

## SENATE CONCURRENT RESOLUTION NO. 60

WHEREAS, the state of Missouri recognizes the critical importance of information technology to its government, industry and local economy; and

WHEREAS, high technology has made enormous contributions to the state's economic growth and competitiveness; and

WHEREAS, the high technology industry is one of the most vibrant sectors of Missouri's economy, with over 3,670 high technology companies employing 21,300 Missouri residents and generating over \$1 billion in annual wages; and

WHEREAS, high technology jobs are high-paying, high-skill, dynamic and adaptable, with the average Missouri high technology worker earning \$50,000 per year; and

WHEREAS, the positive economic impact of high technology in Missouri does not end with workers in well-paid, high technology jobs, but extends to the businesses that provide goods and services to high technology companies, resulting in an overall impact of 66,100 jobs and more than \$2.4 billion in wages for Missouri residents; and

WHEREAS, software piracy represents one of the greatest threats to the continued growth of Missouri's high technology industry, with software piracy costing the Missouri economy nearly 1,900 jobs and \$80 million in wages annually; and

WHEREAS, software piracy robs \$15.1 million annually from the state of Missouri in lost tax revenues; and

WHEREAS, software piracy can have a serious chilling effect on creativity, innovation and profitability in the vital high technology sector of Missouri's economy; and

WHEREAS, counterfeit and other forms of pirated software expose consumers, including state agencies, to the risk of computer viruses, reduced technical support and other problems that prevent the efficient operation of information systems; and

WHEREAS, in recognition of the destructive impact of software piracy on the Missouri economy and consumers, this General Assembly is committed to developing a comprehensive, statewide response to combat the use of unlicensed software in all state agencies and promote sound management of state information systems:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-first General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby recommend that the Governor issue an Executive Order establishing the following:

Section 1. Policy. It shall be the policy of the state of Missouri that each state agency shall work diligently to prevent and combat computer software piracy in order to give effect to copyrights associated with computer software by observing the relevant provisions of federal law, including the U.S. Copyright Act, and applicable licensing restrictions.

(1) Each agency shall adopt procedures to ensure that the agency does not acquire, reproduce, distribute or transmit computer software in violation of U.S. copyright laws and applicable licensing restrictions.

(2) Each agency shall establish procedures to ensure that the agency has present on its computers and uses only computer software not in violation of U.S. copyright laws and applicable licensing restrictions. These procedures shall include:

- (a) Preparing agency inventories of the software present on its computers;
- (b) Determining what computer software the agency has the authorization to use; and
- (c) Developing and maintaining adequate record-keeping systems.

(3) Each agency shall require its contractors and recipients of state financial assistance, including grants and loan guarantee assistance, to certify that they have appropriate systems and controls in place to ensure that state funds are not used to acquire, operate or maintain computer software in violation of U.S. copyright laws or applicable licensing restrictions. If an agency becomes aware that contractors, grantees or other recipients of state financial assistance are using state funds to acquire, operate or maintain computer software in violation of U.S. copyright laws or applicable licensing restrictions, the agency shall take such corrective measures as the agency head deems appropriate and consistent with the requirements of law.

(4) The Office of Information Technology shall develop appropriate language for inclusion in state contracts to prohibit the use of state funds for the acquisition, operation or maintenance of computer software in violation of U.S. copyright laws or applicable licensing restrictions. Such language shall be required in all state contracts involving the purchase or utilization of computer software in the performance of such contracts.

(5) State agencies shall ensure that budget proposals relating to computer and data processing needs include adequate resources for the purpose of acquiring adequate computer software and licenses to meet those needs.

(6) State agencies shall cooperate fully in implementing this order and shall share information as appropriate that may be useful in combating the use of computer software in violation of applicable U.S. copyright laws or applicable licensing restrictions.

Section 2. Responsibilities of Agency Heads. In connection with the acquisition and use of

computer software, the head of each state agency shall:

(1) Ensure agency compliance with U.S. copyright laws protecting computer software and with the provisions of this order to ensure that only authorized computer software is acquired for and used on the agency's computers;

(2) Utilize performance measures as recommended by the Office of Information Technology pursuant to Section 3 of this order to assess the agency's compliance with this order;

(3) Educate appropriate agency personnel regarding copyrights protecting computer software and the policies and procedures adopted by the agency to honor them; and

(4) Ensure that the policies and practices of the agency related to copyrights protecting computer software are adequate and fully implement the policies set forth in this order.

Section 3. Office of Information Technology. The Office of Information Technology ("OIT") shall be the principal interagency forum to improve state agency practices regarding the acquisition and use of computer software, and monitoring and combating the use of unauthorized computer software. OIT shall provide advice and make recommendations to state agencies and to the Chief Information Officer regarding appropriate government-wide measures to carry out this order. OIT shall issue its initial recommendations within 6 months of the date of this order.

Section 4. Chief Information Officer. The Chief Information Officer ("CIO") shall utilize appropriate oversight mechanisms to foster agency compliance with the policies set forth in this order. In carrying out these responsibilities, the CIO shall consider any recommendations made by OIT under Section 3 of this order regarding practices and policies to be instituted on a government-wide basis to carry out this order.

Section 5. Definition. "State agency" or "agency" shall include all agencies, boards, and commissions under the Governor's jurisdiction.

Section 6. Judicial Review. This order is intended only to improve the internal management of the executive branch. It does not create any right or benefit, substantive or procedural, at law or in equity by a party against the state of Missouri, its agencies or instrumentalities, its officers or employees, or any other person.

Section 7. Severability. The invalidity of any portion of this order shall not affect the validity of the remainder thereof.

Section 8. Effective Date. This order is effective immediately and shall remain in effect until rescinded by the Governor; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for the Governor of Missouri.

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Resolution  
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