT REQUIRED, WHEN. — 1. Any person who proposes to develop or offer a new institutional health service within the state must obtain a certificate of need from the committee prior to the time such services are offered.

2. Only those new institutional health services which are found by the committee to be needed shall be granted a certificate of need. Only those new institutional health services which are granted certificates of need shall be offered or developed within the state. No expenditures for new institutional health services in excess of the applicable expenditure minimum shall be made by any person unless a certificate of need has been granted.

3. After October 1, 1980, no state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed without obtaining a certificate of need.

4. If any person proposes to develop any new institutional health care service without a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the attorney general, and he shall apply for an injunction or other appropriate legal action in any court of this state against that person.

5. After October 1, 1980, no agency of state government may appropriate or grant funds to or make payment of any funds to any person or health care facility which has not first obtained every certificate of need required pursuant to sections 197.300 to 197.366.

6. A certificate of need shall be issued only for the premises and persons named in the application and is not transferable except by consent of the committee.

7. Project cost increases, due to changes in the project application as approved or due to project change orders, exceeding the initial estimate by more than ten percent shall not be incurred without consent of the committee.

8. Periodic reports to the committee shall be required of any applicant who has been granted a certificate of need until the project has been completed. The committee may order the forfeiture of the certificate of need upon failure of the applicant to file any such report.

9. A certificate of need shall be subject to forfeiture for failure to incur a capital expenditure on any approved project within six months after the date of the order. The

applicant may request an extension from the committee of not more than six additional months based upon substantial expenditure made.

10. Each application for a certificate of need must be accompanied by an application fee. The time of filing commences with the receipt of the application and the application fee. The application fee is one thousand dollars, or one-tenth of one percent of the total cost of the proposed project, whichever is greater. All application fees shall be deposited in the state treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the Missouri health facilities review committee.

11. In determining whether a certificate of need should be granted, no consideration shall be given to the facilities or equipment of any other health care facility located more than a fifteen-mile radius from the applying facility.

12. When a nursing facility shifts from a skilled to an intermediate level of nursing care, it may return to the higher level of care if it meets the licensure requirements, without obtaining a certificate of need.

13. In no event shall a certificate of need be denied because the applicant refuses to provide abortion services or information.

14. A certificate of need shall not be required for the transfer of ownership of an existing and operational health facility in its entirety.

15. A certificate of need may be granted to a facility for an expansion, an addition of services, a new institutional service, or for a new hospital facility which provides for something less than that which was sought in the application.

16. The provisions of this section shall not apply to facilities operated by the state, and appropriation of funds to such facilities by the general assembly shall be deemed in compliance with this section, and such facilities shall be deemed to have received an appropriate certificate of need without payment of any fee or charge. **The provisions of this subsection shall not apply to hospitals operated by the state and licensed under chapter 197, except for department of mental health state-operated psychiatric hospitals.**

17. Notwithstanding other provisions of this section, a certificate of need may be issued after July 1, 1983, for an intermediate care facility operated exclusively for the intellectually disabled.

18. To assure the safe, appropriate, and cost-effective transfer of new medical technology throughout the state, a certificate of need shall not be required for the purchase and operation of**:**

(1) Research equipment that is to be used in a clinical trial that has received written approval from a duly constituted institutional review board of an accredited school of medicine or osteopathy located in Missouri to establish its safety and efficacy and does not increase the bed complement of the institution in which the equipment is to be located. After the clinical trial has been completed, a certificate of need must be obtained for continued use in such facility; or

(2) Equipment that is to be used by an academic health center operated by the state in furtherance of its research or teaching missions.

334.1200. PURPOSE.—PURPOSE

The purpose of this compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

2. Enhance the states' ability to protect the public's health and safety;

3. Encourage the cooperation of member states in regulating multistate physical therapy practice;

4. Support spouses of relocating military members;

5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and

6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

334.1203. DEFINITIONS.—DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions shall apply:

1. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

2. "Adverse Action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

3. "Alternative Program" means a nondisciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

4. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

5. "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

6. "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.

7. "Encumbered license" means a license that a physical therapy licensing board has limited in any way.

8. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

9. "Home state" means the member state that is the licensee's primary state of residence.

10. "Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

11. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

12. "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

13. "Member state" means a state that has enacted the compact.

14. "Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

15. "Physical therapist" means an individual who is licensed by a state to practice physical therapy.

16. "Physical therapist assistant" means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.

17. "Physical therapy", "physical therapy practice", and "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist.

18. "Physical therapy compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

19. "Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

20. "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

21. "Rule" means a regulation, principle, or directive promulgated by the commission that has the force of law.

22. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.

334.1206. STATE PARTICIPATION IN THE COMPACT. — STATE PARTICIPATION IN THE COMPACT

A. To participate in the compact, a state must:

1. Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

2. Have a mechanism in place for receiving and investigating complaints about licensees;

3. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with section 334.1206.B.;

5. Comply with the rules of the commission;

6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

7. Have continuing competence requirements as a condition for license renewal.

B. Upon adoption of sections 334.1200 to 334.1233, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. Section 534 and 42 U.S.C. Section 14616.

C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

D. Member states may charge a fee for granting a compact privilege.

334.1209. COMPACT PRIVILEGE. — COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

1. Hold a license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with section 334.1209D, G and H;

4. Have not had any adverse action against any license or compact privilege within the previous 2 years;

5. Notify the commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

8. Report to the commission adverse action taken by any nonmember state within thirty days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of section 334.1209.A. to maintain the compact privilege in the remote state.

C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date of the adverse action.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of section 334.1209A to obtain a compact privilege in any remote state.

G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;

2. All fines have been paid; and

3. Two years have elapsed from the date of the adverse action.

H. Once the requirements of section 334.1209G have been met, the license must meet the requirements in section 334.1209A to obtain a compact privilege in a remote state.

334.1212. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES. — ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

A. Home of record;

B. Permanent change of station (PCS); or

C. State of current residence if it is different than the PCS state or home of record.

334.1215. ADVERSE ACTIONS. — ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.

B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

C. Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

E. A remote state shall have the authority to:

1. Take adverse actions as set forth in section 334.1209.D. against a licensee's compact privilege in the state;

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

F. Joint Investigations

1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

334.1218. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION. — ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION.

A. The compact member states hereby create and establish a joint public agency known as the physical therapy compact commission:

1. The commission is an instrumentality of the compact states.

2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one delegate selected by that member state's licensing board.

2. The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring in the commission.

5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The commission shall have the following powers and duties:

1. Establish the fiscal year of the commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

6. Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an executive board; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physical therapy licensure and practice.

D. The Executive Board

The executive board shall have the power to act on behalf of the commission according to the terms of this compact.

1. The executive board shall be comprised of nine members:

a. Seven voting members who are elected by the commission from the current membership of the commission;

b. One ex officio, nonvoting member from the recognized national physical therapy professional association; and

c. One ex officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

2. The ex officio members will be selected by their respective organizations.

3. The commission may remove any member of the executive board as provided in bylaws.

4. The executive board shall meet at least annually.

5. The executive board shall have the following duties and responsibilities:

a. Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

b. Ensure compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the commission;

e. Monitor compact compliance of member states and provide compliance reports to the commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 334.1224.

2. The commission or the executive board or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive board or other committees of the commission must discuss:

a. Noncompliance of a member state with its obligations under the compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

334.1221. DATA SYSTEM.—DATA SYSTEM

A. The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Nonconfidential information related to alternative program participation;

5. Any denial of application for licensure, and the reason(s) for such denial; and

6. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

C. Investigative information pertaining to a licensee in any member state will only be available to other party states.

D. The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

334.1224. RULEMAKING.—RULEMAKING

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

D. Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the website of the commission or other publicly accessible platform; and

2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least twenty-five members.

H. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

K. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

334.1227. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT. — OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

3. The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

334.1230. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT. — DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

E. This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

334.1233. CONSTRUCTION AND SEVERABILITY. — CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

338.202. MAINTENANCE MEDICATIONS, PHARMACIST MAY EXERCISE PROFESSIONAL JUDGMENT ON QUANTITY DISPENSED, WHEN. — 1. Notwithstanding any other provision of law to the contrary, unless the prescriber has specified on the prescription that dispensing a prescription for a maintenance medication in an initial amount followed by periodic refills is medically necessary, a pharmacist may exercise his or her professional judgment to dispense varying quantities of maintenance medication per fill up to the total number of dosage units as authorized by the prescriber on the original prescription, including any refills. Dispensing of the maintenance medication based on refills authorized by the prescriber on the prescription shall be limited to no more than a ninety-day supply of the medication, and the maintenance medication shall have been previously prescribed to the patient for at least a three-month period.

2. For the purposes of this section "maintenance medication" is a medication prescribed for chronic, long-term conditions and is taken on a regular, recurring basis, except that it shall not include controlled substances as defined in section 195.010.

376.1237. REFILLS FOR PRESCRIPTION EYE DROPS, REQUIRED, WHEN — DEFINITIONS — TERMINATION DATE. — 1. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2014, and that provides coverage for prescription eye drops shall provide coverage for the refilling of an eye drop prescription prior to the last day of the prescribed dosage period without regard to a coverage restriction for early refill of prescription renewals as long as the prescribing health care provider authorizes such early refill, and the health carrier or the health benefit plan is notified.

2. For the purposes of this section, health carrier and health benefit plan shall have the same meaning as defined in section 376.1350.

3. The coverage required by this section shall not be subject to any greater deductible or co-payment than other similar health care services provided by the health benefit plan.

4. The provisions of this section shall not apply to 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 policies of six months' or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

5. The provisions of this section shall terminate on January 1, **[**2017**]** **2020**.

536.031. CODE TO BE PUBLISHED — TO BE REVISED MONTHLY — INCORPORATION BY REFERENCE AUTHORIZED, COURTS TO TAKE JUDICIAL NOTICE — INCORPORATION BY REFERENCE OF CERTAIN RULES, HOW. — 1. There is established a publication to be known as the "Code of State Regulations", which shall be published in a format and medium as prescribed and in writing upon request by the secretary of state as soon as practicable after ninety days following January 1, 1976, and may be republished from time to time thereafter as determined by the secretary of state.

2. The code of state regulations shall contain the full text of all rules of state agencies in force and effect upon the effective date of the first publication thereof, and effective September 1, 1990, it shall be revised no less frequently than monthly thereafter so as to include all rules of state agencies subsequently made, amended or rescinded. The code may also include citations, references, or annotations, prepared by the state agency adopting the rule or by the secretary of state, to any intraagency ruling, attorney general's opinion, determination, decisions, order, or other action of the administrative hearing commission, or any determination, decision, order, or other action of a court interpreting, applying, discussing, distinguishing, or otherwise affecting any rule published in the code.

3. The code of state regulations shall be published in looseleaf form in one or more volumes upon request and a format and medium as prescribed by the secretary of state with an appropriate index, and revisions in the text and index may be made by the secretary of state as necessary and provided in written format upon request.

4. An agency may incorporate by reference rules, regulations, standards, and guidelines of an agency of the United States or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date in order to specify how a copy of the material may be obtained, and shall state that the referenced rule, regulation, standard, or guideline does not include any later amendments or additions**; except that, hospital licensure regulations governing life safety code standards promulgated under this chapter and chapter 197 to implement section 197.065 may incorporate, by reference, later additions or amendments to such rules, regulations, standards, or guidelines as needed to consistently apply current standards of safety and practice**. The agency adopting a rule, regulation, standard, or guideline under this section shall maintain a copy of the referenced rule, regulation, standard, or guideline at the headquarters of the agency and shall make it available to the public for inspection and copying at no more than the actual cost of reproduction. The secretary of state may omit from the code of state regulations such material incorporated by reference in any rule the publication of which would be unduly cumbersome or expensive.

5. The courts of this state shall take judicial notice, without proof, of the contents of the code of state regulations.

Approved July 5, 2016

SB 986 [CCS HCS SS SCS SB 986]

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

Authorizes the conveyance of certain state properties

AN ACT to authorize the conveyance of certain state properties, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
1. Governor authorized to convey the Highlands II DMH Group Home in Jackson County.
2. Governor authorized to convey property in the City of Rolla, Phelps County.
3. Governor authorized to convey property in the City of Macon, Macon County.
4. Governor authorized to convey property in Kansas City, Jackson County.
5. Governor authorized to convey property in Jefferson City, Cole County, to F & F Development, LLC.
6. Governor authorized to convey property in the City of St. Joseph, Buchanan County.
7. Governor authorized to convey property in Jefferson City, Cole County, to Waters Realty Associates, Inc.
B. Emergency clause.

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

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY THE HIGHLANDS II DMH GROUP HOME IN JACKSON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to all interest of the state of Missouri in property known as the Highlands II DMH Group Home, Jackson County, Missouri, described as follows:

Part of the Southeast 1/4 of Section 34, Township 50, Range 32 in Independence, Jackson County, Missouri described as follows:

Beginning at a point 310 feet West and 25 feet South of the Northeast corner of said 1/4 section, said point being the Northwest corner of Lot 1, PRINE'S ADDITION, thence South 0 degrees 2 minutes 10 seconds East along West line of said Lot 1, 200 feet; thence South 89 degrees 55 minutes 40 seconds West parallel with North line of said 1/4 section, a distance of 150 feet, thence North 0 degrees 2 minutes 10 seconds West, parallel with West line of Lot 1, a distance of 200 feet to a point on the South line of Jones Street, as now established, thence North 89 degrees 55 minutes 40 seconds East along said South line a distance of 150 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN THE CITY OF ROLLA, PHELPS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to all interest of the state of Missouri in property located in the City of Rolla, Phelps County, Missouri, described as follows:

A fractional part of the West Half of Railroad Lot 120 of the Railroad Addition to the City of Rolla, Missouri described as follows:

Beginning at a point on the North Line of said Lot 120, 10 feet East of the Northwest corner of said Lot 120; thence South parallel to the West line of said Lot 120 a distance of 136 feet; thence East a distance of 320 feet, more or less,

thence North a distance of 136 feet to the North line of said Lot 120; thence West along said North line a distance of 320 feet, more or less, to the place of beginning; containing one acre, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN THE CITY OF MACON, MACON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to all interest of the state of Missouri in property located in the City of Macon, Macon County, Missouri, described as follows:

All that part of the Northwest Quarter of the Northwest Quarter of Section 19, Township 56 North, Range 14 West of the 5th P.M. and all that part of the Northeast Quarter of the Northeast Quarter of Section 24, Township 56 North, Range 15 West of the 5th P.M. described as follows: Beginning at Northeast corner of the Northeast Quarter of the Northeast Quarter of said Section 24; thence South 01°¸19'50" West, 89.76 feet along the East line of the Northeast Quarter of said Northeast Quarter to the Northwest corner of the Northwest Quarter of the Northwest Quarter of said Section 19; thence South 88°¸50'39" East, 378.0 feet, more or less, along the North line of the Northwest Quarter of said Northwest Quarter to the thread of the Chariton River; thence in a Southerly direction along and with the thread of the Chariton River to its intersection with the South line of the Northwest Quarter of said Northwest Quarter; thence North 88°¸38'14" West, 783.0 feet, more or less, along said South line to the Southwest corner of the Northwest Quarter of said Northwest Quarter; thence North 01°¸23'18" East, 67.64 feet along the West line of the Northwest Quarter of said Northwest Quarter to the Southeast Corner of the Northeast Quarter of the Northeast Quarter of aforesaid Section 24; thence North 89°¸55'29" West, 171.71 feet along the South line of the Northeast Quarter of said Northeast Quarter to the centerline of Icebox Road; thence North 05°¸00'59" West, 183.13 feet and North 21°¸11'46" West, 62.34 feet and North 22°¸57'12" West, 407.79 feet and North 22°¸37'59" West, 309.14 feet and North 15°¸35'19" West, 158.92 feet and North 06°¸36'54" West, 130.65 feet and North 22°¸09'30" West, 138.59 feet all along said centerline to the North line of the Northeast Quarter of said Northeast Quarter; thence North 89°¸59'12" East, 630.12 feet along said North line to the point of beginning. Contains 26.0 acres, more or less, per Survey No. L-390 by Lortz Surveying, LLC.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN KANSAS CITY, JACKSON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to all interest of the state of Missouri in property located in Kansas City, Jackson County, Missouri, described as follows:

All that part of the Southwest quarter of the Northwest quarter of Section 3, Township 49, Range 33, in Kansas City, Jackson County, Missouri, described as

beginning at the Northeast corner of Prospect Avenue and 12th Street, said corner being 30 feet East and 40 feet North of the Southwest corner of said quarter quarter section, run East along the North line of 12th Street 267 feet, thence North parallel with the East line of Prospect Avenue 256.75 feet to the South line of Peery Avenue, thence West along the South line of Peery Avenue 267 feet to the East line of Prospect Avenue and thence South along the East line of Prospect Avenue 256.75 feet to the point of beginning, subject to the right of way of Montgall Avenue over the East twenty-five feet thereof.

Subject to covenants, conditions, restrictions, easements and any other matters of public record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN JEFFERSON CITY, COLE COUNTY, TO F & F DEVELOPMENT, LLC. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to all interest of the state of Missouri in property located in the City of Jefferson, Cole County, Missouri, described as follows to F & F Development, LLC.

Tract 1:

Part of Inlots Nos. 664, 665, 666, 668 and 669; part of an un-named 20 foot wide alley between the southerly line of said Inlots 664, 665 and 666 and the northerly line of said Inlots 668 and 669; part of the West Elm Street Right-of-Way; and part of the Original Wears Creek as per plat of Jefferson City, Missouri, including all of Tracts 1 and 2 of a certain survey of record in Survey Record Book A, page 104, being Tracts II and III of the deed of record in Book 418, page 487, Cole County Recorder's Office, also including all of the property described by quit-claim deed of record in Book 418, page 488, Cole County Recorder's Office, the combined boundary of all the aforesaid being more particularly described as follows:

BEGINNING at the most westerly corner of Tract 1 of the aforesaid survey of record in Survey Record Book A, page 104, being a point on the southerly line of the Business 50 / Missouri Boulevard right-of-way; thence northeasterly, along said right-of-way line, on a curve to the right, having a radius of 459.91 feet, an arc distance of 261.44 feet (the chord of said curve being N58°51'20"E, 257.94 feet) to a point 40 feet left of Highway Plan Centerline PC Sta. 7+69.30; thence N75°08'28"E, along said right-of-way line, 12.75 feet to the most northerly corner of Tract 2 of the aforesaid survey of record in Survey Record Book A, page 104, also being the most northerly corner of Tract II of the aforesaid deed of record in Book 418, page 487, common to the most westerly corner of the property described by deed of record in Book 660, page 276, Cole County Recorder's Office; thence S47°26'49"E, along the common boundary thereof, being the northerly boundary of Tract 2 of said survey in Survey Record Book A, page 104, 215.19 feet to the most easterly corner thereof, being a point on the northerly high bank of the relocated Wears Creek channel; thence westerly, along the northerly high bank of said relocated Wears Creek channel, the following courses: S78°50'01"W, along the southerly boundary of Tract 2 of said survey in Survey Record Book A, page 104, 99.73 feet to the most southerly corner thereof; thence S86°27'00"W, 27.90 feet to the southeasterly corner of the property described by quit-claim deed of record in Book 418, page 488, Cole County Recorder's Office; thence continuing westerly, along the northerly high

bank of said relocated Wears Creek channel, being the southerly boundary of said property described in Book 418, page 488 the following courses: S79°45'34"W, 28.53 feet; thence S69°57'44"W, 25.00 feet; thence S64°48'14"W, 20.00 feet; thence S50°06'54"W, 20.00 feet; thence S42°02'44"W, 40.00 feet; thence S36°48'34"W, 40.00 feet; thence S22°43'14"W, 40.00 feet to a point on the northerly line of the aforesaid West Elm Street right-of-way, being the most southerly corner of said property described in Book 418, page 488; thence leaving the southerly boundary of said property described in Book 418, page 488, continuing S22°43'14"W, 42.17 feet, to a point on the centerline of said West Elm Street right-of-way; thence leaving the northerly high bank of said relocated Wears Creek channel, N47 38'44"W, along the centerline of said West Elm Street right-of-way, 50.25 feet to a point on the easterly line of the U.S. Route 54 and Business 50 / Missouri Boulevard connection right-of-way; thence N22°07'57"W, along said connection right-of-way, 117.03 feet; thence N15° 57'19"W, along said connection right-of-way, 62.54 feet to the POINT OF BEGINNING.

Tract 2:

Parts of Inlots 772, 773, 775, 776 and 777; part of an Un-labeled Inlot; Part of a 20 foot wide vacated Alley vacated by City Ord. No. 11723, in Book 336, page 584, Cole County Recorder's Office; and part of the Original Wears Creek as per plat of Jefferson City, Missouri, being all the properties described by deed of record in Book 336, page 608 & 609, Cole County Recorder's Office, more particularly described as follows:

From the southwesterly corner of the aforesaid Inlot 775; thence S47°33'56"E, along the southerly line of said Inlot 775, 42.90 feet to a corner on the southwesterly boundary of the aforesaid properties described by deed of record in Book 336, page 609, Cole County Recorder's Office, being a point 40.85 feet left of the Dunklin Street centerline at PT Sta. 1+43.65, as per the Missouri Highway and Transportation Commission Plans of Job No. 5-U-54-258B and said point being the POINT OF BEGINNING for this description; thence, along said Highway plan right-of-ways, being the boundary of said properties described in Book 336, page 609, the following courses: N9°14'44"W, 46.29 feet to a point 76.0 feet left of Sta. 15+40 of the Missouri Boulevard centerline; thence N38°14'47"E, 50.32 feet to a point 54.00 feet left of Sta. 15+00 of said Missouri Boulevard centerline; thence Northeasterly, on a curve to the left, having a radius of 553.06 feet, an arc distance of 205.41 feet (the chord of said curve being N51°12'34"E, 204.23 feet) to a point 54.0 feet left of PC Sta. 13+14.92 of said Missouri Boulevard centerline; thence N40°34'09"E, 34.92 feet to a point 54.0 feet left of Sta. 12+80 of said Missouri Boulevard centerline; thence N65°35'10"E, 49.66 feet to a point 75.0 feet left of Sta. 12+35 of said Missouri Boulevard centerline; thence S65°54'55"E, 50.30 feet to a point 20.0 feet left of Sta. 9+50 of the Ramp 4 base line; thence S4°51'13"W, 89.43 feet to a point 40.0 feet left of Sta. 8+00 of said Ramp 4 base line; thence S18°40'19"W, 84.88 feet to a point 45.0 feet left of Sta. 7+00 of said Ramp 4 base line; thence S47°43'45"W, 82.66 feet to a point 63.0 feet left of Sta. 6+00 of said Ramp 4 base line; thence S59°45'50"W, 51.57 feet to a point 70.0 feet left of Sta. 5+33.3 of said Ramp 4 base line; thence S59°42'35"W, 74.45 feet to a point 71.33 feet left of Sta. 4+58.19 of said Ramp 4 base line, being on the southerly line of the aforesaid Inlot 776, being the northerly line of the Dunklin Street right-of-way; thence N47°33'56"W, along the southerly line of said Inlot 776 and 775, being the northerly line of said Dunklin Street right-of-way, 139.27 feet to the POINT OF BEGINNING.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may

include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN THE CITY OF ST. JOSEPH, BUCHANAN COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Buchanan County to the City of St. Joseph, Missouri. The property to be conveyed is more particularly described as follows:

Tract A.

A tract located in the East half of Section 10 Township 57 North Range 35 West Buchanan County, Missouri. Beginning 17.57 feet East and 541.50 feet South of the center of Section 10 Township 57 North Range 35 West, thence on a curve to the left with a radius of 622.96 feet to a point that is 356.41 feet East and 421.10 feet South of center of said Section 10, thence at a right angle to the right 10 feet, thence North 53°¸40' East 392.22 feet to a point 678.29 feet East and 196.78 feet South of center of said Section 10, thence North 75°¸24' East 344.17 feet to a point that is 1011.35 feet East and 110 feet South of the center of said Section 10, thence East to a point on the West line of 36th Street 110 feet South of the East and West center line of said Section 10, then North along the West line of 36th Street 210 feet to a point 100 feet North of the East and West center line of said Section 10, thence West parallel to the East and West center line of said Section 10 to a point 100 feet North and 1011.35 feet East of Center of said Section 10, thence South 27.5 feet to a point 72.5 feet North and 1011.35 feet East of the center of said Section 10, thence on a curve to the left with a radius of 1195.92 feet to a point 616.07 feet East and 10.29 feet North of the center of said Section 10, thence South 70°¸42' West 274.56 feet to a point 356.94 feet East and 80.45 feet South of center of said Section 10, thence on a curve to the right with a radius of 1095.92 feet to the East line of 32nd Street, thence South on the East line of 32nd Street to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN JEFFERSON CITY, COLE COUNTY, TO WATERS REALTY ASSOCIATES, INC. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to all interest of the state of Missouri in property located in the City of Jefferson, Cole County, Missouri, to Waters Realty Associates Inc., described as follows:

Part of the 80 foot wide Walnut Street right-of-way and part of the 20 foot wide Alley right-of-way, having been vacated by the City of Jefferson by City Ordinance No. 7735 and all of an un-named triangular shaped Lot or Inlot that lies northwesterly of, along and adjacent to the aforesaid vacated right-of-ways and southerly of the southerly line of the property platted as Wears Creek, as shown on a certain plat of said City of Jefferson, Cole County, Missouri; all being more particularly described as follows:

BEGINNING at the northwesterly corner of Inlot No. 885 in the aforesaid City of Jefferson, Missouri; thence N47°¸43'30"W, along the easterly extension of the northerly line of Inlot No. 880 and along said northerly line thereof, 153.40 feet, more or less to a point on the southerly line of the aforesaid property platted as Wears Creek; thence N81°¸45'01"E, along the southerly line of said Wears

Creek, 241.10 feet, more or less to a point on the westerly line of Inlot No. 881, being the easterly line of the aforesaid vacated Walnut Street right-of-way; thence S42°¸14'14"W, along said vacated Walnut Street right-of-way line, being the westerly line of said Inlot No. 881 and its southerly extension thereof, 186.11 feet, more or less to the POINT OF BEGINNING.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION B. EMERGENCY CLAUSE. — Because the City of St. Joseph needs property to place a fire station to ensure public safety, the enactment of section 6 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 6 of this act shall be in full force and effect upon its passage and approval.

Approved June 17, 2016

SB 988 [CCS SB 988]

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

Prohibits the Department of Health and Senior Services from requiring hospitals to have fences around helipads

AN ACT to repeal sections 190.060, 190.241, and 197.315, RSMo, and to enact in lieu thereof six new sections relating to health care providers, with an emergency clause for certain sections.

SECTION

A. Enacting clause.
96.192. Investment of hospital funds, limitations.
190.060. Powers of district.
190.241. Trauma, STEMI, or stroke centers, designation by department — on-site reviews — grounds for suspension or revocation of designation — data submission and analysis — fees — administrative hearing commission to hear persons aggrieved by designation.
190.265. Helipads, hospitals not required to have fencing or barriers.
197.315. Certificate of need granted, when — forfeiture, grounds — application for certificate, fee — certificate not required, when.
205.165. Investment of moneys in an investment company, when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 190.060, 190.241, and 197.315, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 96.192, 190.060, 190.241, 190.265, 197.315, and 205.165, to read as follows:

96.192. INVESTMENT OF HOSPITAL FUNDS, LIMITATIONS. — 1. The board of trustees of any hospital authorized under subsection 2 of this section, and established and organized under the provisions of sections 96.150 to 96.229, may invest up to twenty-five

percent of the hospital's funds not required for immediate disbursement in obligations or for the operation of the hospital in any United States investment grade fixed income funds or any diversified stock funds, or both.

2. The provisions of this section shall only apply if the hospital:

(1) Receives less than one percent of its annual revenues from municipal, county, or state taxes; and

(2) Receives less than one percent of its annual revenue from appropriated funds from the municipality in which such hospital is located.

190.060. POWERS OF DISTRICT. — 1. An ambulance district shall have the following governmental powers, and all other powers incidental, necessary, convenient or desirable to carry out and effectuate the express powers:

(1) To establish and maintain an ambulance service within its corporate limits, and to acquire for, develop, expand, extend and improve such service;

(2) To acquire land in fee simple, rights in land and easements upon, over or across land and leasehold interests in land and tangible and intangible personal property used or useful for the location, establishment, maintenance, development, expansion, extension or improvement of an ambulance service. The acquisition may be by dedication, purchase, gift, agreement, lease, use or adverse possession;

(3) To operate, maintain and manage the ambulance service, and to make and enter into contracts for the use, operation or management of and to provide rules and regulations for the operation, management or use of the ambulance service;

(4) To fix, charge and collect reasonable fees and compensation for the use of the ambulance service according to the rules and regulations prescribed by the board from time to time;

(5) To borrow money and to issue bonds, notes, certificates, or other evidences of indebtedness for the purpose of accomplishing any of its corporate purposes, subject to compliance with any condition or limitation set forth in sections 190.001 to 190.090 or otherwise provided by the Constitution of the state of Missouri;

(6) To employ or enter into contracts for the employment of any person, firm, or corporation, and for professional services, necessary or desirable for the accomplishment of the objects of the district or the proper administration, management, protection or control of its property;

(7) To maintain the ambulance service for the benefit of the inhabitants of the area comprising the district regardless of race, creed or color, and to adopt such reasonable rules and regulations as may be necessary to render the highest quality of emergency medical care; to exclude from the use of the ambulance service all persons who willfully disregard any of the rules and regulations so established; to extend the privileges and use of the ambulance service to persons residing outside the area of the district upon such terms and conditions as the board of directors prescribes by its rules and regulations;

(8) To provide for health, accident, disability and pension benefits for the salaried members of its organized ambulance district and such other benefits for the members' spouses and minor children, through either, or both, a contributory or noncontributory plan. The type and amount of such benefits shall be determined by the board of directors of the ambulance district within the level of available revenue of the pension program and other available revenue of the district. If an employee contributory plan is adopted, then at least one voting member of the board of trustees shall be a member of the ambulance district elected by the contributing members. The board of trustees shall not be the same as the board of directors;

(9) To purchase insurance indemnifying the district and its employees, officers, volunteers and directors against liability in rendering services incidental to the furnishing of ambulance services. Purchase of insurance pursuant to this section is not intended to waive sovereign immunity, official immunity or the Missouri public duty doctrine defenses; and

(10) To provide for life insurance, accident, sickness, health, disability, annuity, length of service, pension, retirement and other employee-type fringe benefits, subject to the provisions of section 70.615, for the volunteer members of any organized ambulance district and such other benefits for their spouses and eligible unemancipated children, either through a contributory or noncontributory plan, or both. For purposes of this section, "eligible unemancipated child" means a natural or adopted child of an insured, or a stepchild of an insured who is domiciled with the insured, who is less than twenty-three years of age, who is not married, not employed on a full-time basis, not maintaining a separate residence except for full-time students in an accredited school or institution of higher learning, and who is dependent on parents or guardians for at least fifty percent of his or her support. The type and amount of such benefits shall be determined by the board of directors of the ambulance district within available revenues of the district, including the pension program of the district. The provision and receipt of such benefits shall not make the recipient an employee of the district. Directors who are also volunteer members may receive such benefits while serving as a director of the district.

2. The use of any ambulance service of a district shall be subject to the reasonable regulation and control of the district and upon such reasonable terms and conditions as shall be established by its board of directors.

3. A regulatory ordinance of a district adopted pursuant to any provision of this section may provide for a suspension or revocation of any rights or privileges within the control of the district for a violation of any regulatory ordinance.

4. Nothing in this section or in other provisions of sections 190.001 to 190.245 shall be construed to authorize the district or board to establish or enforce any regulation or rule in respect to the operation or maintenance of the ambulance service within its jurisdiction which is in conflict with any federal or state law or regulation applicable to the same subject matter.

5. After August 28, 1998, the board of directors of an ambulance district that proposes to contract for the total management and operation of the ambulance service, when that ambulance district has not previously contracted out for said service, shall hold a public hearing within a thirty-day period and shall make a finding that the proposed contract to manage and operate the ambulance service will:

(1) Provide benefits to the public health that outweigh the associated costs;

(2) Maintain or enhance public access to ambulance service;

(3) Maintain or improve the public health and promote the continued development of the regional emergency medical services system.

6. (1) Upon a satisfactory finding following the public hearing in subsection 5 of this section and after a sixty-day period, the ambulance district may enter into the proposed contract, however said contract shall not be implemented for at least thirty days.

(2) The provisions of subsection 5 of this section shall not apply to contracts which were executed prior to August 28, 1998, or to the renewal or modification of such contracts or to the signing of a new contract with an ambulance service provider for services that were previously contracted out.

7. All ambulance districts authorized to adopt laws, ordinances, or regulations regarding basic life support ambulances shall require such ambulances to be equipped with an automated external defibrillator and be staffed by at least one individual trained in the use of an automated external defibrillator.

8. The ambulance district may adopt procedures for conducting fingerprint background checks on current and prospective employees, contractors, and volunteers. The ambulance district may submit applicant fingerprints to the Missouri state highway patrol, Missouri criminal records repository, for the purpose of checking the person's criminal history. The fingerprints shall be used to search the Missouri criminal records repository and shall be submitted to the Federal Bureau of Investigation to be used for searching the federal criminal history files. The fingerprints shall be submitted on forms and in the manner prescribed by the Missouri state highway patrol. Fees shall be as set forth in section 43.530.

190.241. TRAUMA, STEMI, OR STROKE CENTERS, DESIGNATION BY DEPARTMENT — ON-SITE REVIEWS — GROUNDS FOR SUSPENSION OR REVOCATION OF DESIGNATION — DATA SUBMISSION AND ANALYSIS — FEES — ADMINISTRATIVE HEARING COMMISSION TO HEAR PERSONS AGGRIEVED BY DESIGNATION. — 1. The department shall designate a hospital as an adult, pediatric or adult and pediatric trauma center when a hospital, upon proper application submitted by the hospital and site review, has been found by the department to meet the applicable level of trauma center criteria for designation in accordance with rules adopted by the department as prescribed by section 190.185.

2. **Except as provided for in subsection 4 of this section,** the department shall designate a hospital as a STEMI or stroke center when such hospital, upon proper application and site review, has been found by the department to meet the applicable level of STEMI or stroke center criteria for designation in accordance with rules adopted by the department as prescribed by section 190.185. In developing STEMI center and stroke center designation criteria, the department shall use, as it deems practicable, appropriate peer-reviewed or evidence-based research on such topics including, but not limited to, the most recent guidelines of the American College of Cardiology and American Heart Association for STEMI centers, or the Joint Commission's Primary Stroke Center Certification program criteria for stroke centers, or Primary and Comprehensive Stroke Center Recommendations as published by the American Stroke Association.

3. The department of health and senior services shall, not less than once every five years, conduct an on-site review of every trauma, STEMI, and stroke center through appropriate department personnel or a qualified contractor**, with the exception of stroke centers designated pursuant to subsection 4 of this section; however, this provision is not intended to limit the department's ability to conduct a complaint investigation pursuant to subdivision (3) of subsection 2 of section 197.080 of any trauma, STEMI, or stroke center**. On-site reviews shall be coordinated for the different types of centers to the extent practicable with hospital licensure inspections conducted under chapter 197. No person shall be a qualified contractor for purposes of this subsection who has a substantial conflict of interest in the operation of any trauma, STEMI, or stroke center under review. The department may deny, place on probation, suspend or revoke such designation in any case in which it has reasonable cause to believe that there has been a substantial failure to comply with the provisions of this chapter or any rules or regulations promulgated pursuant to this chapter. If the department of health and senior services has reasonable cause to believe that a hospital is not in compliance with such provisions or regulations, it may conduct additional announced or unannounced site reviews of the hospital to verify compliance. If a trauma, STEMI, or stroke center fails two consecutive on-site reviews because of substantial noncompliance with standards prescribed by sections 190.001 to 190.245 or rules adopted by the department pursuant to sections 190.001 to 190.245, its center designation shall be revoked.

4. **Instead of applying for stroke center designation pursuant to the provisions of subsection 2 of this section, a hospital may apply for stroke center designation pursuant to this subsection. Upon receipt of an application from a hospital on a form prescribed by the department, the department shall designate such hospital:**

(1) A level I stroke center if such hospital has been certified as a comprehensive stroke center by the Joint Commission or any other certifying organization designated by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines;

(2) A level II stroke center if such hospital has been certified as a primary stroke center by the Joint Commission or any other certifying organization designated by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines; or

(3) A level III stroke center if such hospital has been certified as an acute stroke-ready hospital by the Joint Commission or any other certifying organization designated

by the department when such certification is in accordance with the American Heart Association/American Stroke Association guidelines.

Except as provided by subsection 5 of this section, the department shall not require compliance with any additional standards for establishing or renewing stroke designations. The designation shall continue if such hospital remains certified. The department may remove a hospital's designation as a stroke center if the hospital requests removal of the designation or the department determines that the certificate recognizing the hospital as a stroke center has been suspended or revoked. Any decision made by the department to withdraw its designation of a stroke center pursuant to this subsection that is based on the revocation or suspension of a certification by a certifying organization shall not be subject to judicial review. The department shall report to the certifying organization any complaint it receives related to the stroke center certification of a stroke center designated pursuant to this subsection. The department shall also advise the complainant which organization certified the stroke center and provide the necessary contact information should the complainant wish to pursue a complaint with the certifying organization.

5. Any hospital receiving designation as a stroke center pursuant to subsection 4 of this section shall:

(1) Annually and within thirty days of any changes submit to the department proof of stroke certification and the names and contact information of the medical director and the program manager of the stroke center;

(2) Submit to the department a copy of the certifying organization's final stroke certification survey results within thirty days of receiving such results;

(3) Submit every four years an application on a form prescribed by the department for stroke center review and designation;

(4) Participate in the emergency medical services regional system of stroke care in its respective emergency medical services region as defined in rules promulgated by the department;

(5) Participate in local and regional emergency medical services systems by reviewing and sharing outcome data and providing training and clinical educational resources.

Any hospital receiving designation as a level III stroke center pursuant to subsection 4 of this section shall have a formal agreement with a level I or level II stroke center for physician consultative services for evaluation of stroke patients for thrombolytic therapy and the care of the patient post-thrombolytic therapy.

6. Hospitals designated as a STEMI or stroke center by the department, including those designated pursuant to subsection 4 of this section, shall submit data to meet the data submission requirements specified by rules promulgated by the department. Such submission of data may be done by the following methods:

(1) Entering hospital data directly into a state registry by direct data entry;

(2) Downloading hospital data from a nationally-recognized registry or data bank and importing the data files into a state registry; or

(3) Authorizing a nationally-recognized registry or data bank to disclose or grant access to the department facility-specific data held by the registry or data bank.

A hospital submitting data pursuant to subdivisions (2) or (3) of this subsection shall not be required to collect and submit any additional STEMI or stroke center data elements.

7. When collecting and analyzing data pursuant to the provisions of this section, the department shall comply with the following requirements:

(1) Names of any health care professionals, as defined in section 376.1350, shall not be subject to disclosure;

(2) The data shall not be disclosed in a manner that permits the identification of an individual patient or encounter;

(3) The data shall be used for the evaluation and improvement of hospital and emergency medical services' trauma, stroke, and STEMI care;

(4) The data collection system shall be capable of accepting file transfers of data entered into to any national recognized trauma, stroke, or STEMI registry or data bank to fulfill trauma, stroke, or STEMI certification reporting requirements;

(5) STEMI and stroke center data elements shall conform to nationally recognized performance measures, such as the American Heart Association's Get With the Guidelines, and include published detailed measure specifications, data coding instructions, and patient population inclusion and exclusion criteria to ensure data reliability and validity; and

(6) Generate from the trauma, stroke, and STEMI registries quarterly regional and state outcome data reports for trauma, stroke, and STEMI designated centers, the state advisory council on EMS, and regional EMS committees to review for performance improvement and patient safety.

8. The board of registration for the healing arts shall have sole authority to establish education requirements for physicians who practice in an emergency department of a facility designated as a trauma, STEMI, or stroke center by the department under this section. The department shall deem such education requirements promulgated by the board of registration for the healing arts sufficient to meet the standards for designations under this section.

9. The department of health and senior services may establish appropriate fees to offset the costs of trauma, STEMI, and stroke center reviews.

[5.**]** **10.** No hospital shall hold itself out to the public as a STEMI center, stroke center, adult trauma center, pediatric trauma center, or an adult and pediatric trauma center unless it is designated as such by the department of health and senior services.

[6.**]** **11.** Any person aggrieved by an action of the department of health and senior services affecting the trauma, STEMI, or stroke center designation pursuant to this chapter, including the revocation, the suspension, or the granting of, refusal to grant, or failure to renew a designation, may seek a determination thereon by the administrative hearing commission under chapter 621. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department.

190.265. HELIPADS, HOSPITALS NOT REQUIRED TO HAVE FENCING OR BARRIERS. — 1. In order to ensure that the skids of a helicopter do not get caught in a fence or other barriers and cause a potentially catastrophic outcome, any rules and regulations promulgated by the department of health and senior services pursuant to sections 190.185, 190.241, and 192.006, chapter 197, or any other provision of Missouri law shall not require hospitals to have a fence, or other barriers, around such hospital's helipad. Any regulation requiring fencing, or other barriers, or any interpretation of such regulation shall be null and void.

2. In addition to the prohibition in subsection 1 of this section, the department shall not promulgate any rules and regulations with respect to the operation or construction of a helipad located at a hospital.

3. Hospitals shall ensure that helipads are free of obstruction and safe for use by a helicopter while on the ground, during approach, and takeoff.

4. As used in this section, the term "hospital" shall have the same meaning as in section 197.020.

197.315. CERTIFICATE OF NEED GRANTED, WHEN — FORFEITURE, GROUNDS — APPLICATION FOR CERTIFICATE, FEE — CERTIFICATE NOT REQUIRED, WHEN. — 1. Any person who proposes to develop or offer a new institutional health service within the state must obtain a certificate of need from the committee prior to the time such services are offered.

2. Only those new institutional health services which are found by the committee to be needed shall be granted a certificate of need. Only those new institutional health services which

are granted certificates of need shall be offered or developed within the state. No expenditures for new institutional health services in excess of the applicable expenditure minimum shall be made by any person unless a certificate of need has been granted.

3. After October 1, 1980, no state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed without obtaining a certificate of need.

4. If any person proposes to develop any new institutional health care service without a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the attorney general, and he shall apply for an injunction or other appropriate legal action in any court of this state against that person.

5. After October 1, 1980, no agency of state government may appropriate or grant funds to or make payment of any funds to any person or health care facility which has not first obtained every certificate of need required pursuant to sections 197.300 to 197.366.

6. A certificate of need shall be issued only for the premises and persons named in the application and is not transferable except by consent of the committee.

7. Project cost increases, due to changes in the project application as approved or due to project change orders, exceeding the initial estimate by more than ten percent shall not be incurred without consent of the committee.

8. Periodic reports to the committee shall be required of any applicant who has been granted a certificate of need until the project has been completed. The committee may order the forfeiture of the certificate of need upon failure of the applicant to file any such report.

9. A certificate of need shall be subject to forfeiture for failure to incur a capital expenditure on any approved project within six months after the date of the order. The applicant may request an extension from the committee of not more than six additional months based upon substantial expenditure made.

10. Each application for a certificate of need must be accompanied by an application fee. The time of filing commences with the receipt of the application and the application fee. The application fee is one thousand dollars, or one-tenth of one percent of the total cost of the proposed project, whichever is greater. All application fees shall be deposited in the state treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the Missouri health facilities review committee.

11. In determining whether a certificate of need should be granted, no consideration shall be given to the facilities or equipment of any other health care facility located more than a fifteen-mile radius from the applying facility.

12. When a nursing facility shifts from a skilled to an intermediate level of nursing care, it may return to the higher level of care if it meets the licensure requirements, without obtaining a certificate of need.

13. In no event shall a certificate of need be denied because the applicant refuses to provide abortion services or information.

14. A certificate of need shall not be required for the transfer of ownership of an existing and operational health facility in its entirety.

15. A certificate of need may be granted to a facility for an expansion, an addition of services, a new institutional service, or for a new hospital facility which provides for something less than that which was sought in the application.

16. The provisions of this section shall not apply to facilities operated by the state, and appropriation of funds to such facilities by the general assembly shall be deemed in compliance with this section, and such facilities shall be deemed to have received an appropriate certificate of need without payment of any fee or charge. **The provisions of this subsection shall not apply to hospitals operated by the state and licensed under chapter 197, except for department of mental health state-operated psychiatric hospitals.**

17. Notwithstanding other provisions of this section, a certificate of need may be issued after July 1, 1983, for an intermediate care facility operated exclusively for the intellectually disabled.

18. To assure the safe, appropriate, and cost-effective transfer of new medical technology throughout the state, a certificate of need shall not be required for the purchase and operation of**:**

(1) Research equipment that is to be used in a clinical trial that has received written approval from a duly constituted institutional review board of an accredited school of medicine or osteopathy located in Missouri to establish its safety and efficacy and does not increase the bed complement of the institution in which the equipment is to be located. After the clinical trial has been completed, a certificate of need must be obtained for continued use in such facility; or

(2) Equipment that is to be used by an academic health center operated by the state in furtherance of its research or teaching missions.

205.165. INVESTMENT OF MONEYS IN AN INVESTMENT COMPANY, WHEN. — 1. The board of trustees of any hospital authorized under subsection 1 of this section and organized under the provisions of sections 205.160 to 205.340 may invest up to fifteen percent of their funds not required for immediate disbursement in obligations or for the operation of the hospital into any mutual fund, in the form of an investment company, in which shareholders combine money to invest in a variety of stocks, bonds, and money-market investments.

2. The provisions of this section shall only apply if the hospital:

(1) Is located within a county of the first classification with more than one hundred fifty thousand but fewer than two hundred thousand inhabitants; and

(2) Receives less than one percent of its annual revenues from county or state taxes.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to preserve access to quality health care facilities for the citizens of Missouri and because immediate action may prevent a tragic occurrence from happening, the enactment of section 190.265 and the repeal and reenactment of section 197.315 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 190.265 and the repeal and reenactment of section 197.315 of this act shall be in full force and effect upon its passage and approval.

Approved July 5, 2016

SB 997 [CCS HCS SB 997]

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

Establishes several provisions relating to higher education

AN ACT to repeal sections 103.003, 103.079, 167.223, 173.005, 173.234, and 178.780, RSMo, and to enact in lieu thereof nineteen new sections relating to higher education, with an emergency clause for certain sections, with existing penalty provisions.

SECTION

A. Enacting clause.
103.003. Definitions.
103.079. Health care programs sponsored by other state agencies may become part of consolidated plan, procedure — departments may review plan and withdraw, when — higher education entities may become part of consolidated plan, procedure.
105.1445. Notice to public employees, eligibility for loan forgiveness — public employers to adopt policy, notice.
167.223. High school may offer postsecondary course options — fees.

173.005. Department of higher education created — agencies, divisions, transferred to department — coordinating board, appointment qualifications, terms, compensation, duties, advisory committee, members.
173.035. Resources, website directing students to — rulemaking authority.
173.234. Definitions — grants to be awarded, when, duration — duties of the board — rulemaking authority — eligibility criteria — sunset provision.
173.2500. Dual credit providers — definitions — application procedure — rulemaking authority — fund created.
173.2505. Scholarship eligibility — amount of scholarship, limitation — fund created.
173.2510. On-time completion of degree programs, policies to be created to promote — report.
173.2515. Guided pathways to success — definitions — pilot program to be developed — grants, when, rules for procedure.
173.2520. Pilot program established — report.
178.780. Coordinating board for higher education to supervise colleges — duties.
178.785. Higher education core curriculum transfer act — definitions.
178.786. Lower division core curriculum, recommendation — common course numbering equivalency matrix.
178.787. Forty-two credit hour block, adoption of — transfer of course credits.
178.788. Transfer practices, criteria to evaluate — requirements for credit transfers.
178.789. Rulemaking authority.
1. Out-of-state travel costs for full-time employees, reporting requirements.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 103.003, 103.079, 167.223, 173.005, 173.234, and 178.780, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 103.003, 103.079, 105.1445, 167.223, 173.005, 173.035, 173.234, 173.2500, 173.2505, 173.2510, 173.2515, 173.2520, 178.780, 178.785, 178.786, 178.787, 178.788, 178.789, and 1, to read as follows:

103.003. DEFINITIONS. — As used in sections 103.003 to 103.175, the following terms mean:

(1) "Actuarial reserves", the necessary funding required to pay all the medical expenses for services provided to members of the plan but for which the claims have not yet been received by the claims administrator;

(2) "Actuary", a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974;

(3) "Agency", a state-sponsored institution of higher learning, political subdivision or governmental entity or instrumentality;

(4) "Alternative delivery health care program", a plan of covered benefits that pays medical expenses through an alternate mechanism rather than on a fee-for-service basis. This includes, but is not limited to, health maintenance organizations and preferred provider organizations, all of which shall include chiropractic physicians licensed under chapter 331, in the provider networks or organizations;

(5) "Board", the board of trustees of the Missouri consolidated health care plan;

(6) "Claims administrator", an agency contracted to process medical claims submitted from providers or members of the plan and their dependents;

(7) "Coordination of benefits", to work with another group-sponsored health care plan which also covers a member of the plan to ensure that both plans pay their appropriate amount of the health care expenses incurred by the member;

(8) "Covered benefits", a schedule of covered services, including chiropractic services, which are payable under the plan;

(9) "Employee", any person employed full time by the state or a participating member agency, or a person eligible for coverage by a state-sponsored retirement system or a retirement system sponsored by a participating member agency of the plan;

(10) "Evidence of good health", medical information supplied by a potential member of the plan that is reviewed to determine the financial risk the person represents to the plan and the corresponding determination of whether or not he or she should be accepted into the plan;

(11) "Health care plan", any group medical benefit plan providing coverage on an expense-incurred basis, any HMO, any group service or indemnity contract issued by a health plan of any type or description;

(12) "Medical benefits coverages" shall include services provided by chiropractic physicians as well as physicians licensed under chapter 334;

(13) "Medical expenses", costs for services performed by a provider and covered under the plan;

(14) "Missouri consolidated health care plan benefit fund account", the benefit trust fund account containing all payroll deductions, payments, and income from all sources for the plan;

(15) "Officer", an elected official of the state of Missouri;

(16) **"Participating higher education entity", a state-sponsored institution of higher learning;**

(17) "Participating member agency", a [state-sponsored institution of higher learning,] political subdivision or governmental entity that has elected to join the plan and has been accepted by the board;

[(17)**]** **(18)** "Plan year", a twelve-month period designated by the board which is used to calculate the annual rate categories and the appropriate coverage;

[(18)**]** **(19)** "Provider", a physician, hospital, pharmacist, psychologist, chiropractic physician or other licensed practitioner who or which provides health care services within the respective scope of practice of such practitioner pursuant to state law and regulation;

[(19)**]** **(20)** "Retiree", a person who is not an employee and is receiving or is entitled to receive an annuity benefit from a state-sponsored retirement system or a retirement system of a participating member agency of the plan or becomes eligible for retirement benefits because of service with a participating member agency.

103.079. HEALTH CARE PROGRAMS SPONSORED BY OTHER STATE AGENCIES MAY BECOME PART OF CONSOLIDATED PLAN, PROCEDURE — DEPARTMENTS MAY REVIEW PLAN AND WITHDRAW, WHEN — HIGHER EDUCATION ENTITIES MAY BECOME PART OF CONSOLIDATED PLAN, PROCEDURE. — 1. The health care programs sponsored by the departments of transportation and conservation shall become a part of this plan only upon request to and acceptance by the board of trustees by the highways and transportation commission or the conservation commission and any such transfer into this plan shall be deemed reviewable by such department every three years. Such department may withdraw from the plan upon approval by such department's commission and by providing the board a minimum of six months' notice prior to the end of the then current plan year and termination of coverage will become effective at the end of the then current plan year. For any of the foregoing state agencies choosing to participate, the plan shall not assume responsibility for any liabilities incurred by the agency or its eligible employees, retirees, or dependents prior to its effective date.

2. Any participating higher education entity may, by its own election, become part of this plan. The board of trustees shall accept the participating higher education entity. The board of trustees may request the participating higher education entity pay a first year adjustment if the population being brought into the plan is actuarially substantial and materially different than the current population in the state plan. Once a participating higher education entity comes into the plan, it may not leave the plan for a period of five years. Such participating higher education entity may withdraw from the plan upon approval by such participating higher education entity governing board and by providing the board a minimum of six month's notice prior to the end of the then current plan year and termination of coverage will become effective at the end of the then current plan year. For any of the foregoing participating higher education entities choosing to participate, the plan shall not assume responsibility for any liabilities incurred by the participating higher education entity or its eligible employees, retirees, or dependents prior to its effective date.

105.1445. NOTICE TO PUBLIC EMPLOYEES, ELIGIBILITY FOR LOAN FORGIVENESS — PUBLIC EMPLOYERS TO ADOPT POLICY, NOTICE. — 1. On or before January 1, 2017, the department of higher education shall create guidance regarding notice of public employee eligibility for public service loan forgiveness. Public employers may use the guidance in providing notice to employees under subsection 2 of this section. The guidance shall include, but not be limited to, the following:

(1) Up-to-date, accurate, and complete information regarding eligibility for participation in existing public service loan forgiveness programs;

(2) Contact information and relevant forms for applying for existing public service loan forgiveness programs; and

(3) Other relevant information as determined by the department of higher education.

2. On or before April 1, 2017, the governing body of each public employer in this state shall adopt a policy that provides up-to-date, accurate, and complete information to each new employee regarding eligibility for public service loan forgiveness. Notice to new employees shall be provided within ten days following the start of employment with the public employer. On or before June 30, 2017, the public employer shall provide the same information to all current employees employed on that date.

167.223. HIGH SCHOOL MAY OFFER POSTSECONDARY COURSE OPTIONS — FEES. — 1. Public high schools may, in cooperation with Missouri public **[**community**]** **two-year** colleges and public or private four-year colleges and universities, offer postsecondary course options to high school students. A postsecondary course option allows eligible students to attend vocational or academic classes on a college or university campus and receive both high school and college credit upon successful completion of the course.

2. For purposes of state aid, the pupil's resident district shall continue to count the pupil in the average daily attendance of such resident district for any time the student is attending a postsecondary course.

3. Any pupil enrolled in a **[**community**]** **two-year** college under a postsecondary course option shall be considered a resident student for the purposes of calculating state aid to the **[**community**]** **two-year** college.

4. **[**Community**]** **Two-year** colleges and four-year colleges and universities may charge reasonable fees for pupils enrolled in courses under a postsecondary course option. Such fees may be paid by the district of residence or by the pupil, as determined by the agreement between the district of residence and the college or university.

173.005. DEPARTMENT OF HIGHER EDUCATION CREATED — AGENCIES, DIVISIONS, TRANSFERRED TO DEPARTMENT — COORDINATING BOARD, APPOINTMENT QUALIFICATIONS, TERMS, COMPENSATION, DUTIES, ADVISORY COMMITTEE, MEMBERS. — 1. There is hereby created a "Department of Higher Education", and the division of higher education of the department of education is abolished and all its powers, duties, functions, personnel and property are transferred as provided by the Reorganization Act of 1974, Appendix B, RSMo.

2. The commission on higher education is abolished and all its powers, duties, personnel and property are transferred by type I transfer to the "Coordinating Board for Higher Education", which is hereby created, and the coordinating board shall be the head of the department. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate, and not more than five of its members shall be of the same political party. None of the members shall be engaged professionally as an educator or educational administrator with a public or private institution of higher education at the time appointed or during his term. Moreover, no person shall be appointed to the coordinating board who shall not be a citizen of the United States, and who shall not have been a resident of the state of Missouri two years next prior to appointment, and at least one but not more than two persons shall be appointed to said

board from each congressional district. The term of service of a member of the coordinating board shall be six years and said members, while attending the meetings of the board, shall be reimbursed for their actual expenses. Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011, from completing his or her term. The coordinating board may, in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and research personnel as may be necessary to assist it in performing those duties, but this staff shall not, in any fiscal year, exceed twenty-five full-time equivalent employees regardless of the source of funding. In addition to all other powers, duties and functions transferred to it, the coordinating board for higher education shall have the following duties and responsibilities:

(1) The coordinating board for higher education shall have approval of proposed new degree programs to be offered by the state institutions of higher education;

(2) The coordinating board for higher education may promote and encourage the development of cooperative agreements between Missouri public four-year institutions of higher education which do not offer graduate degrees and Missouri public four-year institutions of higher education which do offer graduate degrees for the purpose of offering graduate degree programs on campuses of those public four-year institutions of higher education which do not otherwise offer graduate degrees. Such agreements shall identify the obligations and duties of the parties, including assignment of administrative responsibility. Any diploma awarded for graduate degrees under such a cooperative agreement shall include the names of both institutions inscribed thereon. Any cooperative agreement in place as of August 28, 2003, shall require no further approval from the coordinating board for higher education. Any costs incurred with respect to the administrative provisions of this subdivision may be paid from state funds allocated to the institution assigned the administrative authority for the program. The provisions of this subdivision shall not be construed to invalidate the provisions of subdivision (1) of this subsection;

(3) In consultation with the heads of the institutions of higher education affected and against a background of carefully collected data on enrollment, physical facilities, manpower needs, institutional missions, the coordinating board for higher education shall establish guidelines for appropriation requests by those institutions of higher education; however, other provisions of the Reorganization Act of 1974 notwithstanding, all funds shall be appropriated by the general assembly to the governing board of each public four-year institution of higher education which shall prepare expenditure budgets for the institution;

(4) No new state-supported senior colleges or residence centers shall be established except as provided by law and with approval of the coordinating board for higher education;

(5) The coordinating board for higher education shall establish admission guidelines consistent with institutional missions;

(6) The coordinating board for higher education shall require all public two-year and four-year higher education institutions to replicate best practices in remediation identified by the coordinating board and institutions from research undertaken by regional educational laboratories, higher education research organizations, and similar organizations with expertise in the subject, and identify and reduce methods that have been found to be ineffective in preparing or retaining students or that delay students from enrollment in college-level courses;

(7) The coordinating board shall establish policies and procedures for institutional decisions relating to the residence status of students;

(8) The coordinating board shall establish guidelines to promote and facilitate the transfer of students between institutions of higher education within the state and, with the assistance of the committee on transfer and articulation, shall require all public two-year and four-year higher education institutions to create by July 1, 2014, a statewide core transfer library of at least twenty-five lower division courses across all institutions that are transferable among all public higher education institutions. The coordinating board shall establish policies and procedures to ensure

such courses are accepted in transfer among public institutions and treated as equivalent to similar courses at the receiving institutions. The coordinating board shall develop a policy to foster reverse transfer for any student who has accumulated enough hours in combination with at least one public higher education institution in Missouri that offers an associate degree and one public four-year higher education institution in the prescribed courses sufficient to meet the public higher education institution's requirements to be awarded an associate degree. The department of elementary and secondary education shall maintain the alignment of the assessments found in section 160.518 and successor assessments with the competencies previously established under this subdivision for entry-level collegiate courses in English, mathematics, foreign language, sciences, and social sciences associated with an institution's general education core;

(9) The coordinating board shall collect the necessary information and develop comparable data for all institutions of higher education in the state. The coordinating board shall use this information to delineate the areas of competence of each of these institutions and for any other purposes deemed appropriate by the coordinating board;

(10) Compliance with requests from the coordinating board for institutional information and the other powers, duties and responsibilities, herein assigned to the coordinating board, shall be a prerequisite to the receipt of any funds which the coordinating board is responsible for administering;

(11) If any institution of higher education in this state, public or private, willfully fails or refuses to follow any lawful guideline, policy or procedure established or prescribed by the coordinating board, or knowingly deviates from any such guideline, or knowingly acts without coordinating board approval where such approval is required, or willfully fails to comply with any other lawful order of the coordinating board, the coordinating board may, after a public hearing, withhold or direct to be withheld from that institution any funds the disbursement of which is subject to the control of the coordinating board, or may remove the approval of the institution as an approved institution within the meaning of section 173.1102. If any such public institution willfully disregards board policy, the commissioner of higher education may order such institution to remit a fine in an amount not to exceed one percent of the institution's current fiscal year state operating appropriation to the board. The board shall hold such funds until such time that the institution, as determined by the commissioner of higher education, corrects the violation, at which time the board shall refund such amount to the institution. If the commissioner determines that the institution has not redressed the violation within one year, the fine amount shall be deposited into the general revenue fund, unless the institution appeals such decision to the full coordinating board, which shall have the authority to make a binding and final decision, by means of a majority vote, regarding the matter. However, nothing in this section shall prevent any institution of higher education in this state from presenting additional budget requests or from explaining or further clarifying its budget requests to the governor or the general assembly; **[**and**]**

(12) **In recognition of institutions that meet the requirements of subdivisions (2), (3), or (4) of subsection 1 of section 173.616, are established by name as an educational institution in Missouri, and are authorized to operate programs beyond secondary education for purposes of authorization under 34 C.F.R. 600.9, the coordinating board for higher education shall maintain and publish on its website a list of such postsecondary educational institutions; and**

(13) (a) As used in this subdivision, the term "out-of-state public institution of higher education" shall mean an education institution located outside of Missouri that:

a. Is controlled or administered directly by a public agency or political subdivision or is classified as a public institution by the state;

b. Receives appropriations for operating expenses directly or indirectly from a state other than Missouri;

c. Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a degree or certificate;

d. Meets the standards for accreditation by an accrediting body recognized by the United States Department of Education or any successor agency; and

e. Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source.

(b) No later than July 1, 2008, the coordinating board shall promulgate rules regarding:

a. The board's approval process of proposed new degree programs and course offerings by any out-of-state public institution of higher education seeking to offer degree programs or course work within the state of Missouri; and

b. The board's approval process of degree programs and courses offered by any out-of-state public institutions of higher education that, prior to July 1, 2008, were approved by the board to operate a school in compliance with the provisions of sections 173.600 to 173.618. The rules shall ensure that, as of July 1, 2008, all out-of-state public institutions seeking to offer degrees and courses within the state of Missouri are evaluated in a manner similar to Missouri public higher education institutions. Such out-of-state public institutions shall be held to standards no lower than the standards established by the coordinating board for program approval and the policy guidelines of the coordinating board for data collection, cooperation, and resolution of disputes between Missouri institutions of higher education under this section. Any such out-of-state public institutions of higher education wishing to continue operating within this state must be approved by the board under the rules promulgated under this subdivision. The coordinating board may charge and collect fees from out-of-state public institutions to cover the costs of reviewing and assuring the quality of programs offered by out-of-state public institutions. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

(c) Nothing in this subdivision or in section 173.616 shall be construed or interpreted so that students attending an out-of-state public institution are considered to be attending a Missouri public institution of higher education for purposes of obtaining student financial assistance.

3. The coordinating board shall meet at least four times annually with an advisory committee who shall be notified in advance of such meetings. The coordinating board shall have exclusive voting privileges. The advisory committee shall consist of thirty-two members, who shall be the president or other chief administrative officer of the University of Missouri; the chancellor of each campus of the University of Missouri; the president of each state-supported four-year college or university, including Harris-Stowe State University, Missouri Southern State University, Missouri Western State University, and Lincoln University; the president of State Technical College of Missouri; the president or chancellor of each public community college district; and representatives of each of five accredited private institutions selected biennially, under the supervision of the coordinating board, by the presidents of all of the state's privately supported institutions; but always to include at least one representative from one privately supported community college, one privately supported four-year college, and one privately supported university. The conferences shall enable the committee to advise the coordinating board of the views of the institutions on matters within the purview of the coordinating board.

4. The University of Missouri, Lincoln University, and all other state-governed colleges and universities, chapters 172, 174, 175, and others, are transferred by type III transfers to the department of higher education subject to the provisions of subsection 2 of this section.

5. The state historical society, chapter 183, is transferred by type III transfer to the University of Missouri.

6. The state anatomical board, chapter 194, is transferred by type II transfer to the department of higher education.

7. All the powers, duties and functions vested in the division of public schools and state board of education relating to community college state aid and the supervision, formation of districts and all matters otherwise related to the state's relations with community college districts and matters pertaining to community colleges in public school districts, chapters 163, 178, and others, are transferred to the coordinating board for higher education by type I transfer. Provided, however, that all responsibility for administering the federal-state programs of vocational-technical education, except for the 1202a postsecondary educational amendments of 1972 program, shall remain with the department of elementary and secondary education. The department of elementary and secondary education and the coordinating board for higher education shall cooperate in developing the various plans for vocational-technical education; however, the ultimate responsibility will remain with the state board of education.

8. All the powers, duties, functions, and properties of the state poultry experiment station, chapter 262, are transferred by type I transfer to the University of Missouri, and the state poultry association and state poultry board are abolished. In the event the University of Missouri shall cease to use the real estate of the poultry experiment station for the purposes of research or shall declare the same surplus, all real estate shall revert to the governor of the state of Missouri and shall not be disposed of without legislative approval.

173.035. RESOURCES, WEBSITE DIRECTING STUDENTS TO — RULEMAKING AUTHORITY. — 1. The department of higher education shall develop, maintain, and operate a website containing information of public and private institutions of higher education in this state directing students to resources including, but not limited to, academic programs, financial aid, and how academic course credit may be transferred from one institution of higher education to another. The information on the website shall be made available to the public and shall be accessible from various devices including, but not limited to, computers, tablets, and other electronic communication devices.

2. Inclusion of institution information on the website is voluntary, and institutions of higher education may elect to have institutional information included on the website by notifying the department of higher education.

3. The department of higher education 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, 2016, shall be invalid and void.

173.234. DEFINITIONS — GRANTS TO BE AWARDED, WHEN, DURATION — DUTIES OF THE BOARD — RULEMAKING AUTHORITY — ELIGIBILITY CRITERIA — SUNSET PROVISION. — 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

(1) "Board", the coordinating board for higher education;

(2) "Books", any books required for any course for which tuition was paid by a grant awarded under this section;

(3) "Eligible student", the natural, adopted, or stepchild of a qualifying military member, who is less than twenty-five years of age and who was a dependent of a qualifying military member at the time of death or injury **or within five years subsequent to the injury**, or the spouse of a qualifying military member which was the spouse of a veteran at the time of death or injury **or within five years subsequent to the injury**;

(4) "Grant", the veteran's survivors grant as established in this section;

(5) "Institution of postsecondary education", any approved Missouri public institution of postsecondary education, as defined in subdivision (3) of section 173.1102;

(6) "Qualifying military member", any member of the military of the United States, whether active duty, reserve, or National Guard, who served in the military after September 11, 2001, during time of war and for whom the following criteria apply:

(a) A veteran was a Missouri resident when first entering the military service or at the time of death or injury;

(b) A veteran died or was injured as a result of combat action or a veteran's death or injury was certified by the Department of Veterans' Affairs medical authority to be attributable to an illness or accident that occurred while serving in combat, or became eighty percent disabled as a result of injuries or accidents sustained in combat action after September 11, 2001; and

(c) "Combat veteran", a Missouri resident who is discharged for active duty service having served since September 11, 2001, and received a DD214 in a geographic area entitled to receive combat pay tax exclusion exemption, hazardous duty pay, or imminent danger pay, or hostile fire pay;

(7) "Survivor", an eligible student of a qualifying military member;

(8) "Tuition", any tuition or incidental fee, or both, charged by an institution of postsecondary education for attendance at the institution by a student as a resident of this state. The tuition grant shall not exceed the amount of tuition charged a Missouri resident at the University of Missouri-Columbia for attendance.

2. Within the limits of the amounts appropriated therefor, the coordinating board for higher education shall award annually up to twenty-five grants to survivors of qualifying military members to attend institutions of postsecondary education in this state, which shall continue to be awarded annually to eligible recipients as long as the recipient achieves and maintains a cumulative grade point average of at least two and one-half on a four-point scale, or its equivalent. If the waiting list of eligible survivors exceeds fifty, the coordinating board may petition the general assembly to expand the quota. If the quota is not expanded, then the eligibility of survivors on the waiting list shall be extended.

3. A survivor may receive a grant under this section only so long as the survivor is enrolled in a program leading to a certificate, or an associate or baccalaureate degree. In no event shall a survivor receive a grant beyond the completion of the first baccalaureate degree, regardless of age.

4. The coordinating board for higher education shall:

(1) Promulgate all necessary rules and regulations for the implementation of this section; and

(2) Provide the forms and determine the procedures necessary for a survivor to apply for and receive a grant under this section.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

6. In order to be eligible to receive a grant under this section, a survivor shall be certified as eligible by the Missouri veterans' commission.

7. A survivor who is enrolled or has been accepted for enrollment as an undergraduate postsecondary student at an approved institution of postsecondary education, and who is selected to receive a grant under this section, shall receive the following:

(1) An amount not to exceed the actual tuition charged at the approved institution of postsecondary education where the survivor is enrolled or accepted for enrollment;

(2) An allowance of up to two thousand dollars per semester for room and board; and

(3) The actual cost of books, up to a maximum of five hundred dollars per semester.

8. A survivor who is a recipient of a grant may transfer from one approved public institution of postsecondary education to another without losing his or her entitlement under this section. The board shall make necessary adjustments in the amount of the grant. If a grant recipient at any time withdraws from the institution of postsecondary education so that under the rules and regulations of that institution he or she is entitled to a refund of any tuition, fees, room and board, books, or other charges, the institution shall pay the portion of the refund to which he or she is entitled attributable to the grant for that semester or similar grading period to the board.

9. If a survivor is granted financial assistance under any other student aid program, public or private, the full amount of such aid shall be reported to the board by the institution and the eligible survivor.

10. Nothing in this section shall be construed as a promise or guarantee that a person will be admitted to an institution of postsecondary education or to a particular institution of postsecondary education, will be allowed to continue to attend an institution of postsecondary education after having been admitted, or will be graduated from an institution of postsecondary education.

11. The benefits conferred by this section shall be available to any academically eligible student of a qualifying military member. Surviving children who are eligible shall be permitted to apply for full benefits conferred by this section until they reach twenty-five years of age.

12. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall **[**sunset automatically six years after August 28, 2008**]** **be reauthorized as of the effective date of this act and shall expire on August 28, 2020**, unless reauthorized by an act of the general assembly; and

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

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

173.2500. DUAL CREDIT PROVIDERS — DEFINITIONS — APPLICATION PROCEDURE — RULEMAKING AUTHORITY — FUND CREATED. — 1. As used in this section, the following terms shall mean:

(1) "Approved dual credit provider", a board approved, accredited Missouri higher education institution that provides dual credit courses;

(2) "Board", coordinating board for higher education;

(3) "Department", department of higher education;

(4) "Dual credit courses", college level coursework delivered by a postsecondary education institution and taught in the high school by instructors with appropriate academic credentials to high school students who are earning high school and college credit simultaneously.

2. Each institution of higher education desiring to become or remain an approved dual credit provider in this state shall annually make written application to the board on forms furnished by the board. Such application shall include at a minimum the identification of all locations where the institution will offer dual credit courses, the courses the institution plans to offer, and the fee the institution will charge students per credit hour.

3. The department shall review the application and may conduct an investigation of the applicant to ensure compliance with the rules and regulations promulgated under this section. A dual credit course may not be advertised or represented as being delivered by an approved dual credit provider in the absence of approval of the application by the board.

4. The department shall maintain a listing of all approved dual credit providers and shall make that listing publicly available, including through appropriate electronic media.

5. The board may promulgate administrative rules to implement this section, including parameters for the approval of dual credit providers and establishing appropriate fees as needed to generate funding sufficient to cover the entirety of costs associated with operation of the dual credit provider certification process established in 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, 2016, shall be invalid and void.

6. (1) There is hereby created in the state treasury the "Dual Credit Certification Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department for the purpose of funding the costs associated with the operation of the dual credit certification process authorized by this section.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

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

173.2505. SCHOLARSHIP ELIGIBILITY — AMOUNT OF SCHOLARSHIP, LIMITATION — FUND CREATED. — 1. This section shall be known and may be cited as the "Dual Credit Scholarship Act".

2. To be eligible to receive the dual credit scholarship, a student shall:

(1) Be a United States citizen or permanent resident;

(2) Be a Missouri resident as defined by the coordinating board for higher education pursuant to section 173.005;

(3) Be enrolled in a dual credit program offered by an approved dual credit provider, as defined in section 173.2500;

(4) Have a cumulative high school grade point average of at least two and a half on a four point scale or equivalent; and

(5) Meet one or more of the following indicators of economic need:

(a) Be individually eligible to be enrolled in a federal free or reduced-price lunch program, based on income levels established by the United States Department of Agriculture;

(b) Reside in a foster home, be a ward of the state, or be homeless; or

(c) Receive low-income public assistance, such as the Supplemental Nutrition Assistance Program (SNAP) or the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), or live in federally subsidized public housing.

3. The dual credit scholarship is hereby created to provide financial assistance to high school students enrolling in dual credit courses offered by an approved dual credit provider as defined in section 173.2500. The coordinating board may promulgate rules for the administration of the program including establishing the application, eligibility, and payment procedures. 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, 2016, shall be invalid and void.

4. Subject to appropriation, the dual credit scholarship shall reimburse eligible students for up to fifty percent of the tuition cost paid by the student to enroll in a dual credit course offered by an approved dual credit provider.

5. No student shall receive in excess of five hundred dollars annually for all dual credit courses taken by such student.

6. There is hereby created in the state treasury the "Dual Credit Scholarship Fund", which shall consist of moneys appropriated to the fund by the General Assembly and private donations made to the fund. The state treasurer shall be the custodian of the fund and 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. 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.

173.2510. ON-TIME COMPLETION OF DEGREE PROGRAMS, POLICIES TO BE CREATED TO PROMOTE — REPORT. — 1. This section shall be known and may be cited as the "15 to Finish Act".

2. The coordinating board for higher education, in cooperation with public institutions of higher education in this state, shall develop policies that promote the on-time completion of degree programs by students. The policies shall include, but not be limited to:

(1) Defining on-time completion for specific levels of postsecondary credentials;

(2) Providing financial incentives to students during their senior year of undergraduate study who are on pace to graduate in no more than eight semesters; and

(3) Reducing, when feasible and permitted by accreditation or occupational licensure, the number of credit hours required to earn a degree.

3. By December 1, 2017, the department of higher education shall provide a report to the governor and the general assembly describing the actions taken to implement these provisions.

173.2515. GUIDED PATHWAYS TO SUCCESS — DEFINITIONS — PILOT PROGRAM TO BE DEVELOPED — GRANTS, WHEN, RULES FOR PROCEDURE. — 1. This section shall be known and may be cited as the "Guided Pathways to Success Act".

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

(1) "Degree maps", a list of all course sequences available to fulfill the requirements for a specific degree program;

(2) "Meta-majors", a collection of academic programs that have common or related courses;

(3) "Proactive advising", an advising model in which advisors reach out to students in anticipation of their needs, connect students with resources and support early in their studies, and motivate students to succeed;

(4) "Structured schedule", a specific sequence of required and elective courses each semester that, when taken as prescribed, represent a direct path to complete a chosen program of study.

3. The coordinating board for higher education, in cooperation with the state's colleges and universities, shall develop a guided pathways to success pilot program. Guided pathways to success shall include at least two of the following components:

(1) Majors organized into semester-by-semester sets of courses that lead to on-time completion, which shall have the same meaning as described pursuant to section 173.2510;

(2) Degree-based transfer pathways between participating institutions to assist students who enroll in multiple institutions to complete their degree;

(3) Available meta-majors to minimize the loss of credit due to changes by students in their degree majors;

(4) Student commitment to a structured schedule of courses and electives; and

(5) Clear degree maps, proactive advising and guarantees that required courses are available when needed by students.

4. The department shall develop and publicly maintain materials that describe the elements of Missouri's guided pathways to success project and assist students in understanding the operation of each component.

5. By January 1, 2020, the coordinating board shall report to the governor and the general assembly on the outcomes of the pilot program created in this section.

6. Based on the outcomes of the pilot program created in this section, the coordinating board may request funding to provide competitive grants to institutions of higher education to assist in defraying the costs incurred to implement guided pathways to success on a statewide basis.

7. The coordinating board for higher education shall establish by administrative rule criteria and procedures for the application for, and awarding of, grants authorized 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, 2016, shall be invalid and void.

173.2520. PILOT PROGRAM ESTABLISHED — REPORT. — 1. As used in this section, the term "concurrent postsecondary enrollment" shall mean coordinated enrollment in coursework at both a four-year and a two-year postsecondary institution at the same time and for which the coursework is officially recorded by both institutions.

2. The coordinating board for higher education shall establish a concurrent enrollment pilot program for the purpose of providing students with a broader range of academic and student support services while streamlining the path to degree completion. The pilot project will be implemented in one or more public four-year institutions and one or more public two-year institutions. The pilot program is intended to determine the feasibility of extending a concurrent enrollment option to other institutions in the state.

3. By January 1, 2020, the coordinating board shall provide a report to the governor and the general assembly on the outcomes of the pilot program and provide a recommendation regarding the expansion of the program statewide.

178.780. COORDINATING BOARD FOR HIGHER EDUCATION TO SUPERVISE COLLEGES — DUTIES. — 1. Tax supported community colleges formed prior to October 13, 1961, and those formed under the provisions of sections 178.770 to 178.890 shall be under the supervision of the coordinating board for higher education.

2. The coordinating board for higher education shall:

(1) Establish the role of the two-year college in the state;

(2) Set up a survey form to be used for local surveys of need and potential for two-year colleges; provide supervision in the conducting of surveys; require that the results of the studies be used in reviewing applications for approval; and establish and use the survey results to set up priorities;

(3) Require that the initiative to establish two-year colleges come from the area to be served;

(4) Administer the state financial support program;

(5) Supervise the community college districts formed under the provisions of sections 178.770 to 178.890 and the community colleges now in existence and formed prior to October 13, 1961;

(6) Formulate and put into effect uniform policies as to budgeting, record keeping, and student accounting;

(7) Establish uniform minimum entrance requirements and uniform curricular offerings for all community colleges;

(8) Make a continuing study of community college education in the state; **[**and**]**

(9) Be responsible for the accreditation of each community college under its supervision. Accreditation shall be conducted annually or as often as deemed advisable and made in a manner consistent with rules and regulations established and applied uniformly to all community colleges in the state. Standards for accreditation of community colleges shall be formulated with due consideration given to curriculum offerings and entrance requirements of the University of Missouri**; and**

(10) Establish a standard core curriculum and a common course numbering equivalency matrix for lower-division courses to be used at community colleges and other public institutions of higher education to facilitate student transfers as provided under sections 178.785 to 178.789.

178.785. HIGHER EDUCATION CORE CURRICULUM TRANSFER ACT — DEFINITIONS. — The provisions of sections 178.785 to 178.789 shall be known and may be cited as the "Higher Education Core Curriculum Transfer Act". For purposes of sections 178.785 to 178.789, the following terms mean:

(1) "Coordinating board", the coordinating board for higher education established in section 173.005;

(2) "Core curriculum", the basic competencies to be met, which shall include communicating, higher-order thinking, managing information, valuing, and includes the knowledge areas of social and behavioral sciences, humanities and fine arts, mathematics, and life and physical sciences;

(3) "Faculty member", a person who is employed full-time by a community college or other public institution of higher education as a member of the faculty whose primary duties include teaching, research, academic service, or administration;

(4) "Native student", a student whose initial college enrollment was at an institution of higher education and who has not transferred to any other institution since that initial enrollment and who has completed no more than eleven credit hours at any other institution of higher education.

178.786. LOWER DIVISION CORE CURRICULUM, RECOMMENDATION — COMMON COURSE NUMBERING EQUIVALENCY MATRIX. — 1. The coordinating board for higher education, with the assistance of an advisory committee composed of representatives from each public community college in this state and each public four-year institution of higher education, shall develop a recommended lower division core curriculum of forty-two semester credit hours, including a statement of the content, component areas, and objectives of the core curriculum. A majority of the members of the advisory committee shall be faculty members from Missouri public institutions of higher education.

2. The coordinating board shall approve a common course numbering equivalency matrix for the forty-two credit hour block at all institutions of higher education in the state to facilitate the transfer of those courses among institutions of higher education by promoting consistency in course designation and course identification. Each community

college and four-year institution of higher education shall include in its course listings the applicable course numbers from the common course numbering equivalency matrix approved by the coordinating board under this subsection.

3. The coordinating board shall complete the requirements of subsections 1 and 2 of this section prior to January 1, 2018, for implementation of the core curriculum transfer recommendations for the 2018-19 academic year for all public institutions of higher education.

178.787. FORTY-TWO CREDIT HOUR BLOCK, ADOPTION OF — TRANSFER OF COURSE CREDITS. — 1. Each community college, as defined in section 163.191, and public four-year institution of higher education shall adopt the forty-two credit hour block, including specific courses comprising the curriculum, based on the core curriculum recommendations made by the coordinating board for higher education under subsections 1 and 2 of section 178.786, for implementation beginning in the 2018-19 academic year.

2. If a student successfully completes the forty-two credit core curriculum at a community college or other public institution of higher education, that block of courses may be transferred to any other public institution of higher education in this state and shall be substituted for the receiving institution's core curriculum. A student shall receive academic credit for each of the courses transferred and shall not be required to take additional core curriculum courses at the receiving institution.

3. A student who transfers from one public institution of higher education to another public institution of higher education in the state without completing the core curriculum of the sending institution shall receive academic credit from the receiving institution for each of the courses that the student has successfully completed in the core curriculum of the sending institution. Following receipt of credit for these courses, the student may be required to satisfy further course requirements in the core curriculum of the receiving institution.

178.788. TRANSFER PRACTICES, CRITERIA TO EVALUATE — REQUIREMENTS FOR CREDIT TRANSFERS. — 1. The coordinating board for higher education, in consultation with the advisory board established in section 178.786, shall develop criteria to evaluate the transfer practices of each public institution of higher education in this state and shall evaluate the transfer practices of each institution based on this criteria.

2. The coordinating board shall develop procedures to be followed by institutions of higher education in resolving disputes concerning the transfer of course credit and by the commissioner of higher education in making a final determination concerning transfer of course credit if a transfer is in dispute.

3. Each institution of higher education shall publish in its course catalogs and on its official website the procedures adopted by the board under subsections 1 and 2 of this section.

4. If an institution of higher education does not accept course credit earned by a student at another public institution of higher education, that institution shall give written notice to the student and the other institution that the transfer of the course credit is denied. The two institutions and the student shall attempt to resolve the transfer of the course credit in accordance with rules promulgated by the coordinating board. If the transfer dispute is not resolved to the satisfaction of the student or the institution at which the credit was earned within forty-five days after the date the student received written notice of the denial, the institution that denies the transfer of the course credit shall notify the commissioner of higher education of its denial and the reasons for the denial.

5. The commissioner of higher education or his or her designee shall make the final determination about a dispute concerning the transfer of course credit and give written notice of the determination as to the involved student and institutions.

6. The coordinating board shall collect data on the types of transfer disputes that are reported and the disposition of each case that is considered by the commissioner of higher education or the commissioner's designee.

7. The provisions of sections 178.785 to 178.789 shall not apply to native students who are not seeking to transfer credits nor affect the authority of an institution of higher education to adopt its own admission standards or its own grading policies.

8. Students enrolled in professional programs shall complete the appropriate core curriculum that is required for accreditation or licensure.

178.789. RULEMAKING AUTHORITY. — The coordinating board for higher education may promulgate all necessary rules and regulations for the administration of sections 178.785 to 178.789. 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, 2016, shall be invalid and void.

SECTION 1. OUT-OF-STATE TRAVEL COSTS FOR FULL-TIME EMPLOYEES, REPORTING REQUIREMENTS. — 1. Notwithstanding any other provision of law to the contrary, if the spouse of any full-time employee of a public institution of higher education incurs out-of-state travel costs that are paid for or reimbursed by such institution then such employee shall be required to file a quarterly travel report with the Missouri ethics commission listing the date or dates, location, purpose, and the full cost of any out-of-state travel made by such employee's spouse. Such costs shall include, but not be limited to, any transportation costs, lodging costs, and meal expenses that are paid for or reimbursed by the public institution. The commission shall publish travel reports in an electronic format on the commission's website and shall enable the reports to be easily searched by name, employee position, and institutional affiliation. The commission shall enable the electronic filing of reports.

2. In addition to the quarterly reports required under subsection 1 of this section, any spouse of a full-time employee of a public institution of higher education whose travels were funded by such public institution under the provisions of subsection 1 of this section during the one-year period immediately before the effective date of this section shall, no later than six months after the effective date of this section, file an additional travel report with the commission covering travel expenditures during that one-year period. This travel report shall be identical in content to the quarterly travel reports required under subsection 1 of this section.

SECTION B. EMERGENCY CLAUSE. — Because of the importance of providing educational assistance to members of the military and their families and because of the importance of improving and sustaining the access to federal financial aid for higher education students in Missouri, the repeal and reenactment of sections 173.234 and 173.005 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 173.234 and 173.005 of this act shall be in full force and effect upon its passage and approval.

Approved June 16, 2016

SB 1002 [SB 1002]

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 State Auditor to audit community improvement districts

AN ACT to repeal section 67.1471, RSMo, and to enact in lieu thereof one new section relating to community improvement districts.

SECTION
A. Enacting clause.
67.1471. Fiscal year — budget — meeting — report — audit.

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

SECTION A. ENACTING CLAUSE. — Section 67.1471, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.1471, to read as follows:

67.1471. FISCAL YEAR — BUDGET — MEETING — REPORT — AUDIT. — 1. The fiscal year for the district shall be the same as the fiscal year of the municipality.

2. No earlier than one hundred eighty days and no later than ninety days prior to the first day of each fiscal year, the board shall submit to the governing body of the city a proposed annual budget, setting forth expected expenditures, revenues, and rates of assessments and taxes, if any, for such fiscal year. The governing body may review and comment to the board on this proposed budget, but if such comments are given, the governing body of the municipality shall provide such written comments to the board no later than sixty days prior to the first day of the relevant fiscal year; such comments shall not constitute requirements but shall only be recommendations.

3. The board shall hold an annual meeting and adopt an annual budget no later than thirty days prior to the first day of each fiscal year.

4. Within one hundred twenty days after the end of each fiscal year, the district shall submit a report to the municipal clerk and the Missouri department of economic development stating the services provided, revenues collected and expenditures made by the district during such fiscal year, and copies of written resolutions approved by the board during the fiscal year. The municipal clerk shall retain this report as part of the official records of the municipality and shall also cause this report to be spread upon the records of the governing body.

5. The state auditor may audit a district in the same manner as the auditor may audit any agency of the state.

Approved June 29, 2016

SB 1009 [SCS SB 1009]

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 "Trooper James M. Bava Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of "Trooper James M. Bava Memorial Highway".

SECTION
A. Enacting clause.
227.441. Trooper James M. Bava Memorial Highway designated for a portion of State Highway FF in Audrain County.

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

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.441, to read as follows:

227.441. TROOPER JAMES M. BAVA MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY FF IN AUDRAIN COUNTY. — The portion of state highway FF in Audrain County beginning at Elmwood Drive in the city of Mexico and extending west to County Road 977 shall be designated as "Trooper James M. Bava Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with costs to be paid for by private donations provided by the Missouri State Troopers Association.

Approved June 24, 2016

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