

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1127

AN ACT

To repeal sections 8.900, 109.005, 191.905, 210.102, 253.092, 253.120, 261.275, 265.180, 348.409, and 700.041, RSMo, and to enact in lieu thereof eleven new sections relating to funds in the state treasury, with penalty provisions.

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

Section A. Sections 8.900, 109.005, 191.905, 210.102, 253.092, 253.120, 261.275, 265.180, 348.409, and 700.041, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 8.900, 33.082, 109.005, 191.905, 210.102, 253.092, 253.120, 261.275, 265.180, 348.409, and 700.041, to read as follows:

8.900. 1. A permanent memorial for workers who were killed on the job in Missouri or who suffered an on-the-job injury that resulted in a permanent disability shall be established and located on the grounds of the state capitol.

2. There is hereby established in the state treasury the "Workers Memorial Fund". Gifts, grants and devises may be deposited in the workers memorial fund. [Notwithstanding the provisions of section 33.080, moneys in the fund shall not revert to general revenue.] The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to the general revenue fund.

33.082. The state treasurer shall, by no later than December thirty-first of each year, submit a report to the general assembly detailing each fund established in the

state treasury from which a disbursement has not been made during the five year period ending on June thirtieth of such year, and whether or not any remaining moneys in such funds have been transferred to the general revenue fund pursuant to section 33.080.

109.005. 1. There is hereby established in the state treasury a special fund to be known as the "State Document Preservation Fund". The fund shall consist of all moneys received from gifts, bequests, or contributions for the specific purpose of preserving legal, historical and genealogical materials and making them available to the public.

2. The state treasurer shall invest moneys in the state document preservation fund in the same manner as surplus state funds are invested pursuant to section 30.260. All earnings which result from the investment of moneys in the state document preservation fund shall be credited to the fund.

[3. Any unexpended balance in the state document preservation fund at the end of any appropriation period shall not be transferred to the general revenue fund of the state treasury and, accordingly, shall be exempt from the provisions of section 33.080 relating to the transfer of funds to the general revenue fund of the state treasury.]

191.905. 1. No health care provider shall knowingly make or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to:

(1) Knowingly presenting to a health care payer a claim for a health care payment that falsely represents that the health care for which the health care payment is claimed was medically necessary, if in fact it was not;

(2) Knowingly concealing the occurrence of any event affecting an initial or continued right under a medical assistance program to have a health care payment made by a health care payer for providing health care;

(3) Knowingly concealing or failing to disclose any information with the intent to obtain a health care payment to which the health care provider or any other health care provider is not entitled, or to obtain a health care payment in an amount greater than that which the health care provider or any other health care provider is entitled;

(4) Knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health care of lesser value than that described in the claim was provided.

2. No person shall knowingly solicit or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for:

(1) Referring another person to a health care provider for the furnishing or arranging for the furnishing of any health care; or

(2) Purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any health care.

3. No person shall knowingly offer or pay any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such person to refer another person to a health care provider for the furnishing or arranging for the furnishing of any health care.

4. Subsections 2 and 3 of this section shall not apply to a discount or other reduction in price obtained by a health care provider if the reduction in price is properly

disclosed and appropriately reflected in the claim made by the health care provider to the health care payer, or any amount paid by an employer to an employee for employment in the provision of health care.

5. Exceptions to the provisions of subsections 2 and 3 of this section shall be provided for as authorized in 42 U.S.C. Section 1320a-7b(3) (E), as may be from time to time amended, and regulations promulgated pursuant thereto.

6. No person shall knowingly abuse a person receiving health care.

7. A person who violates subsections 1 to 3 of this section is guilty of a class D felony upon his or her first conviction, and shall be guilty of a class B felony upon his or her second and subsequent convictions. Any person who has been convicted of such violations shall be referred to the Office of Inspector General within the United States Department of Health and Human Services. The person so referred shall be subject to the penalties provided for under 42 U.S.C. Chapter 7, Subchapter XI, Section 1320a-7. A prior conviction shall be pleaded and proven as provided by section 558.021. A person who violates subsection 6 of this section shall be guilty of a class D felony, unless the act involves no physical, sexual or emotional harm or injury and the value of the property involved is less than five hundred dollars, in which event a violation of subsection 6 of this section is a class A misdemeanor.

8. Any natural person who willfully prevents, obstructs, misleads, delays, or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of sections 191.900 to 191.910 is guilty of a class E felony.

9. Each separate false statement or false representation of a material fact proscribed by subsection 1

of this section or act proscribed by subsection 2 or 3 of this section shall constitute a separate offense and a separate violation of this section, whether or not made at the same or different times, as part of the same or separate episodes, as part of the same scheme or course of conduct, or as part of the same claim.

10. In a prosecution pursuant to subsection 1 of this section, circumstantial evidence may be presented to demonstrate that a false statement or claim was knowingly made. Such evidence of knowledge may include but shall not be limited to the following:

(1) A claim for a health care payment submitted with the health care provider's actual, facsimile, stamped, typewritten or similar signature on the claim for health care payment;

(2) A claim for a health care payment submitted by means of computer billing tapes or other electronic means;

(3) A course of conduct involving other false claims submitted to this or any other health care payer.

11. Any person convicted of a violation of this section, in addition to any fines, penalties or sentences imposed by law, shall be required to make restitution to the federal and state governments, in an amount at least equal to that unlawfully paid to or by the person, and shall be required to reimburse the reasonable costs attributable to the investigation and prosecution pursuant to sections 191.900 to 191.910. All of such restitution shall be paid and deposited to the credit of the "MO HealthNet Fraud Reimbursement Fund", which is hereby established in the state treasury. Moneys in the MO HealthNet fraud reimbursement fund shall be divided and appropriated to the federal government and affected state agencies in order to refund moneys falsely obtained from the federal and state

governments. All of such cost reimbursements attributable to the investigation and prosecution shall be paid and deposited to the credit of the "MO HealthNet Fraud Prosecution Revolving Fund", which is hereby established in the state treasury. Moneys in the MO HealthNet fraud prosecution revolving fund may be appropriated to the attorney general, or to any prosecuting or circuit attorney who has successfully prosecuted an action for a violation of sections 191.900 to 191.910 and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such prosecuting or circuit attorney in connection with their duties provided by sections 191.900 to 191.910. No moneys shall be paid into the MO HealthNet fraud protection revolving fund pursuant to this subsection unless the attorney general or appropriate prosecuting or circuit attorney shall have commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorneys' fees and investigative costs is appropriate under all the circumstances, and the attorney general and prosecuting or circuit attorney shall prove to the court those expenses which were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary. Any moneys remaining in the MO HealthNet fraud reimbursement fund after division and appropriation to the federal government and affected state agencies shall be used to increase MO HealthNet provider reimbursement until it is at least one hundred percent of the Medicare provider reimbursement rate for comparable services. [The provisions of section 33.080 notwithstanding, moneys in the MO HealthNet fraud prosecution revolving fund shall not lapse at the end of the biennium.]

12. A person who violates subsections 1 to 3 of this section shall be liable for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars for each separate act in violation of such subsections, plus three times the amount of damages which the state and federal government sustained because of the act of that person, except that the court may assess not more than two times the amount of damages which the state and federal government sustained because of the act of the person, if the court finds:

(1) The person committing the violation of this section furnished personnel employed by the attorney general and responsible for investigating violations of sections 191.900 to 191.910 with all information known to such person about the violation within thirty days after the date on which the defendant first obtained the information;

(2) Such person fully cooperated with any government investigation of such violation; and

(3) At the time such person furnished the personnel of the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

13. Upon conviction pursuant to this section, the prosecution authority shall provide written notification of the conviction to all regulatory or disciplinary agencies with authority over the conduct of the defendant health care provider.

14. The attorney general may bring a civil action against any person who shall receive a health care payment as a result of a false statement or false representation of a material fact made or caused to be made by that person.

The person shall be liable for up to double the amount of all payments received by that person based upon the false statement or false representation of a material fact, and the reasonable costs attributable to the prosecution of the civil action. All such restitution shall be paid and deposited to the credit of the MO HealthNet fraud reimbursement fund, and all such cost reimbursements shall be paid and deposited to the credit of the MO HealthNet fraud prosecution revolving fund. No reimbursement of such costs attributable to the prosecution of the civil action shall be made or allowed except with the approval of the court having jurisdiction of the civil action. No civil action provided by this subsection shall be brought if restitution and civil penalties provided by subsections 11 and 12 of this section have been previously ordered against the person for the same cause of action.

15. Any person who discovers a violation by himself or herself or such person's organization and who reports such information voluntarily before such information is public or known to the attorney general shall not be prosecuted for a criminal violation.

210.102. 1. There is hereby established within the department of elementary and secondary education the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, and shall include, but not be limited to, the following members:

- (1) A representative from the governor's office;
- (2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;
- (3) A representative of the judiciary;
- (4) A representative of the family and community trust board (FACT);

- (5) A representative from the head start program; and
- (6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders.

The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

2. The coordinating board for early childhood shall have the power to:

- (1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system;
- (2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;
- (3) Identify legislative recommendations to improve services for children from birth through age five;
- (4) Promote coordination of existing services and programs across public and private entities;
- (5) Promote research-based approaches to services and ongoing program evaluation;
- (6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsection 1 of this section and this subsection, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements from the coordinating board for early childhood fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board;

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section.

3. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 1 and 2 of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 1 and 2 of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source.

[Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.]

253.092. 1. There is hereby created in the state treasury the "Arrow Rock State Historic Site Endowment Fund". The fund shall be administered by the Missouri

department of natural resources. All moneys, funds, or other assets acquired for purposes of this section shall be deposited with the state treasurer to the credit of the fund. All income, interest, rights, or rent earned through the operation of the fund shall also be credited to the fund. All other property, real and personal, acquired through any grant, gift, donation, devise, or bequest specified for the Arrow Rock state historic site endowment fund for purposes stated in this section shall also be deposited in the fund. The original bequest of Bill and Cora Lee Miller made in the amount of twenty-one thousand nine hundred sixty-five dollars and ninety-two cents to the state park earnings fund is hereby transferred into the Arrow Rock state historic site endowment fund.

2. The Arrow Rock state historic site endowment fund shall be used for the enhancement of Arrow Rock state historic site's public interpretive programs, and may be used by the Missouri department of natural resources for the preparation of museum exhibits, acquisition of artifacts, publication of information, payment of fees for exhibits or lectures, or other similar interpretive needs at Arrow Rock state historic site and for no other purpose.

3. The state treasurer shall be the custodian of all moneys, bonds, securities, or interests and rights therein deposited in the state treasury to the credit of the Arrow Rock state historic site endowment fund and shall invest the moneys in the fund in a manner as provided by law.

4. Until January 1, 2100, the Missouri department of natural resources may annually expend an amount equal to one-half of the interest earned by the Arrow Rock state historic site endowment fund in the immediately preceding fiscal year for the purposes stated in this section. Beginning January 1, 2100, and thereafter the Missouri department of natural

resources may annually expend an amount equal to the interest earned by the Arrow Rock state historic site endowment fund in the immediately preceding fiscal year, for the purposes stated in this section.

5. Funds from the Arrow Rock state historic site endowment fund shall be expended only upon appropriation by the general assembly. [Notwithstanding the provisions of section 33.080 to the contrary, funds appropriated, but not expended by the end of the fiscal year, shall revert to the Arrow Rock state historic site endowment fund.]

253.120. 1. The endowment fund authorized by section 2, Laws of Missouri 1925, page 136, shall be maintained by the department of natural resources as a permanent endowment for the maintenance of the Confederate Memorial Park. The department of natural resources may accept gifts, donations, or bequests for the maintenance of the memorial park and for the endowment fund until the fund reaches the sum of seventy-five thousand dollars. The department of natural resources may sell, convey or otherwise convert into money any property received and shall invest all moneys of the endowment fund and use the income therefrom for the maintenance of the park, but the principal shall remain intact as a permanent endowment fund.

2. Notwithstanding any provision of law to the contrary, any moneys remaining in the endowment fund as of June 30, 2027, shall be transferred to the general revenue fund pursuant to section 33.080.

261.275. 1. There is hereby created in the state treasury the "Missouri Dairy Industry Revitalization Fund", which shall consist of moneys appropriated to the fund. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements of the fund. Upon

appropriation by the general assembly, moneys in the fund shall be used solely to enhance and improve Missouri's dairy and dairy processing industries in the manner provided for in sections 261.270 to 261.295. [Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.] The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Moneys appropriated from the general revenue fund to the Missouri dairy industry revitalization fund shall not exceed forty percent of the estimated sales tax revenue generated in the state from the sale of dairy products during the preceding fiscal year, calculated under subsection 3 of this section, and shall be expended in the following order of priority:

(1) First, to the dairy producer margin insurance premium assistance program created under section 261.280;

(2) Second, to the Missouri dairy scholars program created under section 261.285; and

(3) Third, to the commercial agriculture program created under section 261.290.

3. Each fiscal year the University of Missouri shall conduct research, or contract with an independent research company to conduct research, to determine the estimated sales tax revenue generated in the state from the sale of dairy products. The cost for such calculation shall be paid out of the Missouri dairy industry revitalization fund. The estimated sales tax revenue generated in the state from the sale of dairy products shall be provided to the department of agriculture by October first of each year.

265.180. 1. All moneys received by the director under the provisions of section 265.150 shall be paid to the state treasurer to be credited to the "Apple Merchandising Fund" which is hereby created.

2. All moneys credited to the apple merchandising fund shall be appropriated by the general assembly only for the purposes as herein set forth, to be used exclusively for the administration and enforcement of sections 265.130 to 265.210, including the collection of fees, the payment for personal services and expenses of employees and agents of the director, and the payment of rent, services, materials and supplies necessary to effectuate the purposes and object of sections 265.130 to 265.210.

[3. The unexpended balance in the apple merchandising fund at the end of the biennium shall not be transferred to the ordinary revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080 relating to the transfer of funds to the ordinary revenue funds of the state by the state treasurer.]

348.409. 1. There is hereby established in the state treasury the "Agricultural Product Utilization and Business Development Loan Guarantee Fund". The fund shall consist of money appropriated to it by the general assembly, charges, gifts, grants, bequests from federal, private or other sources, and investment income on the fund.

[Notwithstanding the provisions of section 33.080, no portion of the fund shall be transferred to the general revenue fund.]

2. All moneys received by the authority for payments made on previously defaulted guaranteed loans shall be paid promptly into the state treasury and deposited in the fund.

3. The fund shall be administered by the authority.

4. Beginning with fiscal year 1997-98, the general assembly may appropriate moneys not to exceed two and one-half million dollars for the establishment and initial funding of the fund.

5. Moneys in the fund, both unobligated and obligated as a reserve, which in the judgment of the authority are not currently needed for payments of defaults of guaranteed loans, may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund.

700.041. 1. There is hereby established a fund in the state treasury to be known as the "Manufactured Housing Consumer Recovery Fund" for the purpose of paying consumer claims under procedures the commission may promulgate by rule. The public service commission shall administer the manufactured housing consumer recovery fund and all moneys in the fund shall be used solely as prescribed in this section. Any interest earned from the investment of moneys in the fund shall be credited to the fund.

2. Claims approved by the commission under law may be paid from the fund subject to appropriation. No claims shall be considered by the commission until all other legal remedies have been exhausted. The commission shall establish an advisory committee to assist with the evaluation of all claims filed by consumers. The committee members shall be volunteers and serve without compensation.

[3. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the manufactured housing consumer recovery fund shall not be transferred to the credit of the general revenue fund at the end of the biennium; however, the total amount in the manufactured housing consumer recovery fund shall not exceed thirty-two percent of the amount of the annual appropriation of the manufactured

housing fund from the preceding fiscal year. Moneys in the manufactured housing consumer recovery fund may be transferred back to the manufactured housing fund by appropriation.]