

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

SENATE BILL NO. 1248

91ST GENERAL ASSEMBLY

2002

4939S.21T

AN ACT

To repeal sections 143.121, 143.811, 313.300, 447.532, 470.010, 470.020, 470.030, 470.040, 470.050, 470.060, 470.070, 470.080, 470.130, 470.150, 470.190, 470.200, 470.210, 470.220, 470.230, 470.240, 470.250, 470.260, 470.270, 470.280, 470.290, 470.300, 470.310, 470.320, 470.330, 470.340, 470.350 and 542.301, RSMo, and to enact in lieu thereof thirty-five new sections relating to certain funds for public elementary and secondary education, with an emergency clause.

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

Section A. Sections 143.121, 143.811, 313.300, 447.532, 470.010, 470.020, 470.030, 470.040, 470.050, 470.060, 470.070, 470.080, 470.130, 470.150, 470.190, 470.200, 470.210, 470.220, 470.230, 470.240, 470.250, 470.260, 470.270, 470.280, 470.290, 470.300, 470.310, 470.320, 470.330, 470.340, 470.350 and 542.301, RSMo, are repealed and thirty-five new sections enacted in lieu thereof, to be known as sections 32.068, 32.069, 136.320, 143.121, 143.122, 143.811, 313.300, 313.301, 338.500, 338.501, 338.505, 338.510, 338.515, 338.520, 338.525, 338.530, 338.535, 338.540, 338.545, 338.550, 447.532, 470.010, 470.020, 470.030, 470.060, 470.070, 470.080, 470.130, 470.150, 470.200, 470.210, 470.220, 470.270, 542.301 and 1, to read as follows:

32.068. 1. The state treasurer shall calculate an annual rate of interest pursuant to this section and provide the calculated rate of interest to the director of revenue as determined by subsection 2 of this section.

2. Each calendar quarter the state treasurer shall calculate the annual rate of interest. The rate of interest shall be equal to the previous twelve-month

annualized average rate of return on all funds invested by the state treasurer, rounded to the nearest one-tenth of one percent. The state treasurer shall provide such calculated rate to the director of revenue not later than thirty days prior to the end of each calendar quarter. The director of revenue shall apply the calculated rate of interest to all applicable situations during the next calendar quarter after the release of the calculated rate of interest.

3. Beginning January 1, 2003, the director of revenue shall apply the calculated rate of interest as determined by this section to all applicable situations.

4. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

32.069. 1. Notwithstanding any other provision of law to the contrary, interest shall be allowed and paid on any refund or overpayment at the rate determined by section 32.068 only if the overpayment is not refunded within one hundred twenty days from the latest of the following dates:

(1) The last day prescribed for filing a tax return or refund claim, without regard to any extension of time granted;

(2) The date the return, payment, or claim is filed; or

(3) The date the taxpayer files for a credit or refund and provides accurate and complete documentation to support such claim.

2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

136.320. 1. Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to taxes due and owing reported and paid in full from August 1, 2002, to October 31, 2002, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before August 1, 2002. The amnesty shall apply only to state tax liabilities due on or before December 31, 2001, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by the state of Missouri.

2. Upon written application by the taxpayer, on forms prescribed by the

director of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest which may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in subsection 1 of this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with state tax laws for the next three years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section unless full payment of the tax due is made in accordance with rules and regulations established by the director of revenue.

4. If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received pursuant to this section shall be eligible for refund or credit.

5. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a taxpayer's tax return as a result of any state or federal audit.

6. All tax payments received as a result of the amnesty program established pursuant to this section shall be deposited in the schools of the future fund created pursuant to section 1 of this act, other than revenues earmarked by the Missouri Constitution.

7. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer the provisions of this section. 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, 2002, shall be invalid and void.

143.121. 1. The Missouri adjusted gross income of a resident individual shall be his federal adjusted gross income subject to the modifications in this section.

2. There shall be added to his federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added under this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income under Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible under Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, except for any deduction for net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period not to exceed twenty years and carries backward for not more than two years.

3. There shall be subtracted from his federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes under the laws of the United States. The amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining his federal adjusted gross income or included in his Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is

considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation under sections 143.011 to 143.996 of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in subsection 3 of section 144.747, RSMo, that would otherwise be included in federal adjusted gross income; **and**

(g) The amount that would have been deducted in the computation of federal taxable income under Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted under Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002.

4. There shall be added to or subtracted from his federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from his federal adjusted gross income the modifications provided in section 143.411.

143.122. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to section 143.121 and shall transfer an amount equal to twenty-seven million dollars of general revenue to the schools of the future fund created in section 1 of this act.

143.811. 1. Under regulations prescribed by the director of revenue, interest shall be allowed and paid at the rate determined by section 32.065, RSMo, on any overpayment in respect of the tax imposed by sections 143.011 to 143.996; except that, where the overpayment resulted from the filing of an amendment of the tax by the taxpayer after the last day prescribed for the filing of the return, interest shall be allowed and paid at the rate of six percent per annum. With respect to the part of an overpayment attributable to a deposit made pursuant to subsection 2 of section 143.631, interest shall be paid thereon at the rate in section 32.065, RSMo, from the date of the deposit to the date of refund. No interest shall be allowed or paid if the amount thereof is less than one dollar.

2. For purposes of this section:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day determined without regard to any extension of time granted the taxpayer;

(2) Any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year, and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him on the fifteenth day of the fourth month following the close of his taxable year to which such amount constitutes a credit or payment.

3. For purposes of this section with respect to any withholding tax:

(1) If a return for any period ending with or within a calendar year is filed before April fifteenth of the succeeding calendar year, such return shall be considered filed April fifteenth of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April fifteenth of the succeeding calendar year, such tax shall be considered paid on April fifteenth of such succeeding calendar year.

4. If any overpayment of tax imposed by sections 143.011 to 143.996 is refunded within four months after the last date prescribed (or permitted by extension of time) for filing the return of such tax or within four months after the return was filed, whichever is later, no interest shall be allowed under this section on overpayment.

5. Any overpayment resulting from a carryback, including a net operating loss and a corporate capital loss, shall be deemed not to have been made prior to the close of the taxable year in which the loss arises.

6. Any overpayment resulting from a carryback of a tax credit, including but not limited to the tax credits provided in sections 253.557 and 348.432, RSMo, shall be deemed not to have been made prior to the close of the taxable year in which the tax credit was authorized. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to the provisions of this subsection and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

313.300. **1.** Unclaimed prize money shall be retained by the commission for the person entitled thereto for [one year] **one hundred eighty days** after the time at which the prize was awarded. If no claim is made for the prize within [such year] **one hundred eighty days**, the prize money shall be reverted to the state lottery fund.

2. In fiscal year 2003, the lottery commission shall, transfer the amount received pursuant to this section to the lottery proceeds fund. In fiscal year 2003, the commissioner of administration shall transfer an equivalent amount from the lottery proceeds fund to the schools of the future fund created in section 1 of this act.

313.301. In fiscal year 2003, there shall be transferred out of the lottery proceeds fund and deposited to the credit of the schools of the future fund created in section 1 of this act, five million dollars.

338.500. 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon licensed retail pharmacies for the privilege of providing outpatient prescription drugs in this state. The tax is imposed upon the Missouri gross retail prescription receipts earned from filling outpatient retail prescriptions.

2. For purposes of sections 338.500 to 338.550:

(1) "Gross retail prescription receipts" shall mean all amounts received by a licensed pharmacy for its own account from the sale of outpatient prescription drugs in the state of Missouri but shall not include those sales shipped out of the state of Missouri and shall include the receipts from cost sharing, dispensing fees, and retail prescription drug sales;

(2) "Licensed pharmacy" shall have the same meaning as such term is defined in section 338.210;

(3) "Retail" means a sale for use or consumption and not for resale.

338.501. In fiscal year 2003, the amount generated by the tax imposed pursuant to section 338.500, less any amount paid pursuant to section 338.545, shall be used in the formula necessary to qualify for the calculations included in house bill 1102, section 2.325 through section 2.333 as passed by the ninety-first general assembly, second regular session.

338.505. 1. Each licensed retail pharmacy's tax shall be based on a formula set forth in rules promulgated by the department of social services. 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, 2002, shall be invalid and void.

2. The director of the department of social services or the director's designee, may prescribe the form and contents of any forms or other documents required by sections 338.500 to 338.550.

3. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules pursuant to this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter

as the court of original jurisdiction.

338.510. 1. Each licensed retail pharmacy shall keep such records as may be necessary to determine gross retail prescription receipts.

2. The director of revenue may prescribe the form and contents of any forms or other documents required by this section.

3. Each licensed retail pharmacy shall report the gross retail prescription receipts to the department of revenue.

4. The department of revenue shall provide the department of social services with the information that is necessary to implement the provisions of sections 338.500 to 338.550.

5. The information obtained by the department of social services from the department of revenue shall be confidential and any employee of the department of social services who unlawfully discloses any such information for any other purpose, except as authorized by law, shall be subject to the penalties specified in section 32.057, RSMo.

338.515. The tax imposed by sections 338.500 to 338.550 shall become effective July 1, 2002, or the effective date of sections 338.500 to 338.550, whichever is later.

338.520. 1. The determination of the amount of tax due shall be the monthly gross retail prescription receipts reported to the department of revenue multiplied by the tax rate established by rule by the department of social services. Such tax rate may be a graduated rate based on gross retail prescription receipts and shall not exceed a rate of six percent per annum of gross retail prescription receipts; provided, that such rate shall not exceed one-tenth of one percent per annum in the case of licensed pharmacies of which eighty percent or more of such gross receipts are attributable to prescription drugs that are delivered directly to the patient via common carrier, by mail, or a courier service.

2. The department of social services shall notify each licensed retail pharmacy of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

338.525. If a pharmacy's gross retail prescription receipts are included in the revenue assessed by the federal reimbursement allowance or the nursing facility reimbursement allowance, the proportion of those taxes paid or the entire tax due shall be allowed as a credit for the pharmacy tax due pursuant to section 338.500.

338.530. The director of the department of social services may offset the tax owed by a pharmacy against any Missouri Medicaid payment due such pharmacy, if the pharmacy requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the pharmacy an amount substantially equal to the

assessment due from the pharmacy. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

338.535. 1. The pharmacy tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the pharmacy to the department of social services. The remittance shall be made payable to the director of the department of revenue and shall be deposited in the state treasury to the credit of the "Pharmacy Reimbursement Allowance Fund" which is hereby created to provide payments for services related to the Medicaid pharmacy program. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 338.530 or a payment to the pharmacy reimbursement allowance fund shall be accepted as payment of the obligation set forth in section 338.500.

3. The state treasurer shall maintain records showing the amount of money in the pharmacy reimbursement allowance fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the pharmacy reimbursement allowance fund at the end of the biennium shall not revert to the credit of the general revenue fund.

338.540. 1. The department of social services shall notify each pharmacy with a tax due of more than ninety days of the amount of such balance. If any pharmacy fails to pay its pharmacy tax within thirty days of such notice, the pharmacy tax shall be delinquent.

2. If any tax imposed pursuant to sections 338.500 to 338.550 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the pharmacy and compel the payment of such assessment in the circuit court having jurisdiction in the county where the pharmacy is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any pharmacy that fails to pay the tax imposed by section 338.500.

3. Failure to pay the tax imposed by section 338.500, RSMo, shall be grounds for denial, suspension, or revocation of a license granted pursuant to this chapter. The department of social services may request the board of pharmacy to deny, suspend, or revoke the license of any pharmacy that fails to pay such tax.

338.545. 1. The Medicaid pharmacy dispensing fee shall be adjusted to include a supplemental payment amount equal to the tax assessment due plus ten percent.

2. The amount of the supplemental payment shall be adjusted once annually beginning July first or once annually after the initial start date of the pharmacy tax,

whichever is later.

3. If the pharmacy tax required by sections 338.500 to 338.550 is declared invalid, the pharmacy dispensing fee for the Medicaid program shall be the same as the amount required on July 1, 2001.

338.550. 1. The pharmacy tax required by sections 338.500 to 338.550 shall be the subject of an annual health care cost impact study commissioned by the department of insurance to be completed prior to or on January 1, 2003 and each year the tax is in effect. The report shall be submitted to the speaker of the house, president pro-tem of the senate, and the governor. This study shall employ an independent economist and an independent actuary paid for by the state's department of social services. The department shall seek the advice and input from the department of social services, business health care purchasers, as well as health care insurers in the selection of the economist and actuary. This study shall assess the degree of health care costs shifted to individual Missourians and individual and group health plans resulting from this tax.

2. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

3. Sections 338.500 to 338.550 shall expire on June 30, 2003.

447.532. 1. Notwithstanding the provisions of section 447.536, all intangible personal property held as of the effective date of this act for the owner by any court, including any receivership or custodianship under court supervision, or public corporation, public authority, or public officer of this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than [seven] three years [or five years as provided in section 447.536 is presumed] is deemed abandoned and shall be turned over immediately to the treasurer pursuant to section 447.543.

2. Notwithstanding the provisions of section 447.536, all intangible personal property held for the owner whose last known address is located in Missouri, by a public officer, official, agency, department, or court, of the United States or any state or local government or governmental subdivision, agency, or entity thereof that has remained unclaimed by the owner for more than [seven] three years [or five years as provided in section 447.536 is presumed] is deemed abandoned and shall be turned over to the treasurer pursuant to section 447.543. If no address is listed or if the address is outside this state, all intangible personal property held for the owner by such entities listed in this section and located in this state, or held for a holder that is located in this state, that has remained unclaimed by the owner for more than [seven] three years [or five years as provided in section 447.536 is presumed] is deemed

abandoned **and shall be turned over immediately to the treasurer pursuant to section 447.543**, except as provided in section 447.547.

3. All intangible personal property referred to in this section is subject to the provisions of sections 447.500 to 447.595.

470.010. If any person die intestate, seized of any real or personal property, leaving no heirs or representatives **currently** capable of inheriting the same; or, if upon final settlement of an executor or administrator, there is a balance in his **or her** hands belonging to some legatee or distributee who is a nonresident or who is not in a situation to receive the same and give a discharge thereof or who does not appear by himself **or herself** or agent to claim and receive the same; or, if upon final settlement of an assignee for the benefit of creditors, there shall remain in his **or her** possession any unclaimed dividends; or, if upon final report of any sheriff to the court, it is shown that the interests in the proceeds of the sale of land in partition of certain parties, who are absent from the state, who are nonresidents, who are not known or named in the proceedings, or who, from any cause, are not in a situation to receive the same, are in his **or her** hands unpaid and unclaimed; or, if, upon final settlement of the receiver of any company or corporation which has been doing business in this state, there is money in his **or her** hands unpaid and unclaimed, in each and every such instance such real and personal estate shall [escheat and vest in] **transfer to** the state, subject to and in accordance with the provisions of sections 470.010 to [470.260] **470.220 and sections 447.500 to 447.595, RSMo.**

470.020. 1. Within one year after the final settlement of any executor or administrator, assignee, sheriff or receiver, all moneys in his **or her** hands unpaid or unclaimed, as provided in section 470.010, shall, upon the order of the court in which the settlement is made, be paid to the state [director of revenue who shall issue his receipt therefor] **treasurer.**

2. [All moneys so received shall be deposited in the state treasury and credited to a fund, to be known and designated as "Escheats"] **Beginning January 1, 2003, all real and personal estate that transfers or has transferred to the state pursuant to section 470.010 shall be deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be treated in the same manner as all other unclaimed property under such act.**

3. **All moneys in the escheats fund on or after December 31, 2002, shall be transferred to the abandoned fund account created in section 447.543, RSMo, and the escheats fund shall be abolished. Any accounting information maintained by the commissioner of administration for moneys paid into the state treasury and all moneys from the sale of lands vested in the state shall be transferred to the unclaimed property division of the office of state treasurer.**

4. **The state treasurer shall remain custodian of any bonds purchased by the state board of fund commissioners prior to January 1, 2003, and shall deposit all**

interest received from such bonds into the abandoned fund account. The state treasurer, in consultation with the state board of fund commissioners, shall determine the use and disposition of proceeds from all such bonds purchased by the state board.

5. Beginning in fiscal year 2003 and for each subsequent fiscal year, the state treasurer shall transfer from the abandoned fund account to the public schools fund an amount equal to five percent of the annual amount transferred to the general revenue fund from the abandoned fund account net any transfers from the general revenue to the abandoned fund account.

470.030. 1. The court having the settlement of the accounts of such executor or administrator, assignee, sheriff or receiver [upon the production of the receipt of the state director of revenue,] shall give credit for the amount thereof; but if the moneys are not paid to the state [director of revenue] **treasurer**, the prosecuting attorney of the county in which the executor or administrator, assignee, sheriff or receiver resides, shall, upon giving ten days' previous notice of his **or her** intention so to do, move the court to enter judgment against the executor or administrator, assignee, sheriff or receiver, and his **or her** sureties, or either of them, for the moneys in his **or her** possession, together with eight percent per annum thereon from the time the same should have been turned over to the state [director of revenue] **treasurer** until the rendition of the judgment.

2. The court shall determine the case in a summary manner, and if it finds the facts as stated in the motion to be true, and no valid and reasonable excuse for the delay is offered, shall enter judgment accordingly and adjudge the executor or administrator, assignee, sheriff or receiver to pay all costs of the proceedings.

470.060. When the prosecuting attorney shall be informed, or have reason to believe, that any real estate within his **or her** county [has escheated] **should transfer** to the state, and such estate shall not have been sold according to law, within five years after the death of the person last seized, for the payment of the debts of the deceased, [he] **the prosecuting attorney** shall file an information in behalf of the state in the circuit court of the county in which such estate is situate, setting forth a description of the estate, the name of the person last lawfully seized, the names of the terre-tenants and persons claiming the same, if known, and the facts and circumstances in consequence of which such estate is claimed to have [escheated] **transferred** and alleging that, by reason thereof, the state of Missouri hath right to such estate.

470.070. Such court shall award and issue a scire facias against such person, bodies politic or corporate, as shall be alleged in such information to hold, possess or claim such estate, requiring them to appear and show cause why such estate should not be [vested in] **sold and transferred to** the state, at the next term of such court.

470.080. Such scire facias shall be served fifteen days before the return day thereof, and the court shall make an order, setting forth briefly the contents of such information, and

requiring all persons interested in or claiming title to said estate to appear and show cause, at the next term of said court, why the same shall not be [vested in] **sold and the proceeds transferred to** the state; which order shall be published for six weeks in some newspaper printed and published in the county in which such proceedings are had.

470.130. If it appear that the state has no title in such estate, the defendant shall recover his **or her** costs, to be taxed and certified by the clerk, provided that the court find, from the facts, that the title to such estate is in [him. The commissioner of administration shall,] **the defendant**. When such certificate of the clerk is filed in his **or her** office, [certify the claim to the state auditor, who shall issue a warrant therefor on the state treasurer, which shall be paid] **the state treasurer shall pay the certificate** as other demands on the treasury.

470.150. Upon the return of such writ of possession, the prosecuting attorney shall cause the record and process to be exemplified under the seal of the court and deposit the same in the office of the [director of revenue] **state treasurer**; and he **or she** shall cause the transcript of the judgment to be recorded in the office of the recorder of the county in which such estate is situate; and such judgment shall preclude all parties and privies thereto, their heirs and assigns, so long as such judgment shall remain in force.

470.200. Whenever **title to** any real estate [shall have escheated and the title thereto] **has** vested in the state, the circuit court of the county in which such estate is situate shall, upon the application of the prosecuting attorney of said county, order and direct said real estate to be sold; which sale shall be made by the sheriff of said county and shall be advertised and conducted in the same manner as shall by law be provided for the sale of real estate under execution.

470.210. All moneys realized from the sale of any real estate, after paying all costs of such proceedings, and such compensation to the prosecuting attorney as shall be allowed by the court in which such order of sale is made, shall be paid by the sheriff into the state treasury within ninety days after the receipt thereof; and if said sheriff fail to pay said money into the state treasury within ninety days after the receipt thereof, [he] **the sheriff** shall be proceeded against in the same manner as is provided in section 470.030. Moneys so paid into the state treasury shall be **deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be** credited into the [fund to be known and designated as "Escheats"] **abandoned fund account**, and shall be [withdrawn or disposed of] **treated in the same manner** as other moneys paid into the state treasury under sections 470.010 to [470.260] **470.220**.

470.220. The [commissioner of administration] **state treasurer** shall keep just and accurate account of all money paid into the state treasury [and], all land vested in the state [as aforesaid] **pursuant to sections 470.010 to 470.220, and all proceeds received from the sale of such land**

470.270. **1. Notwithstanding any other provision of this chapter**, after the owner, [his] **the owner's** assignee, personal representative, grantee, heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges collected by any person or corporation in the state of Missouri for any service rendered or to be rendered in said state, or for any contract of insurance on property in this state, or under any contract of insurance performed or to be performed in said state, which moneys, refund of rates or premiums or effects have been paid into or deposited in connection with any cause in any court of the state of Missouri or in connection with any cause in any United States court, or so paid into the custody of any depositary, clerk, custodian, or other officer of such court, whether the same be afterwards transferred and deposited in the United States treasury or not, shall be and remain unknown, or the whereabouts of such person or persons shall be and has been unknown, for the period heretofore, or hereafter, of [five] **three** successive years, or such moneys, refund of rates or premiums or effects remain unclaimed for the period heretofore, or hereafter, of [five] **three** successive years, from the time such moneys or property are ordered repaid or distributed by such courts, such moneys or property shall be [escheatable to the state of Missouri, and may be escheated] **deemed abandoned and transferred** to the state of Missouri [in the manner herein provided], with all interest and earnings actually accrued thereon to the date of [the judgment and decree for the escheat] **transfer** of the same. [The provisions of this section notwithstanding, this state may elect to take custody of such unclaimed property by instituting a proceeding pursuant to section 447.575, RSMo.] **All moneys or property transferring to the state pursuant to this section shall be deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be treated in the same manner as all other unclaimed property under such act.**

2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to subsection 3 of section 470.020 and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

542.301. 1. [Unless the statute authorizing seizure provides otherwise,] Property which comes into the custody of an officer or of a court as the result of any seizure and which has not been **forfeited pursuant to any other provisions of law or** returned to the claimant shall be disposed of as follows:

(1) Stolen property, or property acquired in any other manner declared an offense by chapters 569 and 570, RSMo, but not including any of the property referred to in subsection 2 of this section, shall be delivered by order of court upon claim having been made and established, to the person who is entitled to possession;

[2] **(a)** The claim shall be made by written motion filed with the court with which a

motion to suppress has been, or may be, filed. The claim shall be barred if not made within one year from the date of the seizure;

[(3)] (b) Upon the filing of such motion, the judge shall order notice to be given to all persons interested in the property, including other claimants and the person from whose possession the property was seized, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons whose address is unknown by publication in a newspaper of general circulation in the county. No property shall be delivered to any claimant unless all interested persons have been given a reasonable opportunity to appear and to be heard;

[(4)] (c) After a hearing, the judge shall order the property delivered to the person or persons entitled to possession, if any. The judge may direct that delivery of property required as evidence in a criminal proceeding shall be postponed until the need no longer exists;

[(5)] (d) A law enforcement officer having custody of seized property may, at any time that seized property has ceased to be useful as evidence, request that the prosecuting attorney of the county in which property was seized file a motion with the court of such county for the disposition of the seized property. If the prosecuting attorney does not file such motion within sixty days of the request by the law enforcement officer having custody of the seized property, then such officer may request that the attorney general file a written motion with the circuit court of the county or judicial district in which the seizure occurred. Upon filing of the motion, the court shall issue an order directing the disposition of the property. **Such disposition may, if the property is not claimed within one year from the date of the seizure or if no one establishes a right to it, and the seized property has ceased to be useful as evidence, [the judge authorized to order a delivery shall upon the judge's own motion, order] include a public sale of the property. Pursuant to a motion properly filed and granted under this section, the proceeds of [the] any sale, less necessary expenses of preservation and sale, shall be paid into the county treasury for the use of the county. If the property is not salable, the judge may order its destruction. Notwithstanding any other provision of law, if no claim is filed within one year of the seizure and no motion pursuant to this section is filed within six months thereafter, and the seized property has ceased to be useful as evidence, the property shall be deemed abandoned, converted to cash and shall be turned over immediately to the treasurer pursuant to section 447.543, RSMo;**

[(6)] (e) If the property is a living animal or is perishable, the judge may, at any time, order it sold at public sale. The proceeds shall be held in lieu of the property. A written description of the property sold shall be filed with the judge making the order of sale so that the claimant may identify the property. If the proceeds are not claimed within the time limited for the claim of the property, the proceeds shall be paid into the county treasury. If the property

is not salable, the judge may order its destruction.

[2.] (2) Weapons, tools, devices, and substances other than motor vehicles, aircraft or watercraft, used by the owner or with the owner's consent as a means for committing felonies other than the offense of possessing burglary tools in violation of section 569.180, RSMo, and property, the possession of which is an offense under the laws of this state or which has been used by the owner, or used with the owner's acquiescence or consent, as a raw material or as an instrument to manufacture or produce anything the possession of which is an offense under the laws of this state, or which any statute authorizes or directs to be seized, other than lawfully possessed weapons seized by an officer incident to an arrest, shall be forfeited to the state of Missouri.

[3.] 2. The officer who has custody of the property shall inform the prosecuting attorney of the fact of seizure and of the nature of the property. The prosecuting attorney shall thereupon file a written motion with the court with which the motion to suppress has been, or may be, filed praying for an order directing the forfeiture of the property. If the prosecuting attorney of a county in which property is seized fails to file a motion with the court for the disposition of the seized property within sixty days of the request by a law enforcement officer, the officer having custody of the seized property may request the attorney general to file a written motion with the circuit court of the county or judicial district in which the seizure occurred. Upon filing of the motion, the court shall issue an order directing the disposition of the property. The signed motion shall be returned to the requesting agency. A motion may also be filed by any person claiming the right to possession of the property praying that the court declare the property not subject to forfeiture and order it delivered to the moving party.

[4.] 3. Upon the filing of a motion either by the prosecuting attorney or by a claimant, the judge shall order notice to be given to all persons interested in the property, including the person out of whose possession the property was seized and any lienors, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons of unknown address by publication in a newspaper of general circulation in the county. Every interested person shall be given a reasonable opportunity to appear and to be heard as to the nature of the person's claim to the property and upon the issue of whether or not it is subject to forfeiture.

[5.] 4. If the evidence is clear and convincing that the property in issue is in fact of a kind subject to forfeiture under this subsection, the judge shall declare it forfeited and order its destruction or sale. The judge shall direct that the destruction or sale of property needed as evidence in a criminal proceeding shall be postponed until this need no longer exists.

[6.] 5. If the forfeited property can be put to a lawful use, it may be ordered sold after any alterations which are necessary to adapt it to a lawful use have been made. If there is a

holder of a bona fide lien against property which has been used as a means for committing an offense or which has been used as a raw material or as an instrument to manufacture or produce anything which is an offense to possess, who establishes that the use was without the lienholder's acquiescence or consent, the proceeds, less necessary expenses of preservation and sale, shall be paid to the lienholder to the amount of the lienholder's lien. The remaining amount shall be paid into the county treasury.

[7.] 6. If the property is perishable the judge may order it sold at a public sale or destroyed, as may be appropriate, prior to a hearing. The proceeds of a sale, less necessary expenses of preservation and sale, shall be held in lieu of the property.

[8.] 7. When a warrant has been issued to search for and seize allegedly obscene matter for forfeiture to the state, after an adversary hearing, the judge, upon return of the warrant with the matter seized, shall give notice of the fact to the prosecuting attorney of the county in which the matter was seized and the dealer, exhibitor or displayer and shall conduct further adversary proceedings to determine whether the matter is subject to forfeiture. If the evidence is clear and convincing that the matter is obscene as defined by law and it was being held or displayed for sale, exhibition, distribution or circulation to the public, the judge shall declare it to be obscene and forfeited to the state and order its destruction or other disposition; except that, no forfeiture shall be declared without the dealer, distributor or displayer being given a reasonable opportunity to appear in opposition and without the judge having thoroughly examined each item. If the material to be seized is the same as or another copy of matter that has already been determined to be obscene in a criminal proceeding against the dealer, exhibitor, displayer or such person's agent, the determination of obscenity in the criminal proceeding shall constitute clear and convincing evidence that the matter to be forfeited pursuant to this subsection is obscene. Except when the dealer, exhibitor or displayer consents to a longer period, or by such person's actions or pleadings willfully prevents the prompt resolution of the hearing, judgment shall be rendered within ten days of the return of the warrant. If the matter is not found to be obscene or is not found to have been held or displayed for sale, exhibition or distribution to the public, or a judgment is not entered within the time provided for, the matter shall be restored forthwith to the dealer, exhibitor or displayer.

[9.] 8. If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment, the case should be assigned for hearing at the earliest practicable date and expedited in every way. Destruction or disposition of a matter declared forfeited shall be postponed until the judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter is no longer needed as evidence in a criminal proceeding.

[10.] 9. A determination of obscenity, pursuant to this subsection, shall not be admissible in any criminal proceeding against any person or corporation for sale or possession of obscene matter; except that dealer, distributor or displayer from which the obscene matter was seized for

forfeiture to the state.

[11.] **10.** When allegedly obscene matter or pornographic material for minors has been seized under a search warrant issued pursuant to subsection 2 of section 542.281 and the matter is no longer needed as evidence in a criminal proceeding the prosecuting attorney of the county in which the matter was seized may file a written motion with the circuit court of the county or judicial district in which the seizure occurred praying for an order directing the forfeiture of the matter. Upon filing of the motion, the court shall set a date for a hearing. Written notice of date, time, place and nature of the hearing shall be personally served upon the owner, dealer, exhibitor, displayer or such person's agent. Such notice shall be served no less than five days before the hearing.

[12.] **11.** If the evidence is clear and convincing that the matter is obscene as defined by law, and that the obscene material was being held or displayed for sale, exhibition, distribution or circulation to the public or that the matter is pornographic for minors and that the pornographic material was being held or displayed for sale, exhibition, distribution or circulation to minors, the judge shall declare it to be obscene or pornographic for minors and forfeited to the state and order its destruction or other disposition. A determination that the matter is obscene in a criminal proceeding as well as a determination that such obscene material was held or displayed for sale, exhibition, distribution or circulation to the public or a determination that the matter is pornographic for minors in a criminal proceeding as well as a determination that such pornographic material was held or displayed for sale, exhibition, distribution or circulation to minors shall be clear and convincing evidence that such material should be forfeited to the state; except that, no forfeiture shall be declared without the dealer, distributor or displayer being given a reasonable opportunity to appear in opposition and without a judge having thoroughly examined each item. A dealer, distributor or displayer shall have had reasonable opportunity to appear in opposition if the matter the prosecutor seeks to destroy is the same matter that formed the basis of a criminal proceeding against the dealer, distributor or displayer where the dealer, distributor or displayer has been charged and found guilty of holding or displaying for sale, exhibiting, distributing or circulating obscene material to the public or pornographic material for minors to minors. If the matter is not found to be obscene, or if obscene material is not found to have been held or displayed for sale, exhibition, distribution or circulation to the public, or if the matter is not found to be pornographic for minors or if pornographic material is not found to have been held or displayed for sale, exhibition, distribution or circulation to minors, the matter shall be restored forthwith to the dealer, exhibitor or displayer.

[13.] **12.** If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment, the case shall be assigned for hearing at the earliest practicable date and expedited in every way. Destruction or disposition of matter declared forfeited shall be postponed until the

judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter is no longer needed as evidence in a criminal proceeding.

[14.] **13.** A determination of obscenity shall not be admissible in any criminal proceeding against any person or corporation for sale or possession of obscene matter.

[15.] **14.** An appeal by any party shall be allowed from the judgment of the court as in other civil actions.

15. All other property still in the custody of an officer or of a court as the result of any seizure and which has not been forfeited pursuant to this section or any other provision of law after three years following the seizure and which has ceased to be useful as evidence shall be deemed abandoned, converted to cash and shall be turned over immediately to the treasurer pursuant to section 447.543, RSMo.

16. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and section 447.532, RSMo, shall transfer an equivalent amount of general revenue to the schools of the future fund in section 1 of this act.

Section 1. The "Schools of the Future Fund" is hereby created in the state treasury. Moneys deposited in this fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the schools of the future fund shall be credited to the schools of the future fund. Appropriation of the moneys deposited into the schools of the future fund shall be used solely for the purpose of fully funding state aid to public schools pursuant to section 163.031, RSMo.

[470.040. Within twenty-one years after any money has been paid to the state director of revenue by an executor or administrator, assignee, sheriff or receiver, any person who appears and claims the same may file his petition in the court in which the final settlement of the executor or administrator, assignee, sheriff or receiver was had, stating the nature of his claim and praying that the money be paid to him, a copy of which petition shall be served upon the prosecuting attorney, who shall file an answer to the same.]

[470.050. The court shall examine the claim, and the allegations and proofs, and if it finds that the person is entitled to any money so paid to the state it shall order the commissioner of administration to issue his warrant on the state treasurer for the amount of the claim, but without interest or costs; a copy of which order under seal of the court is a sufficient voucher for issuing the warrant.]

[470.190. After five years all persons, except those who are suffering under a legal disability, shall be forever debarred and precluded from setting up title or claim to any estate which has vested in the state under the provisions of sections 470.010 to 470.260.]

[470.230. All moneys paid into the state treasury under the provisions of sections 470.010 to 470.260, after remaining therein unclaimed for twenty-one years, shall escheat and vest absolutely in the state and be, on the order of the board of fund commissioners, transferred to the public school fund.]

[470.240. The state board of fund commissioners shall invest all moneys paid into the state treasury under the provisions of sections 470.010 to 470.260 that have accumulated, or may hereafter accumulate, in the state treasury in registered United States government and state of Missouri bonds, at not less than par value, and shall at all times keep said fund so invested, provided that said board shall keep in the state treasury in cash the amount appropriated by the general assembly each biennium to pay claims duly approved under the provisions of sections 470.040 and 470.050.]

[470.250. The state treasurer shall be the custodian of the bonds purchased under section 470.240, and shall deposit all interest received from the bonds into the escheat fund, which interest shall be subject to investment and may be transferred to the public school fund upon the order of the board of fund commissioners.]

[470.260. The state board of fund commissioners shall keep an account of all bonds purchased by the fund commissioners and turned over to the state treasurer, and the board of fund commissioners shall cause to be certified to the state auditor a statement of all bonds purchased under the provisions of sections 470.240 to 470.260.]

[470.280. Whenever an escheat has occurred, or shall occur, of any such moneys, or effects so paid into or deposited in the custody of, or under the control of, any court of the state of Missouri, or any United States court, or in the custody of any depository, clerk, custodian, or other officer of such court, the circuit court of the county in which such court of the state of Missouri or United States court sits, or the circuit court of Cole County, shall have jurisdiction to ascertain if an escheat has occurred, and to enter a judgment or decree for escheat in favor of the state of Missouri.]

[470.290. Such escheat action or proceeding shall, at the direction of the attorney general of the state of Missouri, be instituted and determined by an action at law or a proceeding in equity in the circuit court aforesaid, and such action at law or proceeding in equity shall be brought by the attorney general of the state of Missouri in the name and at the relation of the state of Missouri. The clerk, custodian, or other officer of the court having custody of such moneys or property shall be named a defendant in such action. After a decree for escheat in favor of the state of Missouri, the said attorney general shall take such action in the court wherein any such moneys or property are held as may be required to cause the same to be delivered to the state treasurer, and the same shall be by the treasurer preserved and kept in a separate fund to be known and designated as "Escheats".]

[470.300. At any time prior to the institution of an action or proceeding by the attorney general on behalf of the state of Missouri as herein provided, said attorney general shall serve or cause to be served on the officer, clerk or custodian of such moneys or fund a notice, in writing, that such fund, designating it, is seized as an escheat fund for the state of Missouri, which notice shall contain a statement that a certain action or proceeding is being instituted and commenced for the escheat of the same and if said fund has been transferred to any other custodian or to the treasury of the United States, then a like notice shall be served on such other custodian and if the fund be transferred to the treasury of the United States, then a like notice shall be personally served on the attorney general of the United States.]

[470.310. Upon the institution and commencement of such action or proceeding by said attorney general at the relation of and for and on behalf of the state of Missouri for the escheat of such funds, proper service of process and summons shall be had on all parties defendant as in other actions and if personal service cannot be had as by law provided in other cases, the defendants shall be served by publication as in other cases.]

[470.320. 1. If persons constituting the owners, their assignees, personal representatives, grantees, heirs, devisees or other successors of such moneys or funds, to be made parties defendant in such action or proceeding for escheat, are so numerous as to render it impossible or impracticable to bring them all before the court, and to serve them all with process as herein provided for, such of them, if living, or if any of them be not living, their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors, as will fairly insure adequate representation of all, may be sued and served with process as a class. Whenever such action or proceeding is instituted against defendants as representatives of a class, the petition or bill in equity shall allege such facts as shall show that the defendants specifically named, if living, and if any of them be not living, then his unknown assignee, personal representative, grantee, heirs, devisees, or other successors, and served with process as herein provided have been fairly chosen and adequately and fairly represent the whole class. The state shall be required to prove such allegations and it shall not be sufficient to prove such facts by the admission or admissions of the defendants who have entered their appearance.

2. If the proof shows that every person to be bound by the judgment or decree is fairly and adequately represented, a judgment or decree of escheat for the entire funds may be entered, notwithstanding the fact that the defendant or defendants make default, but in such case the state shall be required to prove its case and, if the court finds that a reasonable necessity therefor exists, it may appoint an attorney to represent the defendants and allow him a reasonable attorney's fee to be taxed as costs in the case. The costs of such action shall be paid from funds appropriated by an act of the

legislature of the state of Missouri.

3. Service by publication shall be allowed in such escheat class action or proceeding and if the defendant or defendants so served do not appear, judgment of escheat may be rendered affecting said moneys and funds and declaring the same to escheat to the state of Missouri.

4. The attorney general desiring service by publication for such class action or proceeding shall file an application with the circuit judge or clerk of the said circuit court verified by his oath for an order of publication. The application shall show why service cannot be had as in other cases, such as personal service, or by publication as provided in other cases, and shall show that the owners of such moneys or funds and their unknown assignees, personal representatives, grantees, heirs, devisees or other successors are so very numerous as to render it impossible or impracticable to bring them all before the court or to serve them with process as provided for in other cases under the civil code of Missouri, and shall show that the defendants specifically named in the petition or bill in equity have been fairly chosen and adequately and fairly represent the whole class and said attorney general, as affiant, shall allege in said application that he has exercised reasonable diligence to ascertain the whereabouts of the owners of such moneys or funds, including their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors, and that after so doing he has been unable to locate their whereabouts.

5. The judge or clerk, after the filing of said application, shall issue an order of publication of notice to the named defendants, if they be living, and if any of them be not living, then to their unknown assignees, personal representatives, grantees, heirs, devisees or other successors, and to all claimants of said moneys or funds whomsoever, notifying them of the commencement of the action, stating briefly the facts and circumstances in consequence of which such moneys, refund of rates, or premiums or effects is claimed to have escheated and alleging that by reason thereof the state of Missouri has the right to such moneys, refund of rates, or premiums or effects, and describing the moneys or property sought to be escheated to the state of Missouri, giving a brief description of the origin of said moneys or funds to be thereby affected and why the same has not been distributed. And, notifying all such persons that the action is a class action and setting forth the approximate number of owners of such fund, stating that it is impossible or impracticable to name and designate all of such owners because of the fact that they are too numerous to name.

6. The notice shall also contain the name of the court and the name of the parties who are named in said suit, including the unknown assignees, personal representatives, grantees, heirs, devisees or other successors of the named defendants and of all the other

claimants whomsoever of such moneys or funds, and shall state the name and address of the attorney general representing the state, as a party plaintiff, and giving the time, which shall be at least forty-five days after the date of the first publication, within which the defendants are required to appear and defend, and shall notify such defendants, their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors and all claimants whomsoever that in case of their failure to do so, judgment by default decreeing that all of such moneys or funds be escheated to the state of Missouri will be rendered against them.

7. Such notice shall be published at least once each week for four successive weeks in some newspaper published in the county where suit is instituted, if there be a newspaper published there, which the attorney general may designate, if not, then in some newspaper published in the state as designated by the judge of said circuit court as most likely to give notice to the persons to be notified.

8. In such action or proceeding for the escheat of such moneys or funds, except for class actions as herein provided, personal service shall be had on those defendants whose whereabouts are known and can be served within the state of Missouri, and for the defendants who are known and who come within the provisions for service by publication as provided by the civil code of Missouri, service on such defendants and their unknown assignees, personal representatives, grantees, heirs, devisees or other successors shall be had as in other civil actions, and in class actions or proceedings where the defendants are sued as a class, service on them shall be had by publication as herein provided.]

[470.330. 1. Within two years after any moneys, refund of rates or premiums, or effects are received by the Missouri state treasurer by reason of a judgment or decree for escheat in favor of the state of Missouri, any person who appears and claims the same or a part of the same may file his petition in the court in which the judgment or decree for escheat was rendered, stating the nature of his claim, showing he is entitled to the same and praying that such moneys or effects be paid to him, a copy of which petition shall be personally served upon the attorney general of the state of Missouri, who shall file answer to the same or make any other defense or take any such action as he deems necessary.

2. The court shall hear evidence and examine the said claim, and the allegations and proof and if it finds that such person is entitled to any of the moneys, or effects, so paid into the state treasury, it shall order a state warrant to be issued as provided by law for the amount of said claim, but without interest or costs after the same was paid into the said state treasury; a duly certified copy of which order, under seal of the court, shall be a sufficient voucher for issuing such warrant.]

[470.340. 1. Whenever an escheat of funds mentioned in sections 470.270 to 470.350 shall occur, or be supposed to occur, the attorney general of the state may, if he so elects, file in the court in which such funds are deposited or under whose jurisdiction same are being held, a motion, petition or other proper pleading praying for an order or judgment of said court directing the payment of said funds to the state treasurer. Notice of the filing of such pleading shall be given to such parties and in such manner as the law and the orders of such court shall require. If said order is made as prayed for, the state treasurer shall receive said funds and shall keep same in a separate fund to be known and designated "Escheats".

2. Any person may appear and claim said funds or a part of same within the time and in the same manner as provided by section 470.330, and like proceedings shall be had upon such application as in said section provided.

3. The proceeding authorized by this section may be instituted and prosecuted in lieu of the proceedings heretofore authorized by sections 470.270 to 470.350 or in addition to such other proceedings.]

[470.350. All moneys, refund of rates or premiums or effects paid into the state treasury under the provisions of sections 470.270 to 470.350, after remaining therein unclaimed for a period of two years, shall escheat and vest absolutely in the state of Missouri and shall thereafter be used and appropriated as other escheat property.]

Section B. Because immediate action is necessary to ensure that adequate funding is available to fully fund the school foundation formation of this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

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