

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 462

91ST GENERAL ASSEMBLY

2001

1925S.10T

AN ACT

To repeal sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330, 252.333, 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.150, 272.160, 272.170, 272.180, 272.190, 272.200, 274.060, 278.080, 278.220, 278.240, 278.245, 278.250, 278.280, 278.290, 278.300, 322.010, 348.432, 409.401, 414.032, 578.012 and 578.023, RSMo 2000, and to enact in lieu thereof sixty new sections relating to agriculture, with a penalty provision and an emergency clause for a certain section.

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

Section A. Sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330, 252.333, 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.150, 272.160, 272.170, 272.180, 272.190, 272.200, 274.060, 278.080, 278.220, 278.240, 278.245, 278.250, 278.280, 278.290, 278.300, 322.010, 348.432, 409.401, 414.032, 578.012 and 578.023, RSMo 2000, are repealed and sixty new sections enacted in lieu thereof, to be known as sections 252.303, 252.306, 252.309, 252.315, 252.321, 252.324, 252.330, 252.333, 262.800, 262.801, 262.802, 262.805, 262.810, 272.010, 272.020, 272.040, 272.050, 272.060, 272.070, 272.100, 272.110, 272.130, 272.132, 272.134, 272.136, 274.060, 278.080, 278.220, 278.240, 278.245, 278.250, 278.280, 278.290, 278.300, 322.010, 322.140, 322.145, 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, 340.347, 340.350, 348.432, 407.857, 409.401, 414.032, 414.433, 537.353, 578.008, 578.012, 578.023, 578.029, 578.414, 578.416, 578.418, 578.420 and 1, to read as follows:

252.303. The department [shall] **may** develop and implement, in cooperation with the University of Missouri college of agriculture, **the University of Missouri Center for Agroforestry**, the University of Missouri extension service, the Missouri department of natural

resources, private industry councils, the United States Department of Agriculture, and the Missouri department of agriculture, an agroforestry program. The program shall be designed to [complement a new or extended federal conservation reserve plan which as part of its provisions allows and encourages] **encourage** the development of a state program of agroforestry, and shall encourage soil conservation and diversifications of the state's agricultural base through the use of trees planted [or otherwise established in lanes with grass strips or row crops or both in between the lanes] **in an agroforestry configuration to accommodate alley cropping, forested-riparian buffers, silvopasture and windbreaks.**

252.306. As used in sections 252.300 to 252.333, the following terms shall mean:

(1) **"Alley cropping", planting rows of trees at wide spacings and cropping the alleyways;**

(2) "Conservation reserve program", the conservation reserve program authorized by the Federal Food Security Act of 1985, as amended, (Title XII, P.L. 99-198), or its successor program;

[(2)] (3) "Department", the Missouri department of conservation;

[(3)] (4) "Director", the director of the Missouri department of conservation;

[(4)] (5) "Eligible land", agricultural land which is susceptible to soil erosion [and is placed in the federal conservation reserve program as of or after August 28, 1990, or other highly erosive land which is not enrolled in the conservation reserve program, as determined by the director of the department] **that has a recent cropping history, marginal pasture land, land surrounding livestock enclosures and riparian zones;**

(6) **"Eligible practices", single or multiple rows of trees, alone or combined with other plants such as grass, conventional row crops or horticulture crops, and animals located at intervals of distance within or around fields, around livestock enclosures, and along streams and rivers, specifically designed to provide production and environmental enhancement benefits in accordance with the practices identified in section 252.303;**

[(5)] (7) "Enhancement phase", the period of time, not to exceed ten years, immediately following the establishment phase, during which payments are made by the state of Missouri to landowners who use their eligible land for agroforestry purposes as required by the department;

[(6)] (8) "Establishment phase", the period of time during which eligible land is [placed and held in the federal conservation reserve program or a six-month period for other highly erosive land which is not enrolled in the conservation reserve program] **being prepared for planting trees and developing agroforestry practices,** as determined by the director of the department;

(9) **"Forested-riparian buffers", a combination of trees and other vegetation;**

(10) **"Silvopasture", combining trees with forage and livestock;**

(11) **"Windbreaks", planting single or multiple rows of trees for protection and enhanced production of crops and animals.**

252.309. 1. The director may enter into agreements with individual landowners to make [such] **incentive** payments **during the enhancement phase** to landowners. Recipients of such payments shall utilize the land for which such payment is made for agroforestry purposes as

required by the director [under] **pursuant to** sections 252.300 to 252.333. [In administering such payments, the director may make such agreements with the United States Department of Agriculture as the director deems necessary or appropriate.]

2. The amount of state incentive payment made to a landowner per acre of eligible land shall be [the lesser of:

(1)] an amount which, when added to any cash or in-kind **net** income produced by crops raised on the land, is substantially equal to the amount per acre previously paid or which would have been paid to the landowner under the federal conservation reserve program]; or

(2) An amount less than that provided in subdivision (1) of this subsection, if such lesser amount does not significantly reduce the number of acres for which agroforestry incentive payments are made under this section].

3. If an application made pursuant to section 252.315 is approved by the director, the director shall develop a schedule of annual payments to be made by the state.

4. The state shall not make any payment to a landowner to maintain the use of eligible land during the enhancement phase for agroforestry purposes after ten years have elapsed since the first such incentive payment is made.

252.315. 1. To participate in the program, the landowner shall make application to the director in writing. The written application shall show the number of acres to be placed in the program and that the land which is to be placed in the agroforestry program meets the eligibility requirements of this section. The application shall also contain a detailed plan of the landowner's proposal to meet the requirements of sections 252.300 to 252.333, including the type **and number** of [tree] **trees** to be planted, established, or managed, the type of compatible grass [and the row crop or crops to be grown in the alternative strips], **other crops** and such other information as may be deemed necessary. **The number of trees required to satisfy eligibility may vary with agroforestry practice, but in each case shall be a sufficient number to guarantee the success of the practice and shall be consistent with standards established for each practice.**

2. The director shall review each application. In reviewing the application the director shall determine the type or types of soil located in the area of the land proposed to be included in the agroforestry program and shall apply the land capability classification system to determine the potential or limitations of the land for inclusion in the program. Before the director acts upon the application, an on-site inspection shall be made by a representative of the department of conservation or its approved agent. The inspecting representative shall attest to the efficacy of the agroforestry plan to be used, the number of acres to be placed under agroforestry management, the species **and number** of trees to be planted, established, or managed, and [agronomic] **other crop** components of the proposed program. After the report of the on-site inspector and the review by the director, the director shall determine the landowner's eligibility to participate in the agroforestry program and shall determine the amount of cost sharing, including in-kind and labor components, for the landowner. If the director fails to approve an application, the aggrieved landowner may request a hearing before the conservation commission or its authorized representative within thirty

days of notice to the landowner of the failure of the conservation department to approve the application, or the landowner may proceed under the provisions of section 536.150, RSMo, as if the act of the conservation department was one not subject to administrative review. If an action is brought pursuant to section 536.150, RSMo, venue shall be in Cole County.

252.321. [The director shall develop demonstration agroforestry conservation programs to illustrate to landowners in this state the benefits and advantages of participation in such a program. Demonstration sites shall be selected by the director to involve various soil types and various erosion dangers and shall be geographically located among the major farming areas of the state. The director shall contract with the University of Missouri extension service for the delivery of the demonstration educational component of sections 252.300 to 252.333.] **The University of Missouri center of agroforestry and extension service, in consultation with the director, shall establish agroforestry demonstration areas, and develop and deliver the educational components of sections 252.300 to 252.333.**

252.324. 1. The director may promulgate rules and regulations necessary to carry out the provisions of sections 252.300 to 252.333. Before promulgating any such rule, the director shall seek the advice and comments of the University of Missouri college of agriculture, **the University of Missouri Center for Agroforestry**, the University of Missouri extension service, the Missouri department of natural resources, private industry councils, [the United States Department of Agriculture,] the Missouri department of economic development and the Missouri department of agriculture. **The director may seek advice and comments before promulgating rules and regulations from the United States Department of Agriculture and any other entities deemed advisable by the director.** 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] **chapter 536**, RSMo.

2. The Missouri department of conservation may contract with the division of soil and water conservation of the Missouri department of natural resources for any administrative functions required under the provisions of sections 252.300 to 252.333.

252.330. During the establishment phase, the director may pay for the planting of trees on eligible land which is used for agroforestry pursuant to sections 252.300 to 252.333. Such payment shall be limited to expenses which are determined to be reasonable and necessary by the director, **but shall not exceed seventy-five percent of the cost of establishment.**

252.333. The director may make incentive payments for agroforestry purposes of land [which is susceptible to soil erosion] **enrolled in this program.** The duration of such payments shall not exceed ten years. The director may also expend funds to plant trees on such land. Such expenditures may include both planting and associated practices as determined by the director.

262.800. Sections 262.800 to 262.810 shall be known and may be cited as the "Farmland Protection Act". The purpose of the farmland protection act shall be to:

- (1) Protect agricultural, horticultural and forestry land;**
- (2) Promote continued economic viability of agriculture, horticulture and forestry as a business;**

- (3) Promote the continued economic viability of those businesses dependent on providing materials, equipment and services to agriculture, horticulture and forestry;**
- (4) Promote quality of life in the agriculture community; and**
- (5) Protect owners of property used for farming purposes from unreasonable costs associated with assessments for improvements running across the land.**

262.801. For purposes of the farmland protection act, "farming purposes" shall be defined as at least three-fourths of the property used for farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry or livestock, breeding, pasturing, training or boarding of equines or mules, and production of poultry or livestock products in an unmanufactured state.

262.802. 1. This state or any political subdivision of this state shall hold water and sewer assessments in abeyance, without interest, until improvements on such property are connected to the water or sewer system for which the assessment was made. However, if a political subdivision requires the property to be connected to the sewer system of the political subdivision pursuant to section 644.027, RSMo, such connection shall not trigger the payment of the assessment.

2. The provisions of this section shall apply only to tracts of real property:

- (1) Comprised of ten or more contiguous acres; and**
- (2) Used for farming purposes.**

3. At the time improvements on such property are connected to the water or sewer system, the owner shall pay to the political subdivision an amount equal to the proportionate charge for the number of system lines connected to improvements on such property.

4. The owner shall not be charged based on the total cost of running the water or sewer system to or across the owner's real property. Rather, the assessment shall be based on:

- (1) A reasonable hookup charge;**
- (2) A proportionate charge for the number of improvements requested to be connected to such assessments in relation to the total capacity of the system; and**
- (3) The anticipated proportionate burden to the system.**

5. The period of abeyance shall end when the property ceases to be used for farming purposes.

6. When the period of abeyance ends, the assessment is payable in accordance with the terms set forth in the assessment resolution, so long as such terms are not inconsistent with sections 262.800 to 262.810. To the extent that such terms are inconsistent, the provisions of sections 262.800 to 262.810 shall control.

7. All statutes of limitation pertaining to action for enforcement of payment for assessments shall be suspended during the time that any assessment is held in abeyance without interest.

8. In addition to any other federal, state or local requirements concerning

assessments for improvements, the political subdivision responsible for assessments shall notify owners of all properties which are proposed to be assessed of the amount proposed to be charged and the terms of payment for each improvement and that the property may be subject to protection according to the provisions of the Missouri farmland protection act.

(1) The notice shall:

(a) Be provided in writing to the owners and all parties of recorded interest, at the address listed on records of the county for the receipt of real property tax statements for such tract of land;

(b) Be sent certified mail, return receipt requested, restricted delivery to addressee;

(c) Clearly state the total amount of the proposed assessment for said parcel of real property;

(d) State in the body of the letter as follows:

"As owners of the property proposed to be assessed, you have one hundred eighty days from the date of receipt of this notice to accept, in writing, the amount of the assessment stated herein or to dispute the amount by filing an action in the circuit court of the county where the real property is located. If your property is comprised of ten or more contiguous acres, your property may be eligible for protection from payment of the assessment under the Missouri Farmland Protection Act as provided in chapter 262, RSMo, and you have sixty days from the date of receipt of this notice to notify (the political subdivision proposing the assessment), in writing, of your intent to claim protection for your property under the Act. Whether or not you claim the protection under the Farmland Protection Act, you have the right to dispute the amount of the assessment in circuit court.";

(e) Owners must be given the address for sending notice to the political subdivision with the letter; and

(f) A copy of the farmland protection act shall be included with the letter.

(2) An owner claiming protection under the farmland protection act does not forfeit the right to contest the amount of the assessment.

9. Any owner of property proposed to be assessed who chooses to dispute the amount of the assessment, shall file an action disputing the amount of the assessment in the circuit court of the county in which the real property subject to the assessment is located. The action disputing the assessment must be filed within one hundred eighty days of receipt of the notice in subsection 8 of this section.

10. Any political subdivision that disputes the applicability of the farmland protection act to property proposed to be assessed shall file an action in the circuit court of the county in which the real property subject to the assessment is located to dispute the applicability of the farmland protection act to said parcel of real property. Such action must be filed within thirty days of receipt of the notice of the

claim for protection under the farmland protection act.

11. Nothing in this section shall be construed as diminishing the authority of counties or other political subdivisions to hold assessments in abeyance.

12. The provisions of this section shall not apply to public water supply districts as defined by sections 247.010 to 247.227, RSMo, except that a public water supply district shall not require payment from landowners whose property is crossed to service another tract of land until any improvement on such property is connected to the rural water supply district. At the time such connection is made, the provisions of the farmland protection act shall apply.

13. In a city with a population of at least four hundred thousand located in more than one county, the assessments on a tract of property entitled to protection pursuant to the provisions of the farmland protection act shall be held in abeyance except that an initial payment of an amount not to exceed five hundred dollars per acre of the tract, up to an amount not to exceed ten thousand dollars may be assessed at the time of final judgment concerning the amount of the assessment or upon mutual agreement of the parties as to the amount of the assessment. In all other respects, the provisions of the farmland protection act shall apply.

14. If a political subdivision files any action challenging the constitutionality or to have all or any portion declared null and void or for declaratory judgement of sections 262.800 to 262.810, the state shall be added as a party to any such action and the attorney general of Missouri shall defend such action. Any owner of property that is subject to the provisions of the farmland protection act shall have the right to be apprised of the status of such action. If the property owner requests separate representation in writing, the attorney general may appoint a special assistant attorney general if the property owner asserts an argument in conflict with the arguments asserted by the attorney general. Such special assistant attorney general may continue to represent the property owner for purposes of all appeals. If the political subdivision fails to prevail, whether in whole or in part, in its action, the entire cost of providing representation to the landowner, including reasonable attorney fees and costs, shall be fully reimbursed to the State of Missouri by the political subdivision.

262.805. Purchasers of real property within one mile of areas zoned for agriculture or used for farming purposes as defined by the farmland protection act contained in sections 262.800 to 262.810, shall be presumed to have notice of such agriculture zoning or use for farming purposes. Agricultural zoned land or land used for farming purposes may be used for commercial or hobby operations that may include but is not limited to the following: breeding and rearing of livestock, weaning and treating of livestock, raising and harvesting of crops, application of fertilizers and pesticides, dust, noise, odors, gunfire, burning, extended hours of operation, seasonal operations, timber operations, cultivated and idle land. Agriculture operations typically consist of open and timbered spaces that are private property and are not open

to the public or to public access. Agriculture operations contain many hazards, including but not limited to, open water (including ponds, streams, ditches), open pits, brush, brush piles, snakes, untamed and unpredictable animals, electric and barbed fences, storage building and structure, tractors and equipment, and hidden obstacles. Children and adults are not permitted to roam, play or trespass on farm or agriculture property. These activities and conditions may already be regulated by state, federal or local law and nothing herein is meant to exempt such property from any such laws or regulations but is simply notification to purchasers that living in a rural environment does not mean you will live in an environment free of conditions you find irritating, dangerous, or unpleasant.

262.810. Property subject to the farmland protection act shall not be taken in whole or in part by any political subdivision of this state by eminent domain except after a public hearing pursuant to chapter 610, RSMo.

272.010. All fields and enclosures **where animals are kept** shall be enclosed by [hedge, or with a fence sufficiently close, composed of posts and rails, posts and palings, posts and planks, posts and wires, palisades or rails alone, laid up in a manner commonly called a worm fence, or of turf, with ditches on each side, or of stone or brick] **a lawful fence as defined in section 272.020.**

272.020. [All hedges shall be at least four feet high, and all fences composed of posts and rails, posts and palings, posts and wire, posts and boards or palisades, shall be at least four and one-half feet high, with posts set firmly in the ground, not more than eight feet apart, and with rails, palings, wire, boards or palisades securely fastened thereto, and placed at proper distances apart, so as to resist horses, cattle, swine and like stock; and fences composed of woven wire, wire netting or wire mesh shall be at least four and one-half feet high, securely fastened to posts, such posts to be set firmly in the ground, and not more than sixteen feet apart, and such woven wire, wire netting or wire mesh to be of sufficient closeness and strength as to resist horses, cattle, swine and like stock; those composed of turf shall be at least four feet high and with ditches on either side at least three feet wide at the top and three feet deep; and what is known as a worm fence shall be at least five feet high to the top of the rider, or if not ridered, shall be five feet to the top rail or pole, and shall be locked with strong rails or poles or stakes; those composed of stone or brick shall be at least four and one-half feet high; provided, that in counties in this state in which swine are restrained from running at large, all fences built of posts set firmly in the ground, not more than sixteen feet apart, and three barbed wires tensely stretched and securely fastened thereto, and the upper wire being substantially four feet from the ground, and the two remaining wires placed at proper distances below to resist horses, cattle and like stock, and all fences built of posts and rails, or posts and slats, with posts set firmly in the ground, not more than ten feet apart, and with three rails or slats securely fastened thereto, and the upper rail or slat being placed substantially four and one-half feet from the ground, and the two remaining rails or slats to each panel being placed at proper distances below to resist horses, cattle and like stock, and all fences built of posts and boards, with posts set firmly in the ground, not more than eight feet apart, and board substantially one inch thick and six inches wide, securely fastened thereto, and the upper board being at least

four and one-half feet high, and the remaining boards placed at proper distances below, to resist horses, cattle and like stock, shall be deemed and held to be a good and lawful fence; provided, that nothing contained in this section shall be so construed as to relieve any railroad company from the obligation of fencing the right-of-way of said company against hogs, sheep, cattle, horses and like stock.] **1. Any fence consisting of posts and wire or boards at least four feet high which is mutually agreed upon by adjoining landowners or decided upon by the associate circuit court of the county is a lawful fence.**

2. All posts shall be set firmly in the ground not more than twelve feet apart with wire or boards securely fastened to such posts and placed at proper distances apart to resist horses, cattle and other similar livestock.

272.040. Upon complaint of [the party injured to any circuit or associate circuit judge of the county, such circuit or] **either party claiming to be injured because of the trespass or taking up of livestock as described in section 272.030, the** associate circuit judge shall, without delay, issue an order to three disinterested householders of the neighborhood, not of kin to either party, reciting the complaint, and requiring them to view the [hedge or] fence where the trespass is complained of, and take memoranda of the same, and appear before the [judge] **court** on the day set for trial; and their evidence shall determine the lawfulness of such fence. **The persons appointed by the associate circuit judge shall be paid twenty-five dollars each per day for the time actually employed which shall be taxed as costs in the case equally against the parties and collected accordingly.**

272.050. If any person [damnified for want of such] **who does not maintain a** sufficient [hedge or] fence, shall hurt, wound, lame, kill or destroy, or cause the same to be done by shooting, worrying with dogs, or otherwise, any of the animals in this chapter mentioned, such [persons] **person** shall satisfy the owner in double damages with costs.

272.060. [Whenever the fence of any owner of real estate, now erected or constructed, or which shall hereafter be erected or constructed, the same being a lawful fence, as defined by sections 272.010 and 272.020, serves to enclose the land of another, or which shall become a part of the fence enclosing the lands of another, on demand made by the person owning such fence, such other person shall pay the owner one-half the value of so much thereof as serves to enclose his land, and upon such payment shall own an undivided half of such fence.] **1. Whenever the owner of real estate desires to construct or repair a lawful fence, as defined by section 272.020, which divides his or her land from that of another, such owner shall give written notice of such intention to the adjoining landowner. The landowners shall meet and each shall construct or repair that portion of the division fence which is on the right of each owner as the owners face the fence line while standing at the center of their common property line on their own property. If the owners cannot agree as to the part each shall construct or keep in repair, either of them may apply to an associate circuit judge of the county who shall forthwith summon three disinterested householders of the township or county to appear on the premises, giving three days' notice to each of the parties of the time and place where such viewers shall meet, and**

such viewers shall, under oath, designate the portion to be constructed or kept in repair by each of the parties interested and notify them in writing of the same. Such viewers shall receive twenty-five dollars each per day for the time actually employed, which shall be taxed as court costs.

2. Existing agreements not consistent with the procedure prescribed by subsection 1 of this section shall be in writing, signed by the agreeing parties, and shall be recorded in the office of the recorder of deeds in the county or counties where the fence line is located. The agreement shall describe the land and the portion of partition fences between their lands which shall be erected and maintained by each party. The agreement shall bind the makers, their heirs and assigns.

272.070. [If the parties interested shall fail to agree as to the value of one-half of such fence, the owner of the fence may apply to a circuit or associate circuit judge of the county, who shall without delay, issue an order to three disinterested householders of the township, not of kin to either party, reciting the complaint, and requiring them to view the fence, estimate the value thereof, and make return under oath to the associate circuit judge on the day named in the order.] **If either party fails to construct or repair his or her portion of the fence in accordance with the provisions of section 272.060 within a reasonable time, the other may petition the associate circuit court of the county to authorize the petitioner to build or repair the fence in a manner to be directed by the court. If the court authorizes such action, the petitioner shall be given a judgment for that portion of the total cost of the fence which is chargeable as the other party's portion of the fence, court costs and reasonable attorney's fees. Any such judgment shall be a lien on the real estate of the party against whom the judgment may be given.**

272.100. The persons appointed by the associate circuit judge [under sections 272.070 and 272.090] **pursuant to section 272.040** to discharge the duties therein specified, shall receive [one dollar] **twenty-five dollars** each per day for the time actually employed, which [, together with the fees of the associate circuit judge and sheriff,] shall be taxed as costs in the case against the parties [in proportion to their respective interests,] and collected accordingly.

272.110. Every person owning a part of a division fence shall keep **his or her portion of** the same in good repair according to the requirements of this chapter, and [when said division fence is a hedge, shall properly trim the same at least once a year, to a height not greater than four and one-half feet, and to a breadth not greater than three feet, and for the purpose of trimming said hedge as aforesaid, he shall have the right to] **may** enter upon any land lying adjacent thereto **for such purpose**. [Either party owning land adjoining a division fence or hedge may, upon the failure of any of the other parties, have all that part of such division fence belonging to such other parties repaired, upon the failure of such other party to do so, such repairing or trimming to be at the cost of the party so failing to repair or trim his part of such fence; and the party so repairing or trimming such hedge shall always throw the brush trimmed off on his own side of such hedge; and upon neglect or refusal to keep said fence in repair, or to keep said hedge trimmed as provided in this section, such owner shall be liable in double damages to the party injured thereby, and such

injured party may enforce the collection of such damages by restraining any cattle or other stock that may break in or come upon his enclosure by reason of the failure of such other party to keep his portion of such division fence in repair and proceeding therewith under the provisions of sections 270.010 to 270.200, RSMo.]

272.130. Any person aggrieved by any order or judgment of the associate circuit judge made or entered [under] **pursuant to** the provisions of [sections 272.040, 272.070 and 272.090] **section 272.040 or 272.070** may have the same reviewed in the same manner as other civil actions.

272.132. If either of two adjoining landowners does not need a fence, the landowner that needs a fence may build the entire fence and report the total cost to the associate circuit judge who shall authorize the cost to be recorded on each deed. Should the landowner that claimed no need for a fence subsequently place livestock against the fence, the landowner that built the fence shall be reimbursed for one-half the construction costs share to be determined as provided in section 272.060.

272.134. Nothing in this chapter shall prevent adjoining landowners from agreeing that no fence is needed between their property.

272.136. Nothing in this chapter shall prevent either of adjoining landowners from building the landowner or the landowner's neighbor's portion of a fence in excess of the lawful fence requirements prescribed by this chapter.

274.060. Each association incorporated under this chapter shall have the following powers:

(1) To engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling or utilization of any agricultural products produced or delivered to it by its members; the manufacturing or marketing of the by-products thereof; any activity in connection with the purchase, hiring or use by its members of supplies, machinery or equipment; in the financing of any such activities; or in any one or more of the activities specified in this section. **[No] The association[, however, shall handle agricultural products of nonmembers nor furnish supplies to nonmembers, in any business year, to an amount greater in value than the agricultural products or the supplies, as the case may be, as are handled for or furnished to members] shall do at least twenty-five percent of its business with its members;**

(2) To borrow money without limitation as to amount of corporate indebtedness or liability; and to make advance payments and advances to members;

(3) To act as the agent or representative of any member or members in any of the above mentioned activities;

(4) To buy, lease, hold and exercise all privileges of ownership, over such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association, or incidental thereto;

(5) To establish, secure, own and develop patents, trademarks and copyrights;

(6) To do each and everything necessary, suitable or proper for the accomplishment of any

one of the purposes or the attainment of any one or more of the objects herein enumerated; or conducive to or expedient for the interest or benefit of the association; to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged or any other rights, powers, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter.

278.080. 1. There is hereby established "The State Soil and Water Districts Commission" to administer for this state the soil and water conservation districts provided for by sections 278.060 to 278.300. The state soil and water districts commission shall formulate policies and general programs for the saving of Missouri soil and water by the soil and water conservation districts, and shall give consideration to the districts' needs based on their character; it shall receive and allocate or otherwise expend for the use or benefit of the soil and water conservation districts any funds appropriated by the general assembly for the use or benefit of such districts, including a soil and water conservation cost-share program; it shall receive and properly convey to the soil and water conservation districts any other form of aid extended to such districts by any other agency of this state, except that any money or other form of aid raised or provided within a soil and water district for the use or benefit of that soil and water district shall be received and administered by the governing body of that soil and water district; it shall exercise other authority conferred upon it and perform other duties assigned to it by sections 278.060 to 278.300; and it shall be the administrative agency to represent this state in these and all other matters arising from the provisions of sections 278.060 to 278.300.

2. The state soil and water districts commission shall be composed of four ex officio members and six farmer members. The six farmer members shall be appointed by the governor of Missouri with the advice and consent of the senate. Three of the farmer members shall reside in the portion of this state which is north of the Missouri River and three of the farmer members shall reside in the portion of this state which is south of the Missouri River. The membership shall be geographically dispersed with no more than one of the farmer members appointed from a state senatorial district. Not more than four of the farmer members shall be from the same political party. The ex officio members shall be the director of the department of natural resources, the director of the department of agriculture, the director of the department of conservation, and the dean of the college of agriculture of the University of Missouri. Each of the six farmer members shall be holding legal title to a farm, and shall be earning at least the principal part of the member's livelihood from a farm, all at the time of appointment to the commission. The farmer members shall each be appointed for a period of three years. All members of the commission serving as of June 27, 2000, may continue to serve the unexpired portion of the member's current term. There is no limitation on the number of terms that any of the farmer members appointed by the governor may serve. If any farmer member vacates his or her term for any reason prior to the expiration of such term, the governor may appoint a farmer member to serve for the remainder of the unexpired term. Each member of the commission shall continue to serve until the member's successor has been duly appointed and qualified.

3. The state soil and water districts commission may call upon the attorney general of the state for such legal services as it may require.

4. At its first meeting in each calendar year, the state soil and water districts commission shall select from its current members a chairman and a vice chairman. The ex officio members shall not have the power to vote on any matter before the commission. A quorum shall consist of four farmer members. For the determination of any matter within the commission's authority, at a meeting comprised of four farmer members, a concurrence of three shall be required. No business of the commission shall be executed in absence of a quorum. Each farmer member of the soil and water commission shall be entitled to expenses, including travel expenses, necessarily incurred in the discharge of his or her duties as a member of this commission. The state soil and water districts commission shall provide for the execution of surety bonds for all of its employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all its proceedings and of all its resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of all its accounts of receipts and disbursements.

5. In addition to the authority and duty herein assigned to the state soil and water districts commission, it shall have the following authority and duty:

(1) To encourage the formation of soil and water conservation districts in areas where their establishment seems necessary and their administration seems feasible;

(2) To formulate and fix the rules and procedures for fair and impartial referendums on the establishing or disestablishment of soil and water districts and for fair and impartial selection of soil and water district supervisors;

(3) To receive petitions for the establishing of soil and water conservation districts as provided in section 278.100; to determine the validity of these petitions; to conduct hearings upon the subject of these petitions; to determine whether the establishment of a soil and water district as petitioned would be effective in the saving of soil and water within the proposed area, and whether a soil and water district if established could be feasibly administered; and, upon reaching a favorable conclusion on these matters, to call for a referendum on the establishing of the soil and water district as petitioned;

(4) To advise any soil and water conservation district in developing its program for saving the soil and water in order that such district may become eligible for any form of aid from state or federal sources;

(5) Subject to district allocations by the commission and other resources, to provide training, programs and other assistance to soil and water conservation districts to identify programs that respond to the character of the districts' needs;

(6) To obtain or accept the cooperation and financial, technical or material assistance of the United States or any of its agencies, and of this state or any of its agencies, for the work of such soil and water districts;

(7) To enter into agreements with the United States or any of its agencies on policies and general programs for the saving of Missouri soil and water by the extension of federal aid to any soil and water conservation district; to advise any soil and water conservation district; to advise any

soil and water conservation district on the amount or kind of federal aid needed for the effective saving of soil and water in that district; to determine within the limits of available funds or other resources the amount or kind of state aid to be used for saving of soil and water in any soil and water conservation district; and to determine the withholding of state aid of any amount or kind from any soil and water conservation district that has failed to follow the policies of the state soil and water districts commission in any matter under the provisions of sections 278.060 to 278.300;

(8) To give such other proper assistance as the soil and water commission may judge to be useful to any soil and water district in the saving of soil and water in that district;

(9) To promulgate such rules and regulations as may be necessary to effectively administer a state-funded soil and water conservation cost-share program. Any rule or portion of a rule promulgated under the authority of sections 278.060 to 278.300 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo.

6. Unless prohibited by any federal or state law, the commission may grant individual variances to any rule or regulation promulgated thereto, upon presentation of adequate proof, that compliance with sections 278.070 to 278.300, or any rule or regulation, standard, requirement, limitation or order of the commission will have an arbitrary and unreasonable impact on landowners participating in soil and water conservation eligible practices. The commission shall promulgate such rules, regulations and administrative guidelines as necessary to effectively administer this section.

278.220. 1. If the proposed [subdistrict] **watershed district** lies in more than one soil and water conservation district, the petition may be presented to the board of soil and water district supervisors of any one of the districts, and the soil and water supervisors of all the districts shall act jointly as a board of soil and water district supervisors with respect **only** to [all] matters concerning the [subdistrict, including its] formation, **consolidation, expansion, disestablishment or eminent domain activities of the watershed district**. They shall organize as a single board for such purposes and shall designate the chairman, vice chairman, and secretary-treasurer to serve for terms of one year. [After organizing, they may continue to meet as a single board for purposes of governing the subdistrict or they may meet as individual county boards and act, individually, on the minutes of meetings of the trustees of the subdistrict, as specified in section 278.240]. A [subdistrict] **watershed district** which lies in more than one soil and water conservation district shall be formed in the same manner and shall have the same powers and duties as a [subdistrict] **watershed district** formed in one soil and water conservation district.

2. Following the entry in the official minutes of the board or boards of soil and water district supervisors of the creation of the [subdistrict] **watershed district**, the soil and water supervisors shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds of each county in which any portion of the [subdistrict] **watershed district** lies, and with the state soil and water districts commission.

278.240. 1. The board of soil and water conservation district supervisors of **the** soil and

water conservation district in which the [subdistrict] **watershed district** is formed shall [be the governing body of the subdistrict] **act in an advisory capacity to the watershed district board**. When a [subdistrict] **watershed district** lies in more than one soil and water conservation district, the combined boards of soil and water conservation district supervisors shall [be the governing body] **act in an advisory capacity to the watershed district board**.

2. Five [persons] **landowners** living within the [subdistrict] **watershed district** shall be elected to serve as trustees of the [subdistrict] **watershed district**. The trustees shall be elected by a [majority] vote of [all] landowners participating in the referendum for the establishment of the [subdistrict] **watershed district**, but the date of the election shall not fall upon the date of any regular political election held in the county. The ballot submitting the proposition to form the [subdistrict] **watershed district** shall be so worded as to clearly state that a tax, not to exceed forty cents on one hundred dollars valuation of all real estate within the [subdistrict, will] **watershed district, may** be authorized if the [subdistrict] **watershed district** is formed. In [subdistricts] **watershed districts** formed after September 28, 1977, two trustees shall be elected for a term of six years, two shall be elected for a term of four years, and one shall be elected for a term of two years. Their successors shall be elected for terms of six years. In any district in existence on September 28, 1977, the three trustees holding office shall continue as trustees. At the next scheduled election within the [subdistrict] **watershed district**, two additional trustees shall be elected. One of the additional trustees shall be elected for a term of four years and one shall be elected for a term of six years. Each successor shall be elected for a term of six years. **In case of the death, loss of landowner standing within the watershed district, or resignation from office of any elected watershed district trustee, his or her successor to the unexpired term shall be appointed by the trustees of that watershed district. A trustee may succeed himself or herself by reelection in this office.** The trustees shall elect one of their members as chairman and one of their members as secretary to serve for terms of two years.

3. [If the governing board so designates] The trustees [may] **shall** act in all matters pertaining to the [subdistrict] **watershed district**, except those concerning formation, consolidation, expansion or disestablishment of the [subdistrict] **watershed district**. [All official actions taken by the trustees, however, shall be subject to the ratification of a majority of the governing boards of the individual soil and water conservation districts from which the subdistrict was formed. No actions taken by the trustees shall become effective until ratification of a majority of the governing boards has taken place. At the next regular meeting following any meeting of the trustees, each governing board may place on their agenda for approval or disapproval the actions taken by the trustees. Failure to take action by any board shall be construed as disapproval of all actions taken by the trustees. It shall be the responsibility of the secretary of the trustees to see that each governing board has a copy of the minutes of each meeting held by the trustees at least two days prior to the next regular meetings of these boards. If the governing board shall decide to continue meeting as a single board for purposes of governing the subdistrict, the trustees shall serve as an advisory body only. The trustees shall be reimbursed for mileage expense incurred in the attendance of meetings of the governing body of the subdistrict and shall also be reimbursed

for mileage expense incurred in the attendance of meetings of their own members. One trustee per meeting may be reimbursed for mileage expense incurred in the attendance of meetings of the governing boards of the individual soil and water conservation districts from which the subdistrict was formed.] **It shall be the responsibility of the secretary of the trustees to see that each soil and water district board included in the watershed district is provided a copy of the minutes of each meeting held by the trustees. The trustees shall be reimbursed for expenses incurred relating to the business of the watershed district.**

278.245. [The governing body of the subdistrict or the trustees of the subdistrict, when acting with the approval of the governing body as provided in section 278.240, shall have, in addition to other authority granted in other sections of this law, the following authority in governing subdistricts] **The trustees of the watershed district shall have the following authority:**

(1) To acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, or through condemnation proceedings [in the manner provided in] **pursuant to** chapter 523, RSMo, such lands, easements, or rights-of-way as are needed to carry out any authorized purpose of the [subdistrict] **watershed district**; provided that notwithstanding any provision of law to the contrary, the power of eminent domain shall not be exercised:

(a) Over the protest of any landowner until it is established that acquisition of the land proposed to be condemned is necessary for the purposes of the [subdistrict] **watershed district**; and to sell, lease or otherwise dispose of any of its property or interest therein [in furtherance of the purposes and provisions of] **pursuant to** sections 278.160 to 278.300; **and**

(b) **Unless four trustees vote in favor of the use of such power in such case. Following approval by the trustees, a majority vote of the soil and water supervisors of all the districts included in such watershed district shall also be required prior to any use of the power of eminent domain;**

(2) To construct, repair, enlarge, improve, operate, and maintain such works of improvement as may be necessary for the performance of any of the operations authorized by sections 278.160 to 278.300;

(3) To borrow money and to execute promissory notes and other evidences of debt in connection therewith for payment of the costs and expenses or for carrying out any authorized purpose of such [subdistrict] **watershed district**, and if promissory notes are issued, to execute such mortgages on any property owned by such district, or assign or pledge such revenues or assessments of such [subdistrict] **watershed district** as may be required by the lender as security for the repayment of the loan; and to issue, negotiate, and sell its bonds [as provided in] **pursuant to** section 278.280;

(4) To levy an annual tax and organization tax on the real property within the [subdistrict] **watershed district** subject to the limitations provided in section 278.250 for payment of the costs for carrying out any authorized purpose of such [subdistrict] **watershed district**;

(5) To make assessments on the real property within the [subdistrict] **watershed district** for special benefits to such real property accruing as a result of the construction of any works of

improvement by the [subdistrict] **watershed district**.

278.250. 1. In order to facilitate the preliminary work of the [subdistrict the governing body of the subdistrict or] **watershed district**, the trustees of the [subdistrict, when acting with the approval of the governing body as provided in section 278.240] **watershed district**, may levy an organization tax [of] not to exceed forty cents per one hundred dollars of assessed valuation of all real estate within the [subdistrict] **watershed district**, the proceeds of which may be used for organization and administration expenses of the [subdistrict,] **watershed district** the acquisition of real and personal property, including easements for rights-of-way, necessary to carry out the purposes of the [subdistrict] **watershed district**. This levy may be made one time only. The organization tax may be imposed [as provided for in] **pursuant to** subsections 4 and 5 of this section.

2. After the [governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in section 278.240,] **watershed district** have obtained agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than sixty-five percent of the lands situated in the [subdistrict] **watershed district**, an annual tax may be imposed for construction, repair, alteration, maintenance and operation of the present and future works of improvement within the boundaries of the [subdistrict] **watershed district** in order to participate in funds from federal sources appropriated for watershed protection and flood prevention. The annual tax may be imposed as provided for in subsections 4 and 5 of this section.

3. Within the first quarter of each calendar year, the trustees for the [subdistrict] **watershed district** shall prepare an itemized budget of the funds needed for administration of the [subdistrict] **watershed district** and for construction, operation and maintenance of works of improvement for the ensuing fiscal year. The budget shall be subject to the approval of the [governing body of the subdistrict as provided in] **watershed district trustees pursuant to** section 278.240.

4. The [governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in section 278.240,] **watershed district, pursuant to section 278.240**, shall make the necessary levy on the assessed valuation of all real estate within the boundaries of the [subdistrict] **watershed district** to raise the needed amounts, but in no event shall the levy exceed forty cents on each one hundred dollars of assessed valuation per annum and, on or before the first day of September of each year, shall certify the rate of levy to the county commission of the county or counties within which the [subdistrict] **watershed district** is located with directions that at the time and in the same manner required by law for the levy of taxes for county purposes the county commission shall levy a tax at the rate so fixed and determined upon the assessed valuation of all real estate within the [subdistrict] **watershed district**, in addition to such other taxes as are levied by the county commission.

5. The body having authority to levy taxes within the county shall levy the taxes provided in this law, and all officials charged with the duty of collecting taxes shall collect the taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected;

computation shall be made on the regular tax bills, and when collected shall pay the same to the [subdistrict] **watershed district** ordering its levy and collection or entitled to the same, and the payment of such collections shall be made monthly to the treasurer of the [subdistrict] **watershed district**. The proceeds shall be kept in a separate account by the treasurer of the [subdistrict] **watershed district** and identified by the official name of the [subdistrict] **watershed district** in which the levy was made. Expenditures from the fund shall be made on requisition of the chairman and secretary of the [governing body of the subdistrict or, alternately, on requisition of the chairman of the governing body of the subdistrict and the chairman of the trustees of the subdistrict] **watershed district board of trustees**.

6. All taxes levied under this law, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall, until paid, constitute a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of general taxes, and no sale of such property to enforce any general tax or other lien shall extinguish the perpetual lien of [subdistrict] **watershed district** taxes.

7. If the taxes levied are not paid as provided in this section, then the delinquent real property shall be sold at the regular tax sale for the payment of the taxes, interest and penalties, in the manner provided by the statutes of the state of Missouri for selling property for the nonpayment of general taxes. If there are no bids at the tax sale for the property so offered, the property shall be struck off to the county or other agency provided by law, and the county or agency shall account to the district in the same manner as provided by law for accounting for school, town, and city taxes.

8. For purposes of section 22 of article X of the Constitution of Missouri, the tax authorized in the ballot submitting the proposition to form the [subdistrict] **watershed district** under section 278.240, if approved by a majority of the voters on or prior to November 4, 1980, shall be deemed the current levy authorized by law on November 4, 1980, if on that date a levy was not actually imposed or was imposed in a lesser amount. This tax shall also be considered as the 1984 tax for purposes of section 137.073, RSMo, in the event no levy was imposed by the [subdistrict] **watershed district** for that year.

278.280. 1. When a plan of work is approved [governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall then by resolution propose that the cost of all works of improvement contemplated in the plan be paid either by a general levy against all real estate in the [subdistrict] **watershed district**, subject to the limitations of section 278.250, or that such cost be paid by special assessment against lands within the [subdistrict] **watershed district** to be benefited by the installation of the proposed works of improvement, or that such cost be paid by both such general levy and special assessment stating the portion to be paid by each method.

2. If the resolution of financing provides that all or any part of the cost of the works of improvement is to be paid by special assessment of benefits [the governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall appoint three appraisers, who shall be residents of

the state of Missouri, and who shall not be landowners in such [subdistrict] **watershed district**, who shall recommend apportionment of the special assessment to the tracts of land which will receive benefits from the installation of the works of improvement proposed in the plan of work. The appraisers shall have access to all available engineering reports and data pertaining to the works contemplated and may request additional legal counsel or engineering data from a registered professional engineer as found necessary to carry out their duties.

3. The appraisers shall proceed to view the premises and determine the value of all land or other property within or without the [subdistrict] **watershed district**, to be acquired and used for rights-of-way or other works set out in the plan of work; they shall assess the amount of benefits, and the amount of damage if any, that will accrue to each governmental lot, forty-acre tract or other subdivision of land according to ownership, railroad and other rights-of-way, railroad roadways, and other property from carrying out and putting into effect the plan of work heretofore adopted, and shall make written reports of their findings to the [governing board of the subdistrict] **trustees of the watershed district**. Each appraiser so appointed shall be paid [fifteen dollars per day] for his **or her** services and necessary expenses [in addition thereto].

4. Upon receiving the report from the appraisers, [the governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall prepare a resolution which shall contain a list of the tracts of land found to be benefited and the amount of assessment to be levied against each such tract, except that no such assessment against any tract of land shall exceed the estimated benefits to such land by such project. Such tracts of land shall be legally described and the names of the owners thereof shall be set forth beside the description of each tract so listed. After adopting such resolution [the governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall fix a time and place for hearing any complaint that may be made as to the benefit to any tract of land appraised, notice of which hearing shall be given by the secretary by publication [as in] **pursuant to** section 278.190. The board **or trustees** at the hearing may alter the benefits to any tract if, in its judgment, the same has been appraised too high or too low. The hearing shall be conducted in the manner set forth in section 278.200. The [governing body or the] trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall immediately after the hearing pass a resolution fixing the benefit assessment as to each tract of land.

5. After the resolution fixing the benefit assessment has been adopted [the governing body or] the trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall submit the proposal for collection of such assessed benefits to the owners of the lands so assessed for approval and if bonds are to be issued the amount of the issue so proposed, the rate of interest, and the amount of any necessary tax levy in excess of the amount authorized in section 278.250. If two-thirds of the owners of such lands voting favor the proposal as submitted, it shall be adopted. The provisions of sections 278.190 to 278.210 as to notice and procedure shall apply to the referendum held [under] **pursuant to** this

section.

6. The [governing body or the] trustees of the [subdistrict, when acting with the approval of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall make the necessary general levy against all real estate in the [subdistrict] **watershed district** and the special assessment against lands within the [subdistrict] **watershed district** to be benefited by the improvement and shall certify the rate of levy and the amount of the special assessment to the county commission of the county or counties in which the [subdistrict] **watershed district** is located with directions that at the time and in the same manner required by law for the levy of taxes for county purposes the county commission shall levy a tax at the rate so fixed and determined upon the assessed valuation of all real estate within the [subdistrict] **watershed district** and shall levy the amount of the special assessment, in addition to such other taxes as are levied by the county commission.

7. The bond issue, authorized by this section in whole or part, may be offered for sale to the [Farmers Home Administration] **United States Department of Agriculture's Rural Development** or other federal agency without public offering or the securing of competitive bids on such bond offering.

278.290. 1. After a [subdistrict] **watershed district** has been organized for more than five years and [said subdistrict] **that watershed district** does not have any outstanding bonds, has not constructed or contracted to construct any works of improvement, nor incurred any continuing obligations for maintenance and operation of any works of improvement or if any works of improvement have been constructed, if there are no bonds outstanding, and an agency of the United States government or the state of Missouri or a county or municipal corporation of this state has made arrangements satisfactory to the Secretary of Agriculture and the state soil and water districts commission to assume responsibility for operating and maintaining such improvement, not less than fifty percent of the landowners of the [subdistrict] **watershed district** may petition the governing body of the [subdistrict] **watershed district** to call for and conduct a referendum upon the disestablishment of the [subdistrict] **watershed district**. If sixty-five percent of the landowners voting in referendum do vote in favor of the disestablishment of the [subdistrict] **watershed district**, the [governing body] **watershed district board** shall declare the [subdistrict] **watershed district** to be disestablished; however, prior to any such declaration the [governing body] **watershed district board** shall pay or make arrangements to pay any outstanding indebtedness. The provisions of sections 278.190, 278.200 and 278.210 as to notice, qualification of voters and manner of holding the referendum in organizing a [subdistrict] **watershed district** to the extent practicable shall apply to the referendum held [under] **pursuant to** this section.

2. Following the entry in the official minutes of the board or boards of [soil and water conservation] **watershed district** supervisors of the disestablishment of the [subdistrict] **watershed district**, the [soil and water conservation] **watershed district** supervisors shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds of each county in which any portion of the [subdistrict] **watershed district** lies, and with the state soil and

water districts commission.

3. Whenever a [subdistrict] **watershed district** is declared to be disestablished, the respective boards of supervisors of the soil and water conservation districts in which the [subdistrict] **watershed district** was formed shall take charge of all property and funds of the [subdistrict] **watershed district**. After all property has been sold and the obligations of the [subdistrict] **watershed district** are met, any remaining funds shall be turned over to the county commissions of the respective counties.

278.300. If a soil and water conservation district is disestablished [as provided by] **pursuant to** section 278.150, the state soil and water districts commission shall [become the governing body of any subdistrict] **have the same responsibilities as the soil and water conservation district with respect to formation, consolidation and disestablishment of any watershed district** or portion thereof, organized within the boundaries of such soil and water conservation districts [and shall be entitled to all benefits and powers heretofore granted to such governing body by sections 278.160 to 278.300, including the levy and collection of taxes]. **In all other matters after a district is disestablished, the commission shall act in an advisory capacity to the watershed district board in lieu of the soil and water district board.**

322.010. For the purpose of sections 322.010 to [322.080] **322.145**, the following words and following phrases shall be considered and held to mean the following:

(1) "Affected with rabies" [shall mean when manifesting the principal characteristic symptoms of rabies as described in the standard textbooks treating upon the diseases of domestic animals], **infected with the rabies virus as determined by standard laboratory testing;**

(2) "Exposed to rabies" [shall mean], when bitten by, or fought with, or has come in close contact with a dog [showing symptoms of rabies] **or other animal shown to be infected with the rabies virus as determined by standard laboratory testing;**

(3) "Immunized" [shall mean], immunized against rabies at the expense of the owner or custodian by the administration of antirabic virus by a licensed veterinarian; [and]

(4) "Rabies" [shall mean], hydrophobia; **and**

(5) **"Zoonotic disease", a dangerous disease communicable from animals to humans as determined by the department of health.**

322.140. 1. If a county does not adopt rules and regulations pursuant to sections 322.090 to 322.130, whenever an animal bites or otherwise possibly transmits rabies or any zoonotic disease, the incident shall be immediately reported to the county health department. The county health department shall immediately report the incident to the department of health and shall cooperate fully with the department of health in its investigation.

2. Upon receipt of an incident report where an animal bites or otherwise possibly transmits rabies or any zoonotic disease, the department of health shall investigate the incident and shall have discretion to order the animal quarantined, isolated, impounded, tested, immunized or disposed of to prevent and control rabies or zoonotic disease.

3. With regard to exposure to rabies or zoonotic disease the department of health

shall, in its investigation and issuance of its order, consider the following:

- (1) Prior vaccinations for rabies or zoonotic disease;
- (2) The degree of exposure to rabies or zoonotic disease;
- (3) The history and prior behavior of the animal prior to exposure;
- (4) The availability and effectiveness of human post-exposure immunization for rabies or zoonotic disease;
- (5) The willingness of the individual so exposed to submit to post-exposure immunization for rabies or zoonotic disease; and
- (6) Any other relevant information.

4. It shall be unlawful for the owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease to knowingly fail or refuse to comply with a lawful order of the department of health declaring a quarantine, isolation, impounding, testing, immunization or disposal of an animal. It shall also be unlawful for an owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease to sell, give away, transfer, transport to another area or otherwise dispose of an animal until the animal has been released by the department of health. A violation of this subsection shall be a class A misdemeanor.

5. The owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease shall be responsible for all costs associated with the incident, including:

- (1) The cost to test the animal for rabies or zoonotic disease;
- (2) The cost to test the exposed person for rabies or zoonotic disease; and
- (3) The cost to treat the person exposed to rabies or zoonotic disease.

6. The department of health shall have authority to promulgate rules and regulations concerning the classification of disease as a zoonotic disease. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

322.145. The owner of an animal that bites or otherwise possibly transmitted rabies or any zoonotic disease shall be liable to an injured party for all damages done by the animal.

340.335. 1. Sections 340.335 to 340.350 establish a loan repayment program for graduates of approved veterinary medical schools who practice in areas of defined need and shall be known as the "Large Animal Veterinary Medicine Loan Repayment Program".

2. The "Large Animal Veterinary Medicine Loan Repayment Program Fund" is hereby created in the state treasury. All funds recovered from an individual pursuant to section 340.347 and all funds generated by loan repayments and penalties received pursuant to section 340.347 shall be credited to the fund. The moneys in the fund shall be used by the Missouri veterinary medical board to provide loan repayments pursuant to section 340.343 in accordance with sections 340.335 to 340.350.

340.337. As used in sections 340.335 to 340.350, the following terms shall mean:

(1) "Areas of defined need", areas designated by the board pursuant to section 340.339, when services of a large animal veterinarian are needed to improve the client-doctor ratio in the area, or to contribute professional veterinary services to an area of economic impact;

(2) "Board", the Missouri veterinary medical board;

(3) "Large animal veterinarian", veterinarians licensed and registered pursuant to this chapter, engaged in general or large animal practice as their primary specialties, and who have at least fifty percent of their practice devoted to large animal veterinary medicine.

340.339. The board shall designate counties, communities or sections of rural areas as areas of defined need as determined by the board by rule.

340.341. 1. The board shall adopt and promulgate rules establishing standards for determining eligible persons for loan repayment pursuant to sections 340.335 to 340.350. Such standards shall include, but are not limited to the following:

(1) Citizenship or permanent residency in the United States;

(2) Residence in the state of Missouri;

(3) Enrollment as a full-time veterinary medical student in the final year of a course of study offered by an approved educational institution in Missouri;

(4) Application for loan repayment.

2. The board shall not grant repayment for more than five veterinarians each year.

340.343. 1. The board shall enter into a contract with each individual qualifying for repayment of educational loans. The written contract between the board and an individual shall contain, but not be limited to, the following:

(1) An agreement that the state agrees to pay on behalf of the individual, loans in accordance with section 340.345 and the individual agrees to serve for a time period equal to five years, or such longer period as the individual may agree to, in an area of defined need, such service period to begin within one year of the signed contract or graduation by the individual with a degree of doctor of veterinary medicine, whichever is later;

(2) A provision that any financial obligations arising out of a contract entered into and any obligation of the individual which is conditioned thereon is contingent

upon funds being appropriated for loan repayments;

(3) The area of defined need where the person will practice;

(4) A statement of the damages to which the state is entitled for the individual's breach of the contract;

(5) Such other statements of the rights and liabilities of the board and of the individual not inconsistent with sections 340.335 to 340.350.

2. The board may stipulate specific practice sites contingent upon board generated large animal veterinarian need priorities where applicants shall agree to practice for the duration of their participation in the program.

340.345. 1. A loan payment provided for an individual pursuant to a written contract under the large animal veterinary medicine loan repayment program shall consist of payment on behalf of the individual of the principal, interest and related expenses on government and commercial loans received by the individual for tuition, fees, books, laboratory and living expenses incurred by the individual.

2. For each year of obligated services that an individual contracts to serve in an area of defined need, the board may pay up to ten thousand dollars on behalf of the individual for loans described in subsection 1 of this section.

3. The board may enter into an agreement with the holder of the loans for which repayments are made under the large animal veterinary medicine loan repayment program to establish a schedule for the making of such payments if the establishment of such a schedule would result in reducing the costs to the state.

4. Any qualifying communities providing a portion of a loan repayment shall be considered first for placement.

340.347. 1. An individual who has entered into a written contract with the board or an individual who is enrolled in a course of study and fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study or fails to become licensed pursuant to this chapter within one year after graduation shall be liable to the state for the amount which has been paid on such individual's behalf pursuant to the contract.

2. If an individual breaches the written contract of the individual by failing either to begin such individual's service obligation or to complete such service obligation, the state shall be entitled to recover from the individual an amount equal to the sum of:

(1) The total of the amounts paid by the state on behalf of the individual, including interest; and

(2) An amount equal to the unserved obligation penalty, which is the total number of months of obligated service which were not completed by an individual, multiplied by five hundred dollars.

3. The board may act on behalf of a qualified community to recover from an individual described in subsections 1 and 2 of this section the portion of a loan repayment paid by such community for such individual.

340.350. No rule or portion of a rule promulgated pursuant to the authority of sections 340.335 to 340.350 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

348.432. 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, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) **"Employee qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least one hundred employees;**

(5) **"Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;**

(6) "Member", a person, partnership, corporation, trust or limited liability company that invests cash funds to an eligible new generation cooperative;

[[5]] (7) "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;

(8) **"Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.**

3. Beginning tax year 1999, and subsequent tax years, any member who invests cash funds in an eligible new generation cooperative may receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such member's investment or fifteen thousand dollars.

4. A 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 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 shall initially be claimed for the taxable year in which the member contributes capital to an eligible new generation cooperative. Any amount of credit that exceeds the tax due for a member's taxable year may be

carried back to any of the member's three prior taxable years and carried forward to any of the member's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred [or], sold **or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the 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.

5. [At least] Ten percent of the tax credits authorized pursuant to this section **initially** shall be offered in any fiscal year to **small capital** projects [with capital costs of no more than one million dollars]. If [the amount of tax credits allowed pursuant to this section exceeds the amount needed for such smaller projects, the remaining] **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 [for projects with capital costs in excess of one million dollars] **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.**

6. [If members of a project would be eligible for tax credits in excess of one million five hundred thousand dollars, tax credits authorized pursuant to this section shall be prorated between the members on a percent of investment basis, not to exceed the maximum allowed per member.] **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 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.**

407.857. Retailers who sell and service industrial, maintenance and construction power equipment or outdoor power equipment as defined in section 407.850, and who do warranty repair work for a consumer under provisions of a manufacturer's express warranty, shall be reimbursed by the manufacturer for the warranty work at an hourly rate that is the same or greater than the hourly labor rate the retailer currently charges consumers for nonwarranty repair work.

409.401. When used in sections 409.101 to 409.419, unless the context otherwise requires:

(a) "Commissioner" means the commissioner of securities.

(b) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents (1) an issuer in (a) effecting transactions in a security exempted by clause (1), (2), (3), (4), (6), (9), (10) or (11) of section 409.402(a), (b) effecting transactions in a security exempted by clause (5) of section 409.402(a), provided such individual prior to the transactions files with the commissioner information on (A) his relationship to the issuer and its affiliates, (B) his proposed methods of soliciting the transactions including sales literature to be used, and (C) commissions and other remuneration he is to receive for effecting the transactions, and such additional information as the commissioner may require, (c) effecting transactions exempted by section 409.402(b), (d) effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state, (e) effecting transactions in a covered security as described in sections 18(b)(3) and 18(b)(4)(D) of the Securities Act of 1933; (2) a broker-dealer in effecting transactions in this state limited to those transactions described in section 15(h)(2) of the Securities Exchange Act of 1934; or (3) effecting transactions with such other persons as the commissioner may by rule or order designate. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition.

(c) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include (1) an agent, (2) an issuer, (3) a bank, savings institution, or trust company, or (4) a person who has no place of business in this state if (A) he effects transactions in this state exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, or (iii) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (B) the person has fewer than five clients in the state of Missouri, or (5) such other persons as the commissioner may by rule or order designate.

(d) "Federal covered adviser" means a person who is (1) registered pursuant to section 203 of the Investment Advisers Act of 1940; or (2) is excluded from the definition of "investment adviser" pursuant to section 202(a)(11) of the Investment Advisers Act of 1940.

(e) "Federal covered security" means any security that is a covered security pursuant to section 18(b) of the Securities Act of 1933 or rules or regulations promulgated thereunder.

(f) "Fraud", "deceit", and "defraud" are not limited to common-law deceit.

(g) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(h) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities

or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation; except that "investment adviser" does not include (1) an investment adviser representative; (2) a bank, savings institution, or trust company; (3) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession; (4) a broker-dealer or his agent whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them; (5) a publisher of any bona fide newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client; (6) any person that is a federal covered adviser; or (7) such other persons not within the intent of this subsection as the commissioner may by rule or order designate.

(i) "Investment adviser representative" means any partner, officer, director or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who is employed by or associated with an investment adviser that is registered or required to be registered pursuant to sections 409.101 to 409.419, or who has a place of business located in this state and is employed by or associated with a federal covered adviser; and who does any of the following: (1) makes any recommendations or otherwise renders advice regarding securities, except that investment adviser representative does not include an individual whose performance of these services is solely incidental to the conduct of his business as an "agent" of a broker-dealer and who receives no special compensation for them, (2) manages accounts or portfolios of clients, (3) determines which recommendation or advice regarding securities should be given, or (4) supervises employees who perform any of the foregoing.

(j) "Issuer" means any person who issues or proposes to issue any security, except that (1) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and (2) with respect to certificates of interest or participation in oil, gas, or mining titles or leases, or in payments out of production under such titles or leases there is not considered to be any "issuer".

(k) "Non-issuer" means not directly or indirectly for the benefit of the issuer.

(l) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(m) (1) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.

(2) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(3) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(4) A purported gift of assessable stock is considered to involve an offer and sale.

(5) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(6) The terms defined in this subsection do not include (A) any bona fide pledge or loan; (B) any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; (C) any act incident to a class vote by stockholders, pursuant to the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or (D) any act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash.

(n) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", "Investment Advisers Act of 1940", and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1968.

(o) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; limited partnership interest; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

(p) "State" means any state, territory, or possession of the United States, the District of Columbia and Puerto Rico.

(q) "Cooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so

engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing and/or furnishing farm supplies and/or farm business services; provided, however, that such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements: (1) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, and (2) the association does not pay dividends on stock or membership capital in excess of eight percent per year, and in any case to the following: (3) the association does [not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members] **at least twenty-five percent of its business with its members;** further, all business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association.

414.032. 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual book of ASTM standards and supplements thereto. The director may promulgate rules and regulations on the labeling, standards for, and identity of motor fuels and heating oils.

2. All sellers of motor fuel which has been blended with an alcohol additive shall notify the buyer of same.

3. All sellers of motor fuel which has been blended with at least one percent oxygenate by weight shall notify the buyer at the pump of the type of oxygenate. The provisions of this subsection may be satisfied with a sticker or label on the pump stating that the motor fuel may or may not contain the oxygenate. The department of agriculture shall provide the sticker or label, which shall be reasonable in size and content, at no cost to the sellers.

4. The director may inspect gasoline, gasoline-alcohol blends or other motor fuels to insure that these fuels conform to advertised grade and octane. **In no event shall the penalty for a first violation of this section exceed a written reprimand.**

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

(1) "B-20", a blend of two fuels of twenty percent by volume biodiesel and eighty percent by volume petroleum-based diesel fuel;

(2) "Biodiesel", as defined in ASTM Standard PS121 or its subsequent standard specification for biodiesel fuel (B 100) blend stock for distillate fuels;

(3) "Eligible new generation cooperative", a nonprofit farmer-owned cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility, as defined in section 348.430, RSMo.

2. Beginning with the 2002-2003 school year and lasting through the 2005-2006 school year, any school district may contract with an eligible new generation cooperative to purchase biodiesel fuel for its buses of a minimum of B-20 under

conditions set out in subsection 3 of this section.

3. Every school district that contracts with an eligible new generation cooperative for biodiesel pursuant to subsection 2 of this section shall receive an additional payment through its state transportation aid payment pursuant to section 163.161, RSMo, so that the net price to the contracting district for biodiesel will not exceed the rack price of regular diesel. If there is no incremental cost difference between biodiesel above the rack price of regular diesel, then the state school aid program will not make payment for biodiesel purchased during the period where no incremental cost exists. The payment shall be made based on the incremental cost difference incrementally up to seven-tenths percent of the entitlement authorized by section 163.161, RSMo, for the 1998-1999 school year. The payment amount may be increased by four percent each year during the life of the program. No payment shall be authorized pursuant to this subsection or contract required pursuant to subsection 2 of this section if moneys are not appropriated by the general assembly.

4. The department of elementary and secondary education shall promulgate such rules as are necessary to implement this section, including but not limited to a method of calculating the reimbursement of the contracting school districts and waiver procedures if the amount appropriated does not cover the additional costs for the use of biodiesel. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

537.353. 1. Any person or entity who knowingly damages or destroys any field crop product that is grown for personal or commercial purposes, or for testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility, a university, or any federal, state or local government agency, shall be liable for double damages pursuant to this section.

2. In awarding damages pursuant to this section, the courts shall consider the following:

- (1) The market value of the crop prior to damage or destruction; and
- (2) The actual damages involving production, research, testing replacement and crop development costs directly related to the crop that has been damaged or destroyed.

3. In addition, the court may award court costs, including reasonable attorneys fees.

578.008. 1. A person commits the crime of spreading disease to livestock or animals if that person purposely spreads any type of contagious, communicable or

infectious disease among livestock as defined in section 267.565, RSMo, or other animals.

2. Spreading disease to livestock or animals is a class D felony unless the damage to livestock or animals is ten million dollars or more in which case it is a class B felony.

3. It shall be a defense to the crime of spreading disease to livestock or animals if such spreading is consistent with medically recognized therapeutic procedures.

578.012. 1. A person is guilty of animal abuse when a person:

(1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030, RSMo;

(2) Purposely or intentionally causes injury or suffering to an animal; or

(3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

2. Animal abuse is a class A misdemeanor, unless the defendant has previously plead guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal was alive, in which case it is a class D felony.

[3. For purposes of this section, "animal" shall be defined as a mammal.]

578.023. 1. No person may keep any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, **bear, nonhuman primate, [or] coyote, [or] any deadly, dangerous, or poisonous reptile, or any deadly or dangerous reptile over eight feet long**, in any place other than a properly maintained zoological park, circus, scientific, or educational institution, research laboratory, veterinary hospital, or animal refuge, unless such person has registered such animals with the local law enforcement agency in the county in which the animal is kept.

2. Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

578.029. 1. A person commits the crime of knowingly releasing an animal if that person, acting without the consent of the owner or custodian of an animal, intentionally releases any animal that is lawfully confined for the purpose of companionship or protection of persons or property or for recreation, exhibition or educational purposes.

2. As used in this section "animal" means every living creature, domesticated or wild, but not including Homo sapiens.

3. The provisions of this section shall not apply to a public servant acting in the course of such servant's official duties.

4. Intentionally releasing an animal is a class B misdemeanor except that the second or any subsequent offense is a class D felony.

578.414. Sections 578.414 to 578.420 shall be known and may be cited as "The Crop Protection Act". As used in sections 578.414 to 578.420, the term "director" shall mean the director of the department of agriculture.

578.416. No person shall:

- (1) Intentionally cause the loss of any crop;**
- (2) Damage, vandalize, or steal any property in or on a crop;**
- (3) Obtain access to a crop by false pretenses for the purpose of performing acts not authorized by the landowner;**
- (4) Enter or otherwise interfere with a crop with the intent to destroy, alter, duplicate or obtain unauthorized possession of such crop;**
- (5) Knowingly obtain, by theft or deception, control over a crop for the purpose of depriving the rightful owner of such crop, or for the purpose of destroying such crop;**
- (6) Enter or remain on land on which a crop is located with the intent to commit an act prohibited by this section.**

578.418. 1. Any person who violates section 578.416:

- (1) Shall be guilty of a misdemeanor for each such violation unless the loss or damage to the crop exceeds five hundred dollars in value;**
- (2) Shall be guilty of a class D felony if the loss or damage to the crop exceeds five hundred dollars in value but does not exceed one thousand dollars in value;**
- (3) Shall be guilty of a class C felony if the loss or damage to the crop exceeds one thousand dollars in value but does not exceed one hundred thousand dollars in value;**
- (4) Shall be guilty of a class B felony if the loss or damage to the crop exceeds one hundred thousand dollars in value.**

2. Any person who has been damaged by a violation of section 578.416 may have a civil cause of action pursuant to section 537.353, RSMo.

3. Nothing in sections 578.414 to 578.420 shall preclude any owner or operator injured in his or her business or property by a violation of section 578.416 from seeking appropriate relief under any other provision of law or remedy including the issuance of an injunction against any person who violates section 578.416. The owner or operator of the business may petition the court to permanently enjoin such persons from violating sections 578.414 to 578.420 and the court shall provide such relief.

578.420. 1. The director shall have the authority to investigate any alleged violation of sections 578.414 to 578.420, along with any other law enforcement agency, and may take any action within the director's authority necessary for the enforcement of sections 578.414 to 578.420. The attorney general, the highway patrol, and other law enforcement officials shall provide assistance required in the conduct of an investigation.

2. The director may promulgate rules and regulations necessary for the enforcement of sections 578.414 to 578.420. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 578.414 to 578.420 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 578.414 to 578.420 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to

review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

Section 1. Notwithstanding any law to the contrary, all Missouri landowners retain the right to have, use, and own private water systems and ground source systems anytime and anywhere including land within city limits, unless prohibited by city ordinance, on their own property so long as all applicable rules and regulations established by the Missouri department of natural resources are satisfied. All Missouri landowners who choose to use their own private water system shall not be forced to purchase water from any other water source system servicing their community.

[272.150. The owners and occupiers of saltpeter works within this state shall keep the same enclosed with a good and lawful fence, so as to prevent horses, cattle and other stock that may receive injury thereby from having access thereto.]

[272.160. Every person, owner or occupier of any saltpeter works within this state, failing to secure the same, with a good and lawful fence, from horses, cattle and any kind of stock that may be injured by drinking the saltpeter water, shall be liable to an action by the party injured by such neglect for double the value of such horses, cattle or other stock injured or killed by drinking such water, to be recovered in any court having competent jurisdiction to try the same.]

[272.170. Hereafter all persons owning or running cotton gins in the state of Missouri shall keep them enclosed with a sufficient fence to keep out hogs.]

[272.180. They shall not allow the cotton seed from their gin to be scattered or thrown outside of the enclosure.]

[272.190. Any person violating the provisions of sections 272.170 and 272.180 shall be liable for all damage accruing therefrom.]

[272.200. All lands, within this state, upon which sorghum or other poisonous crops are planted shall be enclosed by the owners and occupiers with a good and lawful fence so as to prevent horses, cattle or other stock that may receive injury thereby from having access thereto; provided, that a lawful fence as used in this section shall be construed to mean such fences as are described elsewhere in this chapter and that the same penalties for damages as provided in section 272.160 shall be recoverable under this section; provided further, that this law shall not apply to counties and townships that have or may hereafter adopt a stock law.]

Section B. Because immediate action is necessary to promote investment in agricultural cooperatives the repeal and reenactment of section 348.432 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 348.432 of this act shall be in full force and effect upon its passage and approval.