

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 675
92ND GENERAL ASSEMBLY

Reported from the Committee on Tax Policy, May 13, 2003, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 675 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

1921L.09C

AN ACT

To repeal sections 33.080, 166.300, 339.105, and 374.150, RSMo, and to enact in lieu thereof five new sections relating to certain special funds, with penalty provisions and an emergency clause and an effective date for a certain section.

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

Section A. Sections 33.080, 166.300, 339.105, and 374.150, RSMo, are repealed and
2 five new sections enacted in lieu thereof, to be known as sections 33.080, 42.252, 166.300,
3 339.105, and 374.150, to read as follows:

33.080. **1.** All fees, funds and moneys from whatsoever source received by any
2 department, board, bureau, commission, institution, official or agency of the state government
3 by virtue of any law or rule or regulation made in accordance with any law, excluding all funds
4 received and disbursed by the state on behalf of counties and cities, towns and villages shall, by
5 the official authorized to receive same, and at stated intervals of not more than thirty days, be
6 placed in the state treasury to the credit of the particular purpose or fund for which collected, and
7 shall be subject to appropriation by the general assembly for the particular purpose or fund for
8 which collected during the biennium in which collected and appropriated. The unexpended
9 balance remaining in all such funds (except such unexpended balance as may remain in any fund
10 authorized, collected and expended by virtue of the provisions of the constitution of this state)
11 shall at the end of the biennium and after all warrants on same have been discharged and the
12 appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue

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

13 fund of the state by the state treasurer. Any official or any person who shall willfully fail to
14 comply with any of the provisions of this section, and any person who shall willfully violate any
15 provision hereof, shall be deemed guilty of a misdemeanor; provided, that all such money
16 received by the curators of the University of Missouri except those funds required by law or by
17 instrument granting the same to be paid into the seminary fund of the state, is excepted herefrom,
18 and in the case of other state educational institutions there is excepted herefrom, gifts or trust
19 funds from whatever source; appropriations; gifts or grants from the federal government, private
20 organizations and individuals; funds for or from student activities; farm or housing activities; and
21 other funds from which the whole or some part thereof may be liable to be repaid to the person
22 contributing the same; and hospital fees. All of the above excepted funds shall be reported in
23 detail quarterly to the governor and biennially to the general assembly.

24 **2. Notwithstanding any provision of law to the contrary concerning the funds listed**
25 **in subdivisions (1) to (26) of this subsection, an amount equal to the sum of all interest that**
26 **has accrued in the funds listed in subdivisions (1) to (26) of this subsection during the two-**
27 **year period beginning July 1, 2001, and ending June 30, 2003, shall be transferred and**
28 **placed to the credit of the general revenue fund of the state by the state treasurer upon the**
29 **effective date of this act. The funds subject to the provisions of this section are as follows:**

30 **(1) Residential mortgage licensing fund created pursuant to section 443.845, RSMo;**

31 **(2) Gaming commission bingo fund created pursuant to section 313.008, RSMo;**

32 **(3) Missouri air emission reduction fund created pursuant to section 643.350,**
33 **RSMo;**

34 **(4) Mental health housing trust fund created pursuant to section 215.054, RSMo;**

35 **(5) Agricultural product utilization business development loan program fund**
36 **created pursuant to section 348.410, RSMo;**

37 **(6) Division of credit unions fund created pursuant to section 370.107, RSMo;**

38 **(7) Division of savings and loan supervision fund created pursuant to section**
39 **369.324, RSMo;**

40 **(8) Division of finance fund created pursuant to section 361.170, RSMo;**

41 **(9) Natural resources protection fund created pursuant to section 640.220, RSMo,**
42 **with the exception of the water permit fees subaccount and damages subaccount;**

43 **(10) Endowed care cemetery audit fund created pursuant to section 193.265,**
44 **RSMo;**

45 **(11) Metallic minerals waste management fund created pursuant to section 444.370,**
46 **RSMo;**

47 **(12) Natural resources protection air pollution asbestos fee subaccount fund created**
48 **pursuant to section 643.245, RSMo;**

49 **(13) Chemical emergency preparedness fund created pursuant to section 292.607,**
50 **RSMo;**

51 **(14) Livestock dealer law enforcement and administration fund created pursuant**
52 **to section 276.617, RSMo;**

53 **(15) Legal defense and defender fund created pursuant to section 600.090, RSMo;**

54 **(16) Safe drinking water fund created pursuant to section 640.110, RSMo;**

55 **(17) Coal mine land reclamation fund created pursuant to section 444.960, RSMo;**

56 **(18) Missouri horse racing commission fund created pursuant to section 313.530,**
57 **RSMo;**

58 **(19) Hazardous waste remedial fund created pursuant to section 260.480, RSMo;**

59 **(20) Missouri air pollution control fund created pursuant to section 307.366, RSMo;**

60 **(21) Property reuse fund created pursuant to section 447.710, RSMo;**

61 **(22) Concentrated animal feeding operation indemnity fund created pursuant to**
62 **section 640.740, RSMo;**

63 **(23) State transportation assistance revolving fund created pursuant to section**
64 **226.191, RSMo;**

65 **(24) Correctional substance abuse earnings fund created pursuant to section**
66 **559.635, RSMo;**

67 **(25) Mined land reclamation fund created pursuant to section 444.730, RSMo;**

68 **(26) Aviation trust fund created pursuant to section 155.090, RSMo.**

69 **3. Notwithstanding any provision of law to the contrary concerning the funds listed**
70 **in subdivisions (1) to (5) of this subsection, the amount specified for each fund listed in**
71 **subdivisions (1) to (5) of this subsection shall be transferred and placed to the credit of the**
72 **general revenue fund of the state by the state treasurer after the effective date of this act.**
73 **The funds subject to the provisions of this subsection and the amount of transfer are as**
74 **follows:**

75 **(1) State fair fees fund created pursuant to section 262.260, RSMo, six thousand**
76 **dollars;**

77 **(2) Petroleum inspection fund created pursuant to section 414.082, RSMo, seventy-**
78 **seven thousand six hundred and seventeen dollars;**

79 **(3) Department of revenue information fund pursuant to section 32.067, RSMo, two**
80 **hundred and fifty thousand dollars;**

81 **(4) Secretary of state's technology trust fund account established pursuant to**
82 **section 28.160, RSMo, one hundred and two thousand dollars;**

83 **(5) Administrative trust fund established pursuant to subsection 11 of section**

84 **37.005, RSMo, three million five hundred thousand dollars.**

42.252. All moneys received by the superintendent of the Missouri highway patrol for the copying of reports, photographs, and other related materials of highway patrol investigated motor vehicle accidents and for requests for specialized statistical computer analysis of motor vehicle accident investigation data shall be deposited in the state treasury to the credit of the "Highway Patrol Traffic Records Fund" which is hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into the fund are not totally expended annually by the highway patrol at the end of the biennium, such unexpended monies in such fund shall remain in the fund and shall not revert to the state general revenue fund.

166.300. 1. As used in this section, the following words and phrases shall mean:

(1) "Capital improvement projects", expenditures for lands or existing buildings, improvements of grounds, construction of buildings, additions to buildings, remodeling of buildings and initial equipment purchases;

(2) "School facility", a structure dedicated primarily to housing teachers and students in the instructional process, but shall not include buildings dedicated primarily to administrative and support functions within the school.

2. There is hereby created a revolving fund to be known as the "School Building Revolving Fund". All forfeitures of assets transferred pursuant to section 166.131, all gifts and bequests to such fund, and such moneys as may be appropriated to the fund shall be deposited into the school building revolving fund; except that no more than four hundred forty million dollars, in the aggregate, shall be transferred to the fund. After a fund balance has been established by prior years' deposits and interest, school districts may submit applications for lease purchases from the revolving fund for specific projects consistent with rules and regulations of the state board of education and subsection 3 of this section, except that no school district may be permitted to enter into a lease purchase from the school building revolving fund without first submitting a long-range capital improvements plan.

3. To be eligible for a lease purchase authorized by this section:

(1) A school district shall meet the minimum criteria for state aid and for increases in state aid established pursuant to section 163.021, RSMo;

(2) A school district shall provide a program which is accredited by the state board of education for grades kindergarten through twelve or for grades kindergarten through eight; and

(3) A school district shall have an equalized, assessed valuation per eligible pupil for the preceding year which is less than the statewide average equalized, assessed valuation per eligible pupil for the preceding year; and

26 (4) A school district shall have a bonded indebtedness which is no less than ninety
27 percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI
28 of the Constitution of Missouri.

29 4. Lease purchase applications shall be funded, as funds allow, first for all applications
30 pursuant to subdivision (1) of this subsection and then for applications pursuant to subdivision
31 (2) of this subsection and then for applications pursuant to subdivision (3) of this subsection, and
32 for funding of applications pursuant to a particular subdivision, applications shall be funded in
33 the order that the applications are received by the department. If two or more applications are
34 received on the same day, the district with the lowest appraised valuation per pupil shall be given
35 priority. Ranking of the applications for offering of lease purchases shall be done in the
36 following order:

37 (1) Districts with capital replacement costs in excess of insurance proceeds due to facility
38 destruction caused by fire or natural disaster shall be ranked on the basis of percentage of
39 bonding capacity;

40 (2) Districts with a cumulative percentage growth in fall membership for the third
41 through the fifth preceding years in excess of twelve percent and which have a bonded
42 indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness
43 pursuant to section 26(b) of article VI of the Constitution of Missouri; and

44 (3) Districts with an equalized assessed valuation per pupil which is less than the
45 statewide average equalized assessed valuation per pupil and which have a bonded indebtedness
46 which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to
47 section 26(b) of article VI of the Constitution of Missouri.

48 5. When building replacement is caused by fire or natural disaster, the requirement for
49 a school district to have a long-range capital improvements plan may be waived by the state
50 board of education.

51 6. Each school district participating in a lease purchase from the school building
52 revolving fund shall repay such lease purchase in no more than ten annual payments made on or
53 before June thirtieth of each year. The first such payment shall be due and payable on June
54 thirtieth of the first full fiscal year following receipt of lease purchase proceeds. Lease purchase
55 repayments shall be immediately deposited to the school building revolving fund by the
56 department. Interest charged to the school district shall not exceed three percent.

57 7. Any school district which fails to obligate the full amount of a loan from the school
58 building revolving fund for the allowable lease purchase must return the unobligated amount plus
59 interest earned to the department no later than June thirtieth of the second full fiscal year after
60 receipt of loan proceeds.

61 8. If a school district fails to make an annual payment to the school building revolving
62 fund after notice of nonpayment by the department, members of the board of education and the
63 school district's superintendent shall have violated section 162.091, RSMo, and the attorney
64 general of the state of Missouri shall be notified by the state board of education to begin
65 prosecution procedures.

66 9. All property purchased pursuant to a lease purchase from the school building
67 revolving fund shall remain the property of the state until such time as the lease purchase has
68 been fully repaid pursuant to this section. If a school district does not make an annual payment
69 to the school building revolving fund after notice of nonpayment by the department, the state
70 board of education may, if the delinquency exceeds one hundred eighty days, take possession of
71 the property. As a part of the lease purchase agreement, the school district shall agree to assume
72 all costs, obligations and liabilities for or arising out of establishment, operation and maintenance
73 of the lease purchase property. Other provisions of law to the contrary notwithstanding, neither
74 the state nor any state agency shall have any obligation for such costs, obligations or liabilities
75 unless and until the state board of education takes possession of the property pursuant to this
76 subsection upon a school district's failure to make annual payments as required in the lease
77 purchase agreement.

78 10. [Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys
79 in the school building revolving fund shall not be transferred to the credit of the general revenue
80 fund at the end of the biennium. All yield, interest, income, increment or gain received from
81 time deposit of moneys in the state treasury to the credit of the fund shall be credited by the state
82 treasurer to the fund.] **Any unobligated cash balance in the school building revolving fund
83 as of the effective date of this act, shall be transferred to aid the public schools of this state
84 pursuant to section 163.031, RSMo. Any and all deposits made to the school building
85 revolving fund after August 28, 2003, shall be immediately transferred to the state school
86 moneys fund, pursuant to section 166.051.**

339.105. 1. Each broker **who holds funds belonging to another** shall maintain **such**
2 **funds in** a separate bank [checking] account in a financial institution[, either a bank, savings and
3 loan association or a credit union in this state, or in an adjoining state with written permission
4 of the commission,] which shall be designated an escrow or trust account [in which all money
5 not his own coming into his possession, including]. **This requirement includes** funds in which
6 he **or she** may have some future interest or claim[.]. **Such funds** shall be deposited promptly
7 unless all parties having an interest in the funds have agreed otherwise in writing. No broker
8 shall commingle his **or her** personal funds or other funds in this account with the exception that
9 a broker may deposit and keep a sum not to exceed [five hundred] **one thousand** dollars in the

10 account from his **or her** personal funds, which sum shall be specifically identified and deposited
11 to cover service charges related to the account. [The commission may, by written waiver issued
12 for good cause as defined by rule and regulation, relieve a broker from the obligation to maintain
13 a separate escrow or trust account.]

14 2. [Before issuance of a broker license,] Each broker shall notify the commission of the
15 name of **his or her intent not to maintain an escrow account, or the name of** the financial
16 institution in which each escrow or trust account is maintained, the name and number of each
17 such account, and shall file written authorization directed to each financial institution to allow
18 the commission or its authorized representative to examine each such account; such notification
19 and authorization shall be submitted on forms provided therefor by the commission [but shall
20 not be required in any case where maintenance of an escrow or trust account has been waived
21 pursuant to subsection 1 of this section]. A broker shall notify the commission within [fifteen]
22 **ten business** days of any change of **his or her intent to maintain an escrow account, the**
23 financial institution [or], account numbers, **or change in account status**.

24 3. In conjunction with each escrow or trust account a broker shall maintain [at his usual
25 place of business,] books, records, contracts and other necessary documents so that the adequacy
26 of said account may be determined at any time. The account and other records shall be [open]
27 **provided to** [inspection by] the commission and its duly authorized agents **for inspection** at all
28 times during regular business hours at the broker's usual place of business.

29 4. **Whenever the ownership of any escrow moneys received by a broker pursuant**
30 **to this section is in dispute by the parties to a real estate sales transaction, the broker shall**
31 **report and deliver the moneys to the state treasurer within three hundred sixty-five days**
32 **of the date of the initial projected closing date in compliance with sections 447.500 to**
33 **447.595, RSMo. The parties to a real estate sales transaction may agree in writing that the**
34 **funds are not in dispute and shall notify the broker who is holding the funds.**

35 5. A broker shall not be entitled to any [part of the earnest] money or other money paid
36 to him **or her** in connection with any real estate **sales** transaction as part or all of his **or her**
37 commission or fee until the transaction has been consummated or terminated, unless agreed in
38 writing by all parties to the transaction.

39 [5.] 6. When, through investigations or otherwise, the commission has reasonable cause
40 to believe that a licensee has acted, is acting or is about to act in violation of this section, the
41 commission may, through the attorney general or any [of his] assistants designated by [him] **the**
42 **attorney general**, proceed in the name of the commission to institute suit to enjoin any act or
43 acts in violation of this section.

44 [6.] 7. Any such suit shall be commenced in either the county in which the defendant

45 resides or in the county in which the defendant has acted, is acting or is about to act in violation
46 of this section.

47 [7.] 8. In such proceeding, the court shall have power to issue such temporary restraining
48 or injunction orders, without bond, which are necessary to protect the public interest. Any action
49 brought under this section shall be in addition to and not in lieu of any other provisions of this
50 chapter. In such action, the commission or the state need not allege or prove that there is no
51 adequate remedy at law or that any individual has suffered any economic injury as a result of the
52 activity sought to be enjoined.

374.150. 1. All fees due the state under the provisions of the insurance laws of this state
2 shall be paid to the director of revenue and deposited in the state treasury to the credit of the
3 insurance department fund unless otherwise provided for in subsection 2 of this section.

4 2. There is hereby established in the state treasury a special fund to be known as the
5 "Department of Insurance Dedicated Fund". The fund shall be subject to appropriation of the
6 general assembly and shall be devoted solely to the payment of expenditures incurred by the
7 department of insurance attributable to duties performed by the department as required by law
8 which are not paid for by another source of funds. Other provisions of law to the contrary
9 notwithstanding, beginning on January 1, 1991, all fees charged under any provision of chapter
10 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384 or 385, RSMo, due the state
11 shall be paid into this fund. The state treasurer shall invest moneys in this fund in the same
12 manner as other state funds and any interest or earnings on such moneys shall be credited to the
13 department of insurance dedicated fund. The provisions of section 33.080, RSMo,
14 notwithstanding, moneys in the fund shall not lapse, be transferred to or placed to the credit of
15 the general revenue fund unless and then only to the extent to which the unencumbered balance
16 at the close of the biennium year exceeds two times the total amount appropriated, paid, or
17 transferred to the fund during such fiscal year.

18 **3. Notwithstanding the provisions of this section to the contrary, fifty-five percent**
19 **of the balance in the department of insurance dedicated fund as of the effective date of this**
20 **act, shall be subject to an immediate one-time transfer to the state general revenue fund.**

21 Section B. Because of the need to increase access to certain state revenue in light of the
22 current fiscal crisis, section A of this act is deemed necessary for the immediate preservation of
23 the public health, welfare, peace and safety, and is hereby declared to be an emergency act within
24 the meaning of the constitution, and section A of this act shall be in full force and effect upon
25 its passage and approval.

Section C. The repeal and reenactment of section 339.105 shall become effective on
2 January 1, 2004.