

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 30 days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than 30 days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the 90-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than 30 days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 30—Division of School Services Chapter 261—Pupil Transportation

PROPOSED AMENDMENT

5 CSR 30-261.010 Requirements for the Operation of School Buses. The department proposes to amend sections (1), (2), and (5) and to delete the two pupil transportation route approval forms that follow this rule in the *Code of State Regulations*.

PURPOSE: This proposed amendment will allow the department to grant an exception to the signs and lettering allowed on, or attached to, a school bus. The categories of medical examiners

who can perform a physical examination for school bus drivers will be expanded. Information no longer applicable will be removed from the rule, and the timing of school bus inspections will be changed to reflect changes in state statutes.

(1) General Requirements for Approval of School Bus Transportation.

(B) School bus routes over which school buses travel shall be approved by public school district board of education action no later than the end of October for *[their]* its initial approval and no later than the end of June for the final approval of modifications made during the school year.

(I) Only those signs and lettering allowed by law or rule shall be written on or attached to a school bus, except for safety-related signs or lettering which, if used, shall be placed on the rear of the bus, in no way obstructing the driver's view. **An exception to the requirement of this subsection concerning rules may be granted by the Department of Elementary and Secondary Education.**

(2) School Bus Driver Qualifications.

(A) All school bus drivers shall be duly licensed in accordance with Missouri statutes and public school district board policy.

1. Be in good physical and mental health;

2. Undergo a physical examination annually no more than ninety (90) days before the beginning of the school year by a *[physician licensed in medicine or osteopathy]* **medical examiner who is licensed, certified, and/or registered, in accordance with applicable Missouri laws and regulations, to perform physical examinations** to determine whether they meet the requirements of section 302.272, RSMo, and present a signed physical examination certificate that they, in the *[physician's]* **medical examiner's** judgment, meet or exceed those requirements to the employer. **The term medical examiner includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.** A school bus driver whose ability to safely operate a school bus has been impaired by a physical or mental injury or disease, as determined by the public school district board of education, must submit a release by the attending physician prior to resuming school bus operation; and

3. Undergo testing for drug and alcohol use/abuse, in compliance with laws.

(5) Public School District Route Approval General Definitions and Procedures.

(B) Public School District Route Approval Procedures—Public school districts must adopt a policy implementing school bus route approval procedures for the annual approval of the routes needed for safe and cost efficient pupil transportation service which meets and may exceed the state board's minimum requirements as described in this subsection. *[The policy shall be adopted and used during the 1998-99 and subsequent school years. A copy of the policy shall be filed with the state board as may be required.]*

1. Criteria for determining routes—

A. Location of pupil's residence;

B. Grade and age of the pupils to be transported;

C. Type and condition of roads;

D. Standard of service desired; and

E. Funds available for transportation service.

2. Safety considerations for establishing school bus routes—

A. The general safety of all routes in relation to hazards such as hills, intersections, railroad crossings, bridges, sharp curves, and obstructions to visibility;

B. The general safety of loading and unloading stops in relation to the visibility of approaching motorists;

C. Walking distance to the bus stop in relation to the age of the pupil; and

D. Walking route safety to loading stop, from unloading stop, and loading zones.

3. Administrative policy shall be adopted by the public school district board of education [for the 1998-99 and subsequent school years] which describes the criteria, safety considerations and routing standards school officials must use when establishing or modifying school bus routes. Examples of administrative policy components include but are not limited to:

A. Duplication of route miles and "deadheading" shall be avoided if at all possible;

B. School bus stops should be established no less than five hundred feet (500') apart;

C. Multiple routes by a single school bus should be used when possible;

D. Routes should be planned to avoid dead-end streets or cul-de-sacs whenever possible;

E. Assign pupils to school buses so that passenger loads do not exceed manufacturer vehicle passenger capacity and to avoid overloading;

F. All school buses should be loaded as near their capacity as possible;

G. Buses should be used primarily to transport pupils to and from school. Buses may be used to transport pupils on school-sponsored activity trips, but such trips should not interfere with the transportation of pupils to and from school;

H. Each school district shall keep on file an up-to-date map showing the location and length of each school bus route;

I. Bus routing and seating plans shall be coordinated so that there are no standees and every passenger is provided a seat. The seating space provided each passenger must be sufficient to ensure that the back of each passenger may come into full contact with the seat back;

J. All vehicles used to transport pupils shall comply with the requirements of the law and with standards and safety rules as adopted by the State Board of Education; and

K. School bus inspections [in the month of August shall be conducted as provided by law before the approval of the routes] shall not be made more than sixty (60) days prior to operating the vehicles during the school year.

4. [A] School districts which transport nonresident pupils not legally assigned or through an interdistrict contract shall not claim any additional miles as eligible miles and the pupils shall be reported as ineligible pupils.

A. High school pupils from elementary school districts—High school pupils residing in an elementary school district are to be claimed only by the elementary district. The elementary district shall claim mileage from where the bus enters the elementary district, including miles traveled within the elementary district and the most direct route to the school of attendance.

AUTHORITY: sections 163.161, RSMo Supp. 1999, and 304.060, RSMo 1994. This rule was previously filed as 5 CSR 40-261.010. Original rule filed June 15, 1951, effective July 1, 1951. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 27, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

Department of Elementary and Secondary Education, Gary Dixon, Director, School Governance, P.O. Box 480, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 30—Division of School Services
Chapter 345—Missouri School Improvement Program**

PROPOSED RULE

5 CSR 30-345.011 Measurement of Effectiveness of Remediation of Students Scoring at the Lowest Level on the Missouri Assessment Program

PURPOSE: This rule establishes the method for measuring the effectiveness of the remediation of students who score in the lowest level (Step 1) on the Missouri Assessment Program (MAP).

(1) The effectiveness of programs offered by school districts for the remediation of students scoring in the lowest level (Step 1) on the MAP will be measured by Standard 9.1 Indicator 4 of the Missouri School Improvement Program (MSIP) pursuant to the rules promulgated by the State Board of Education.

(2) The scores of students who enroll in a school district after the September enrollment count date (the last Wednesday in September) in the year of the MAP Step 1 Retest will be disaggregated out for the purpose of this measurement.

AUTHORITY: sections 161.092, RSMo 1994 and 167.640, RSMo Supp. 1999. Original rule filed Sept. 27, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, attention Marilou Joyner, Assistant Commissioner, Division of School Services, P.O. Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 50—Division of Instruction
Chapter 378—Instructional Grant Programs**

PROPOSED RULE

5 CSR 50-378.100 Read to be Ready Grant Program

PURPOSE: This rule establishes procedures for the Read to be Ready Grant Program and for assisting districts with reading instruction and assessment.

(1) The Department of Elementary and Secondary Education (DESE) shall provide a four (4)-year competitive matching grant program (Read to be Ready Grant Program) at the district and building level to defray the costs of reading assessment and/or for

teacher and administrator training in the use of reading assessment and/or in early grade reading intervention strategies. Within the reading program supported by grant funds, classroom teachers shall have the option of selecting the most appropriate intervention method given an individual student's needs. Grant funds may also be used to expand existing reading instruction improvement programs and for explicit phonics instruction.

(A) DESE will consider grant applications that focus on reading for vision- and hearing-impaired students.

(B) Grants will be distributed in equal amounts within geographic areas established by DESE, proportionately based on student population. DESE may reallocate funds if an area has insufficient applications or insufficient eligible applications to obligate all funds for the area.

(C) Grants may be renewable (subject to appropriation) for an additional four (4)-year period, based in part on results of the first four (4)-year grant.

(D) Additional priority shall be given to programs that include a parental-involvement component.

(2) The application for the Read to be Ready Grant Program may be obtained by contacting the Special State Instructional Programs Section, DESE, P.O. Box 480, Jefferson City, MO 65102. In its grant application, the school district shall describe its current program of reading assessment instruction, at the building level if applicable. The applicant should show a need for improved assessment and instructional methods and explain which assessment and reading instruction improvement program(s) it will implement under the grant and how it proposes to judge student progress.

(3) In order to receive Read to be Ready Grant funds for years three (3) and four (4), grantees must demonstrate that students receiving grant-funded instruction are showing improvement after the second year. Grantees must report the grade three (3) communication arts Missouri Assessment Program (MAP) assessment results for a two (2)-year period prior to the grant application and for the first two (2) years of the grant for students participating in the grant-funded instructional program; performance on this assessment may be a factor in the granting or denial of continuation funds, but primary emphasis shall be given to the plan of reading and the measurements selected by the grantee.

(4) Upon conclusion of the grant and upon demonstration of significant levels of improvement, pursuant to the rules promulgated by the State Board of Education (the board), DESE may reimburse the district for its match from funds appropriated for such purpose.

(A) Reimbursed funds shall be returned to the district's operating funds.

(B) Districts are only eligible for the reimbursed match one time.

(5) DESE has developed and the board has approved a list of research-based reading assessments, *Reading Assessment Instruments*, for assessing kindergarten through grade three (3) students. This list is to serve as a guideline for districts choosing reading improvement assessments and instructional methods pursuant to the Read to be Ready Grant Program; however, districts are not required to use the listed reading assessment(s).

AUTHORITY: sections 160.514, 167.340, 167.343 and 167.346, RSMo Supp. 1999 and 161.092, RSMo 1994. Original rule filed Sept. 27, 2000.

PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Elementary and Secondary Education \$6,700,000 and Missouri school districts \$669,928 to \$2,009,784 in the Fiscal Year 2001, with that cost reoccurring annually there-

after over the life of the rule. A fiscal note containing the estimated cost of compliance has been filed with the secretary of state.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Dr. Sharon Ford Schattgen, Coordinator, Curriculum and Assessment, P.O. Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
 PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 5 - Department of Elementary and Secondary Education
 Division: 50 - Division of Instruction
 Chapter: 378 - Instructional Grant Programs
 Type of Rulemaking: Proposed Rule
 Rule Number and Name: 5 CSR 50-378.100—Read to be Ready Grant Program

II. SUMMARY OF FISCAL IMPACT

Estimate the number of potential grants to be awarded to School Districts or Elementary School Buildings.	Estimate in the aggregate as to the cost for DESE to comply.	Estimate in the aggregate as to the cost for School Districts or Elementary School Buildings to comply.
196 per year awarded by DESE	\$6,700,000 per year for the life of the rule or \$26,800,000 for the next 4 years of the life of the rule	\$669,928 to \$2,009,784 per year for the life of the rule or \$3,418 to \$10,254 per individual applicant for the life of the rule

III. WORKSHEET

DESE estimates that 196 elementary school buildings will apply and be awarded grants each year, with the average yearly award equal to \$34,184. Districts must match grant funds at 10, 20, or 30 percent; the percent match is determined by ranking each district by the equalized assessed valuation per pupil as adjusted by the income factor from the lowest wealth per child and dividing such ranking into three groups. Using the value of the average grant, the range of matches is \$3,418 (10 percent of \$34,184) to \$10,254 (30 percent of \$34,184). Multiplying each of these values by 196 (the number of grants awarded) results in an aggregate cost range of \$669,928 to \$2,009,784.

Each year's appropriation will be \$6,700,000 x 4 for a total cost of \$26,800,000 for the next 4 years of the life of the rule. (As previously noted, DESE estimates that 196 grants will be awarded to elementary school buildings each year, with the average yearly award equal to \$34,184.)

IV. ASSUMPTIONS

The Read to be Ready Program is a four (4)-year competitive matching grant program. Buildings can apply for up to \$40,000 each year, subject to appropriation by the legislature.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

[Division 60—Vocational and Adult Education]

Division 50—Division of Instruction

[Chapter 120—Vocational Education]

Chapter 350—[Special] State [Instructional] Programs

PROPOSED AMENDMENT

5 CSR [60-120.060] 50-350.040 A+ Schools Program. The State Board of Education (the board) is proposing to amend the rule number and title, due to the reorganization in the department. The board also proposes to amend sections (1), (2), (4), (5), (6), (7), (9), (10), (11) and (12).

PURPOSE: The transfer of the A+ Schools Program to the Division of Instruction requires certain portions of the rule to be amended and clarification to be made to parts of the rule.

(1) The Department of Elementary and Secondary Education, Division of *[Vocational and Adult Education]* **Instruction (the division)** is authorized to establish procedures for the implementation of the A+ Schools Program including:

(C) Initial and continued designation *[of]* **as an A+ school[s];** and

(D) Initial and continued student eligibility to receive reimbursement for the cost of tuition, books and fees to attend any Missouri *[public community college or vocational technical school]* **eligible postsecondary schools.**

(2) To participate in the A+ Schools Program, the chief administrator of a public secondary school district must—

(B) Provide assurance that the district will—

1. Establish measurable district-wide performance standards for the *[established]* program;

2. Specify the knowledge, skills and competencies in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify students for graduation from the school;

3. Establish student performance standards that lead to or qualify students for graduation, and that these standards will be revised to meet or exceed the performance standards adopted by the *[State Board of Education, with the advice and counsel of the Commission on Performance, as established by the Outstanding Schools Act]* **board;**

4. Not offer a general track of courses that, upon completion, can lead to a high school diploma;

5. Require rigorous coursework with standards of competency in basic academic subjects for students pursuing *[vocational and technical education]* **postsecondary education or employment;** and

6. Develop a partnership plan in cooperation and with the advice of local business persons, labor leaders, parents and representatives of colleges and postsecondary vocational or technical schools, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders and teachers to update the plan in order to best meet the goals of the program. The plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community to serve in the school;

(G) Be classified by the *[State Board of Education]* **board** as an accredited or provisionally accredited school district under the department's Missouri School Improvement Program; *[and]*

(H) **If seeking a grant, [P]prepare and submit a three (3)-year grant proposal in response to the division's request for proposals[.]; and**

(I) Schools not receiving a grant, may request a designation review (as funds are available) when they feel they have met the requirements of the program.

(4) **As funds are available, [A] a request for proposals will be made available to eligible school districts by the [D]division [of Vocational and Adult Education] by January [1] of each fiscal year.** Applicants must develop a grant proposal and forward it to the division no later than March 31 of each fiscal year in order to receive consideration **for a grant.** Grant awards will be effective July 1 of each year.

(5) Grant proposals must contain at least the following:

(C) Statement(s) of assurance that the school district will—

1. Demonstrate a commitment to the established goals of the A+ Schools Program and to implement its proposed plan to receive designation as an A+ School;

2. Designate a qualified salaried employee to serve as the A+ Schools Program coordinator;

3. Establish student performance standards that lead to or qualify students for graduation, and that these standards will be revised to meet or exceed the performance standards adopted by the *[State Board of Education, with the advice and counsel of the Commission on Performance, as established by the Outstanding Schools Act]* **board;**

4. Expend local funds in an amount equal to or greater than fifty percent (50%) of the grant award expenditure for the A+ Schools Program coordinator and the coordinator's related activities;

5. Expend local funds in an amount equal to or greater than twenty-five percent (25%) of any remaining grant award expenditures to implement the proposed A+ Schools Program;

6. Provide fiscal control, property management control and fund accounting procedures;

7. Deliver, implement and annually update a partnership plan;

8. Establish a data and accountability system necessary to determine and report at least student demographics and enrollment, student completion and performance of coursework, student follow-up after leaving high school, program outcomes and student success relating to the implementation of the partnership plan, and student eligibility to receive student financial incentives available through the A+ Schools Program;

9. Comply with all reporting requirements of the department relating to this grant award program;

10. Develop and implement a plan in compliance with **all applicable** state law and *[the department's rules]* **regulations;** and to report students who drop out of school; and

11. Make their facilities and services available for adult literacy training;

(I) Historical data for the past four (4) years, disaggregated by year, including:

1. Annualized high school drop out rate;

2. *[Persistence to g]* Graduation rate;

3. Number of students enrolled by grade level, kindergarten through grade twelve (K-12);

4. Number of high school graduates continuing their education at four (4)-year colleges and universities, community colleges, or vocational or technical schools. This data shall be recorded separately by category of institution;

5. Number of high school graduates entering the labor force;

6. Vocational education enrollment disaggregated by vocational education program/course and by location (home school district and area vocational school); and

7. Vocational education follow-up/placement rates for home school district and vocational education programs in the area vocational school; and

(J) Name and description of each course offered at [junior or middle school(s)] high school(s) and area vocational school(s).

(6) **As funds are available**, [T/the [D]division [of Vocational and Adult Education] will review all grant proposals submitted by public high school districts based upon the extent to which the grant proposal—

(7) After year one (1) of this grant award program, the [D]division [of Vocational and Adult Education] will give continued funding priority to those high school districts that have previously had grant proposals approved and are seeking additional annual funding to implement their three (3)-year plan.

(9) To maintain eligibility to continued funding under this grant award program, participating public high school districts must—

(A) Accomplish at least the following requirements during the first grant award year:

1. Establish measurable district-wide performance standards for each of the three (3) established program goals and specific measures to determine attainment of each standard;

2. Demonstrate that developmental activities have taken place within the district or high school to specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete all of the individual courses offered by the school, and in any course of studies which will qualify students for graduation from high school;

3. Demonstrate that developmental activities have taken place within the district or high school to measure and record mastery of each item of knowledge, skill or competency identified;

4. Demonstrate that procedures have been implemented within the district or school to eliminate the offering of a general track of courses that do not provide sufficient preparation for students upon graduation to successfully enter and progress in employment or postsecondary studies;

5. Establish a schedule of rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education;

6. Organize a local advisory committee of [at least two (2)] individuals representing each of the following groups to cooperatively develop the school's partnership plan **and document formal meetings of the committee:**

A. Business person(s);

B. Labor leaders;

C. Parents; [and]

D. Community college and postsecondary [vocational or technical] schools; [and]

E. Senior citizens;

F. Teachers; and

G. Students; and

7. Develop the school's partnership plan as specified in this rule; **and**

(B) Accomplish at least the following requirements during the second grant award year:

1. Demonstrate that specific knowledge, skills and competencies have been identified, in measurable terms, that students must demonstrate to successfully complete all individual courses offered by the school, and any course of studies which qualify students for graduation from the school and are a part of the school's curriculum;

2. Demonstrate that specific measurement and student mastery record keeping procedures have been developed for each item

of knowledge, skill or competency identified for each individual course that the school offers;

3. Demonstrate that continued action has taken place within the district or school to eliminate the offering of a general track of courses;

4. Demonstrate that a review for the purposes of updating the school's partnership plan has taken place with information received from the individuals who originally assisted in developing the plan; as well as senior citizens, community leaders and teachers;

5. Show evidence that a reduction in the number of high school students dropping out of school has occurred;

6. Show evidence that procedures to ensure students who plan to participate in the A+ Schools Program financial incentives understand that—

A. Student financial incentives will be available for a period of four (4) years after high school graduation;

B. To be eligible, each student must enter into a written agreement with the school prior to high school graduation and—

(I) Have attended a designated A+ School for three (3) consecutive years prior to high school graduation;

(II) Graduated from high school with [a] **an overall** grade point average of two and five-tenths (2.5) points or higher on a four (4)-point scale, or graduated from a high school with documented mastery of institutionally identified skills that would equate to a two and five-tenths (2.5) grade point average or higher;

(III) Have at least a ninety-five percent (95%) attendance record **overall** for [the three (3)-year period] **grades 9-12;**

(IV) Performed fifty (50) hours of unpaid tutoring or mentoring for younger students; and

(V) Maintained a record of good citizenship and avoidance of the unlawful use of drugs **and/or alcohol;**

C. To maintain eligibility, each participating student must during the four (4)-year period of incentive availability—

(I) Have enrolled and attend on a full-time basis a Missouri [public community college or vocational or technical school] **eligible postsecondary school;** and

(II) Maintain a grade point average of two and five-tenths (2.5) points or higher on a four (4)-point scale;

D. The tuition incentives will be made available only after the student has made a documented good faith effort to first secure all available federal postsecondary student financial assistance funds that do not require repayment; and

E. The tuition incentives will only be made available to reimburse the unpaid balance of the cost of tuition, books and fees after the federal postsecondary student financial assistance funds have been applied to these costs./;

7. Show evidence that procedures are in place to document student attainment of the qualifications of the A+ Schools Program student financial incentives while in high school as specified in this rule, and the ability to provide this information to the institutions that graduates choose to attend as well as to the department; [and]

8. Provide the results of the evaluation of the schools first year implementation of the A+ Schools Program and a plan for improvement for any negative findings; and

9. Show evidence that the local advisory committee established during the first grant year has continued to meet on a formal basis; and

(C) Accomplish at least the following requirements during the third grant award year:

1. Demonstrate that the district or school has eliminated offering a general track of courses;

2. Demonstrate that an annual review process to update the school's partnership plan is in place;

3. Show evidence that a reduction in the number of high school students dropping out of school is continuing;

4. Show evidence that procedures are in place to document student eligibility in the A+ Schools Program student financial incentives; *[and]*

5. Provide the results of the evaluation of the school's second year implementation of the A+ Schools Program and a plan for improvement for any negative findings.; **and**

6. Show evidence that the local advisory committee established during the first grant year has continued to meet on a formal basis.

(10) Public high schools *[shall]* **may** be designated by the *[department]* **board** as A+ Schools when they demonstrate that they have—

(11) In order to maintain designated A+ School status, a public high school must—

(A) Sustain or improve its *[persistence to]* graduation rate;

(F) Submit an A+ School annual report as prescribed by the *[department]* **division**.

(12) Missouri *[public community colleges and vocational or technical schools]* **eligible postsecondary schools** shall verify, for each student intending to participate in the A+ Schools Program student financial incentives at their institution that—

AUTHORITY: section 160.545, RSMo [Supp. 1993] 1994. This rule was previously filed as 5 CSR 60-120.060. Original rule filed Nov. 10, 1993, effective June 6, 1994. Amended: Filed Sept. 27, 2000.

PUBLIC COST: This proposed amendment will cost the Department of Elementary and Secondary Education an estimate of \$18,172,000 for Fiscal Year 2001 with the cost reoccurring annually for the life of the rule based upon yearly appropriations from the General Assembly. All funds affected are appropriated by the General Assembly and are program specific distributions to local school districts and all eligible postsecondary schools to conduct programs authorized under the Outstanding Schools Act of 1993. School districts will expend during the grant period local funds (50% of the A+ coordinators salary and related expenses and 25% for program implementation costs).

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Elementary and Secondary Education, Attention: Willard Worts, Director, A+ Schools Program, Division of Instruction, P.O. Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE
 PUBLIC ENTITY COST

I. RULE NUMBER

Title: 5 Department of Elementary and Secondary Education
 Division: 50 Division of Instruction
 Chapter: 350 State Programs
 Type of Rulemaking: Proposed Amendment
 Rule Number and Name: 5 CSR 50-350.040 A+ Schools Program

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Elementary and Secondary Education (Reimburse Education Agencies)	\$18,172,000 amount for FY2001 with this cost reoccurring annually for the life of the rule based upon yearly appropriations from the General Assembly.

III. WORKSHEET

The maximum amount of reimbursement to each grantee is \$150,000

Postsecondary institutions are reimbursed for the actual cost of tuition, required textbooks and general fees for each eligible A+ student who attends the institution on a full-time basis.

Expenses	Amount
Grants for Schools	\$ 6,365,750
Tuition for Continuing Students	\$ 3,375,000
Tuition for New Students	\$ 8,381,250
Administrative Costs	\$ 50,000
Project Total	\$18,172,000

IV. ASSUMPTIONS

Reimbursements to grantees are based on the actual cost of staffing, training and professional development activities, equipment, materials and supplies, etc. Local school districts must pay 50% of the A+ coordinators salary and related expenses. In addition, the school district must match 25% of the program implementation costs.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution
Control Rules Specific to the Kansas City Metropolitan
Area**

PROPOSED AMENDMENT

10 CSR 10-2.330 Control of Gasoline Reid Vapor Pressure. The commission proposes to amend subsections (3)(B), (5)(B), (6)(A) and (6)(B). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule that is in the Missouri State Implementation Plan.

PURPOSE: This amendment will further reduce evaporative emissions from the use of gasoline in the Kansas City ozone maintenance area. This amendment is also intended to satisfy a portion of the contingency requirements of the ozone maintenance plan. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the Kansas City Ozone Maintenance Plan adopted February 3, 1998, Section 175A of the Clean Air Act, the April 11, 2000, letter from the U.S. Environmental Protection Agency (EPA) to the Missouri Governor, and the August 22, 2000, letter from the Missouri Governor to the EPA. Both the Kansas City Ozone Maintenance Plan and Section 175A of the Clean Air Act include contingency provisions, which were triggered by violations of the one-hour ozone standard in 1995 and 1997. As requested in the EPA letter, the Governor's letter makes a commitment to implement several emission control strategies, including the control requirements encompassed by this regulation, and to revise the Maintenance Plan accordingly.

(3) General Provisions and Effective Dates of Compliance.
(B) The RVP of gasoline subject to this rule shall be restricted starting in **[1997] 2001** as follows:

RVP (psi)	Facility	Time Period
<i>[7.2]</i> 7.0 psi or less	All facilities	June 1 through September 15

(5) Gasoline Testing Procedures for RVP and Determination of Compliance.

(B) To determine compliance when field analysis indicates the RVP is between *[seven and two-tenths (7.2) psi and seven and five-tenths (7.5)] seven and zero-tenths (7.0) psi and seven and three-tenths (7.3) psi* for conventional gasoline or between *[eight and two-tenths (8.2) psi and eight and five-tenths (8.5)] eight and zero-tenths (8.0) psi and eight and three-tenths (8.3) psi* for nine to ten percent (9%–10%) ethyl alcohol blends, Missouri Department of Natural Resources (MDNR) will conduct additional testing. Additional testing shall include independent analysis by three (3) separate laboratories of three (3) independent samples taken sequentially, in accordance with sections (4) and (5) of this rule. If all of the measured RVP of the samples are above *[seven and two-tenths (7.2)] seven and zero-tenths (7.0) psi* for conventional gasoline or above *[eight and two-tenths (8.2)] eight and zero-tenths (8.0) psi* for nine to ten percent (9%–10%) ethyl alcohol blends, the department may take enforcement action.

(6) Record Keeping.
(A) All persons subject to this rule shall maintain records of any RVP testing and test results during the compliance period specified in section (3). These records shall be kept for at least two (2) years after the date of a completed RVP test. These records shall be made available immediately upon request for review or duplication

by Department of Natural Resources personnel and city and county personnel certified under section 643.140, RSMo.

(B) Each bill of lading, invoice, loading ticket, delivery ticket, and other document that accompanies a shipment of gasoline (which includes gasoline blended with ethyl alcohol) shall contain a legible and conspicuous statement that the RVP of the gasoline does not exceed *[seven and two-tenths (7.2)] seven and zero-tenths (7.0) psi*, in accordance with this rule for conventional gasoline, or that the RVP does not exceed *[eight and two-tenths (8.2)] eight and zero-tenths (8.0) psi* for nine to ten percent (9%–10%) ethyl alcohol blends.

AUTHORITY: section 643.050, RSMo Supp. [1996] 1999. Original rule filed Jan. 3, 1991, effective Aug. 30, 1991. Rescinded: Filed March 15, 1995, effective Nov. 30, 1995. Readopted: Filed March 17, 1997, effective Oct. 30, 1997. Amended: Filed Sept. 26, 2000.

PUBLIC COST: This proposed amendment will cost \$41,072 in FY 2001 and \$83,108 in FY 2002. For the years after FY 2002, the annualized aggregate cost is \$92,897 for the life of the rule. Note attached fiscal note for assumptions that apply.

PRIVATE COST: This proposed amendment will have a total aggregate cost of \$22,845,156 for the life of the rule. Note attached fiscal note for assumptions that apply.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., December 7, 2000. The public hearing will be held at the Holiday Inn, 1200 Gannon Drive, Festus, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven days prior to the hearing to Roger D. Randolph, Director, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., December 14, 2000. Written comments shall be sent to Chief, Planning Section, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176.

**FISCAL NOTE
 PUBLIC ENTITY COST**

I. RULE NUMBER

Title: 10 – Department of Natural Resources

Division: 10 – Air Conservation Commission

Chapter: 2 – Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10-2.330 – Control of Gasoline Reid Vapor Pressure

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri state agencies and political subdivisions (including municipalities, counties, and special districts) with vehicles operating in the affected area	\$913,806

III. WORKSHEET

	FY 2001 Cost	FY 2002 Cost	Annualized Aggregate (FY 2003-2011)
Missouri state agencies and political subdivisions with vehicles operating in the affected area	\$41,072	\$83,108	\$92,897

IV. ASSUMPTIONS

1. All costs associated with this proposed amendment are included in a one cent per gallon increase in fuel cost based on an increase in production costs. There are no additional distribution and storage costs associated with this proposed amendment. All compliance and operating costs are included in the price increase.
2. Gasoline sales are tracked by the Missouri Department of Revenue. The expenditures are based on the total gallons of gasoline sold during the control period of June 1 through September 15, plus an additional one and one-half month phase-in period. Although the compliance period combined with the one and one-half month phase-in period is only five months long, the daily vehicle miles traveled and gasoline demand are typically highest in the summer months. Thus, it is assumed that one-half of the gasoline sold annually in the Kansas City ozone maintenance area will incur the costs associated with this amendment (during the life of the amendment).

3. The amount of gasoline sold in the ozone maintenance area is based on vehicle miles traveled data. The daily vehicle miles traveled in the Missouri portion of the Kansas City ozone maintenance area is approximately 12.9% of the total daily vehicle miles traveled in the state of Missouri.
4. Gasoline sales are projected to increase annually by 1.023%. Projections are based on an average of the growth rates over an 11-year period ending with calendar year 1999.
5. The aggregate cost is estimated assuming the life of the proposed amendment is 10 years.
6. Rule effective date is approximately May 30, 2001. It is assumed a full season of costs will be incurred in calendar year 2001 because suppliers will need to begin phasing down the Reid Vapor Pressure (RVP) prior to the rule effective date in order to be in compliance by June 1, 2001.
7. Missouri state agency and political subdivision costs have been estimated by assuming the motor fleets for these agencies consume four percent as much gasoline as the private entity sector.
8. There are no additional enforcement program costs, including manpower, laboratory equipment and laboratory testing costs, associated with the proposed amendment because the same staff and equipment will be used to enforce the 7.0 RVP requirements as currently used to enforce the 7.2 RVP requirement.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 10 – Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: 2 – Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10-2.330 – Control of Gasoline Reid Vapor Pressure

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
7	Terminals	*
15	Bulk Storage Plants	*
418	Retail Stations	*
665,000	Registered motor vehicles (1 cent per gallon increase in retail gasoline cost)	\$22,845,156

* Costs associated with this amendment are assumed to be passed on to the consumer as an increase in retail gasoline cost.

III. WORKSHEET

Calendar Year	2001	2002	2003	2004	2005
Cost of 7.0 RVP gasoline	\$2,053,615	\$2,101,786	\$2,151,087	\$2,201,544	\$2,253,185

2006	2007	2008	2009	2010	Annualized Aggregate
\$2,306,037	\$2,360,129	\$2,415,489	\$2,472,149	\$2,530,137	\$2,284,516

IV. ASSUMPTIONS

1. All costs associated with this proposed amendment are included in a one cent per gallon increase in fuel cost based on an increase in production costs. There are no additional distribution and storage costs associated with this proposed amendment. All compliance and operating costs are included in the price increase.
2. Gasoline sales are tracked by the Missouri Department of Revenue. The expenditures are based on the total gallons of gasoline sold during the control period of June 1 through September 15, plus an additional one and one-half month phase-in period. Although the compliance period combined with the one and one-half month phase-in period is only five months long, the daily vehicle miles traveled and gasoline demand are

typically highest in the summer months. Thus, it is assumed that one-half of the gasoline sold annually in the Kansas City ozone maintenance area will incur the costs associated with this amendment (during the life of the amendment).

3. The amount of gasoline sold in the ozone maintenance area is based on vehicle miles traveled data. The daily vehicle miles traveled in the Missouri portion of the Kansas City ozone maintenance area is approximately 12.9% of the total daily vehicle miles traveled in the state of Missouri.
4. Gasoline sales are projected to increase annually by 1.023%. Projections are based on an average of the growth rates over an 11-year period ending with calendar year 1999.
5. The aggregate cost is estimated assuming the life of the proposed amendment is 10 years.
6. Rule effective date is approximately May 30, 2001. It is assumed a full season of costs will be incurred in calendar year 2001 because suppliers will need to begin phasing down the Reid Vapor Pressure prior to the rule effective date in order to be in compliance by June 1, 2001.
7. The annualized aggregate cost of the proposed amendment is the average annual cost over 10 years.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 3—Certification of Bailiffs, Peace Officers,
and Reserve Officers**

PROPOSED AMENDMENT

11 CSR 75-3.030 Requirements for and Terms of Certification.
The department is amending subsections (1)(A), (1)(C) and (1)(E).

PURPOSE: This rule amends the age for taking the Missouri State Certification Examination and the terms of completion of a basic training academy.

(1) Requirements for Certification.

(A) The director or his/her designated representatives shall certify and grant a basic certificate to bailiffs, peace officers and reserve officers who have **successfully** completed the applicable basic training course **within the immediately preceding five (5) years** and [have] complied with all applicable Peace Officer Standards and Training (POST) rules or a special certificate to bailiffs, peace officers, and reserve officers who have acquired prior experience, completed other training or education, or a combination of these, in accordance with the Act or which the POST Commission determines to be acceptable as a substitute for the basic training requirement. The basic certificate shall specify the number of hours of basic training completed. The special certificate shall specify the experience acquired or other training or education completed in lieu of basic training.

(C) On or after January 1, 1998, the director may require that all individuals graduating from a POST certified training course of four hundred and seventy (470) hours or more, and all individuals participating in the reciprocity process as is outlined in paragraphs (1)(E)6. through (1)(E)9. of this section, shall be required to pass the Missouri Peace Officer Certification Examination to become certified to be commissioned as peace officers. Individuals must pass the certification examination with a minimum score of seventy percent (70%) as a condition of certification. Individuals who fail to pass the examination may apply for reexamination by POST or its designated representative within thirty (30) days after notification of failure. If an individual fails the examination a second time, such person must contact POST no less than thirty (30) days after notification of failure and schedule a time to take the examination a third time. If an individual fails the examination for a third time, or fails to reschedule within the thirty (30)-day time frame to retake the examination, such person must wait one year from the date of the last examination. An individual may take the examination no more than three (3) times in any one (1)-year period, unless the individual completes a basic training course of four hundred and seventy (470) hours or more within this one (1)-year period. The Department of Public Safety may charge individuals taking the examination a fee each time that they take the Missouri Peace Officers Certification Examination. **In order to take the Missouri Certification Examination, a person must be twenty-one (21) years of age and otherwise eligible for certification.**

(E) On or after August 28, 1996, individuals graduating from a POST certified training center and meeting the certification requirements of sections 590.100–590.180, RSMo, shall be issued certification to be eligible for employment as a Missouri peace officer.

1. Starting August 28, 1996, the training center director shall insure that each individual entering a basic training course meets the POST mandated training center entry requirements. The training center director shall complete a POST Certification/Information Form (I-1T), on each student attending basic training, and attach the following:

A. The results of a criminal background check by the Missouri State Highway Patrol and from the state of residency;
B. Proof of United States citizenship;
C. A copy of high school diploma or its equivalent; and
D. Proof that the applicant is at least eighteen (18) years of age at the beginning of the basic training course.

2. Applicant must be twenty-one (21) years of age at the time certification is issued. If the period of time from training center graduation and his/her twenty-first birthday is greater than ninety (90) days then a criminal background check by the Missouri State Highway Patrol will need to be submitted to Department of Public Safety before certification will be granted.

3. If the individual has a criminal history or the training center director has information that the applicant has committed gross misconduct indicating inability to function as a peace officer, POST approval must be obtained before the applicant may attend the basic training course. Any denial of entry to a POST certified training center shall be in accordance with section 590.135, RSMo.

4. [Within] **No later than** thirty-five (35) days prior to the completion of the basic training course the completed Certification/Information Form and supporting documentation will be sent to POST by the training center director. Late applicants shall not be issued certification until the completed Certification/Information Form and supporting documentation is received and processed by POST. The training center director shall advise the late applicant before admission, in writing, that if the applicant has committed acts in violation of section 590.135, RSMo, s/he shall be dismissed from the academy and/or shall not be certified by POST.

5. The graduate will receive the POST Certification Certificate upon successful completion of the basic training course. The certificate will be distributed by the training center director. The training center director shall return to POST all POST Certification Certificates of those individuals not graduating.

6. Individuals other than recruits in training centers shall apply directly to the POST Program for certification using the POST Certification Information Form 1-R (see 11 CSR 75-1.010), that is, officers seeking reciprocity from other states, federal law enforcement officers seeking Missouri certification, Missouri certified peace officers seeking a higher level of certification, or officers whose certification has expired applying for peace officer certification.

7. These officers must successfully pass the Missouri Peace Officer Certification Examination in accordance with the requirements outlined in subsection (1)(C) of this rule to become certified peace officers. Eligibility for examination shall be based on comparable pre-employment education as determined by points given for hours of basic training, years of service as a full-time certified peace officer or federal law enforcement officer, advanced degrees, or hours of documented law enforcement continuing education. Ten to fifteen (10–15) points allows a candidate to take the examination and upon passing same becomes certified. Sixteen (16) points or more allows a candidate to take the examination and upon passing, the candidate would become certified for employment in first class charter counties.

8. Candidates who [do not have one (1) year of continuous service as a full-time certified peace officer or federal law enforcement officer, or who] have less than one hundred twenty (120) hours of basic training are not eligible for examination. Candidates who [do not have one (1) year of continuous service as a full-time certified peace officer, but] have had significant experience as a certified reserve officer, may appeal to the commission for eligibility of examination; however, no points shall be awarded for years of experience. Candidates trained and certified at less than three hundred (300) hours, after August 28, 1994, or four hundred and seventy (470) hours, after

August 28, 1996, shall not be eligible for examination. For the purposes of this rule, the terms defined have the following meanings given to them:

A. "Basic training" means training recognized by a state council, state commission, state board, or state agency that leads to licensing or basic certification as a peace officer, or any portion of a basic recruit training course recognized by the federal government for its law enforcement officers, which falls within the core curricula areas of the Missouri four hundred seventy (470)-hour or six hundred (600)-hour basic training course;

B. "Years of experience" means the total number of years the applicant has been employed as a peace officer or federal law-enforcement officer, including at least one (1) year of continuous employment as a peace officer or federal law enforcement officer, and who has not had a peace officer certification, license, or the federal equivalent suspended or revoked;

C. "Advanced degree" means an academic degree including: associates degree, bachelors degree, masters degree and doctorate, awarded by an accredited college or university; and

D. "Continuing education" means properly documented training which occurs after employment, used to refresh, expand or supplant basic training.

9. Eligibility for examination is determined by the number of points as follows:

A. Basic training—

- 120 hours to 299 hours of basic training, 3 points
- 300 hours to 469 hours of basic training, 5 points
- 470 hours to 599 hours of basic training, 8 points
- 600 hours or more of basic training, 14 points

B. Years of experience—

- 1 year and 1 day to 3 years experience, 2 points
- 3 years and 1 day to 4 years experience, 3 points
- 4 years and 1 day to 5 years experience, 4 points
- 5 years and 1 day to 10 years experience, 5 points
- 10 years and 1 day to 15 years experience, 6 points
- 15 years and 1 day to 20 years experience, 7 points
- 20 years and 1 day or more experience, 8 points

C. Advanced degree—

- Associates degree, 1 point
- Bachelors degree, 2 points
- Masters degree, 3 points
- Doctorate degree, 4 points

D. Continuing education—

- Achieved 16 continuing education hours for each calendar year of service, 1 point
- Achieved 32 continuing education hours for each calendar year of service, 2 points.

E. Additional training—

- Graduate of the Federal Bureau of Investigation (FBI) National Academy or its equivalent as determined by the director for every 100 contact/training hours, 1 point.

AUTHORITY: sections 590.120 and 590.135, RSMo Supp. 1999. Original rule filed Aug. 12, 1980, effective Nov. 13, 1980. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 21, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Chris Egbert, POST Program, Missouri Department of Public Safety, P.O. Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of

this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.028 Construction Contractors. This rule interpreted the sales tax law as it applied to construction contractors and interpreted and applied section 144.010, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule nos. 18 and 25 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-10 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.030 Construction Aggregate. This rule interpreted the sales tax law as it applied to construction aggregate and interpreted and applied sections 144.010 and 144.020, RSMo.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 18 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-11 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.032 Fabrication or Processing of Tangible Personal Property. This rule interpreted the sales tax law as it applied to the fabrication or processing of tangible personal property and interpreted and applied sections 144.010 and 144.020, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 010-12 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.102 Sheet Metal, Iron and Cabinet Works. This rule interpreted the sales tax law as it applied to sheet metal, iron and cabinet works.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 52 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-44 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.212 Rooms, Meals and Drinks. This rule interpreted the sales tax law as it applied to the sale of rooms, meals and drinks, and interpreted and applied sections 144.010, 144.020 and 144.021, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 50 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 020-2 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.214 Complimentary Rooms, Meals and Drinks. This rule interpreted the sales tax law as it applied to complimentary rooms, meals and drinks, and interpreted and applied sections 144.010 and 144.021, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 020-3 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.216 Permanent Resident Defined. This rule interpreted the sales tax law as it applied to permanent resident and interpreted and applied sections 144.010 and 144.020, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 020-4 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.218 Students. This rule interpreted the sales tax law as it applied to student accommodations, and interpreted and applied sections 144.010 and 144.030, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule nos. 5 and 50 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 020-5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.220 Sales of Accommodations to Exempt Organizations. This rule interpreted the sales tax law as it applied to sales of accommodations to exempt organizations, and interpreted and applied sections 144.030.2(19), (20) and (22) and 144.080, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 020-6 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax

PROPOSED RESCISSION

12 CSR 10-3.472 General Bond Examples. This rule provided general examples illustrating the sales tax bonding requirements.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 087-1 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Feb. 9, 1983, effective May 12, 1983. Amended: Filed Oct. 15, 1984, effective Feb. 11, 1985. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.474 Computing a Bond. This rule provided examples of how to compute a sales tax bond.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 087-2 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Oct. 15, 1984, effective Feb. 11, 1985. Amended: Filed June 12, 1987, effective Oct. 25, 1987. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.476 Replacing or Applying for Return of Bond. This rule interpreted the sales tax law as it applied to replacing or applying for the return of a bond.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 087-3 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Feb. 9, 1983, effective May 12, 1983. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Emergency amendment filed Aug. 18, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Emergency amendment filed Dec. 9, 1994, effective Dec. 26, 1994, expired April 24, 1995. Amended: Filed Aug. 18, 1994, effective Feb. 26, 1995. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.478 Bond Descriptions. This rule described the three bond types which are acceptable to meet the bond requirement of the sales tax law.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 087-4 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.479 Replacement of Bonds Issued by Suspended Surety Companies. This rule allowed the Department of Revenue to reject surety bonds issued by an insurance company suspended by the Missouri Department of Insurance. It also allowed the Department of Revenue to require that a new bond be posted if the taxpayer had a surety bond issued by a suspended surety company.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Nov. 3, 1986, effective Feb. 12, 1987. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.842 Surety Companies—Remittance Requirements. This rule clarified the Department of Revenue's position regarding surety bond payments and suspended insurance companies.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed June 12, 1987, effective Oct. 25, 1987. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.844 Letters of Credit. This rule set forth guidelines for the submission, acceptance and proceedings upon an irrevocable letter of credit that has been submitted in lieu of a Missouri Sales/Use Tax Bond.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Sept. 28, 1987, effective Jan. 14, 1988. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.878 Certificate of Deposit. This rule set forth guidelines for the submission, acceptance and proceedings upon a

Certificate of Deposit that has been submitted in lieu of a Missouri Sales/Use Tax Cash Bond.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: sections 144.087 and 144.270, RSMo 1994. Emergency rule filed Sept. 18, 1990, effective Sept. 28, 1990, expired Jan. 25, 1991. Original rule filed Sept. 18, 1990, effective Feb. 14, 1991. Amended: Filed Feb. 4, 1991, effective June 10, 1991. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.898 Non-Reusable and Reusable Items. This rule interpreted the sales tax law as it applied to non-reusable items which are furnished to guests in accommodation establishments.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Nov. 26, 1997, effective May 30, 1998. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 4—State Use Tax**

PROPOSED RESCISSION

12 CSR 10-4.070 Use Tax License Necessary. This rule indicated when a use tax license is required and interpreted and applied section 144.650, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 610-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 4—State Use Tax**

PROPOSED RESCISSION

12 CSR 10-4.075 Sales to Contractors. This rule aided in the determination of who is a contractor and the Missouri use tax requirements of the contractor, his/her suppliers and vendors, and interpreted and applied section 144.605(4), RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.705, RSMo 1994. U.T. regulation 610-2 filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 4—State Use Tax**

PROPOSED RESCISSION

12 CSR 10-4.632 Certificate of Deposit—Use Tax. This rule set forth guidelines for the submission, acceptance and proceedings upon a Certificate of Deposit that has been submitted in lieu of a Missouri Use Tax Cash Bond.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: sections 144.625 and 144.705, RSMo 1994. Original rule filed Dec. 4, 1990, effective April 29, 1991.

Amended: Filed Feb. 4, 1991, effective June 10, 1991. Rescinded: Filed Sept. 27, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 103—Sales/Use Tax—Imposition of Tax**

PROPOSED RULE

12 CSR 10-103.220 Resale

PURPOSE: This rule interprets the resale exemption in section 144.615(6), RSMo, and the resale exclusion in section 144.010.1(9), RSMo.

(1) In general, purchases of tangible personal property or taxable services are not subject to sales or use tax if purchased for ultimate sale at retail.

(2) Definition of Terms.

(A) Purchase for resale—a purchase for ultimate sale at retail.

(B) Sale—any transfer of title or ownership to tangible personal property or rendering of taxable service for consideration.

(C) Sale at retail—a sale of tangible personal property or services for use or consumption by the purchaser that is taxable under section 144.020, RSMo.

(3) Basic Application of Tax.

(A) A taxpayer may purchase tangible personal property or taxable services for resale if the purchase is for subsequent sale at retail. Purchases of tangible personal property or taxable services that are not subsequently transferred in transactions that constitute sales at retail are taxable at the time of purchase.

(B) When tangible personal property is given away, tax must be paid at the time of purchase, unless there is a bargained for exchange between the seller and buyer and a direct quantitative connection between the giveaway and actual sales at retail.

(C) The purchase of tangible personal property resold as real property or incidental to the rendering of a nontaxable service is taxable.

(D) If a purchaser makes more than a nominal use of the tangible personal property before the resale takes place, the purchase is subject to tax.

(4) Examples.

(A) A grocery store purchases bread and other food items from a wholesaler. Because the food items will be resold, the grocery store may purchase them without paying tax.

(B) A grocery store purchases grocery bags. The grocery bags are provided only to customers who purchase merchandise. The grocery bags can be purchased exempt from tax because they are transferred to the customer as part of the sale of the merchandise.

(C) An appliance store purchases a refrigerator for its own use. Tax is due on the purchase of the refrigerator even if the refrigerator is ultimately sold at retail after its use.

(D) A taxpayer selling building materials purchases boxes and other packaging materials. These purchases are used to ship its products to its customers. The boxes and other packaging materials can be purchased exempt from tax as a purchase for resale.

(E) A taxpayer sells custom software. The taxpayer's purchases of compact discs and related packaging materials are subject to tax because custom software is the sale of a nontaxable service. Consequently, the compact discs and packing materials do not qualify as purchases for resale.

(F) A taxpayer purchases boxes to store merchandise within the taxpayer's warehouse. The boxes are not shipped to a customer. The purchase of the boxes is subject to tax.

(G) A business advertises a buy one, get one free sale. The business does not have to pay tax at the time of purchase of the "free" item because it is subsequently resold as part of the sales transaction.

(H) A business gives away free baseballs to the first thousand customers. The business should pay tax on the purchase of the baseballs.

AUTHORITY: sections 144.270 and 144.705, RSMo 1994. Original rule filed Sept. 27, 2000.

PUBLIC COST: This proposed rule will not cost the state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 1—Organization and Operation of Board of Directors

PROPOSED AMENDMENT

16 CSR 50-1.010 General Organization. The board is amending sections (1)–(5).

PURPOSE: This amendment clarifies the contacts, including their addresses, of individuals whom the public may contact to obtain information. This amendment also incorporates changes made by the General Assembly to sections 50.1000 to 50.1300, RSMo.

(1) Description of the Board. The board of directors consists of *[nine (9) persons]* **eleven (11) directors, two (2) of whom shall be appointed by the governor, with the advice and consent of the Senate, but who shall have no beneficiary interest in the system. The remaining nine (9) directors shall be elected by the membership of the County Employees' Retirement Fund (CERF). [The board shall consist of] These remaining nine (9) directors shall include** an elected official or an employee of an elected official representing the elective county offices/. *None], but none* of these offices may have more than one (1) elected official or representative serving at a given time.

(2) Meetings of the Board. The board of directors of the County Employees' Retirement Fund, hereafter "board," shall hold regular **quarterly** meetings at a location to be designated by the board *[in February, May, August and November of each calendar year]* and special meetings at times as may be necessary on call of the chairman or by three (3) members acting jointly and notifying the chair, in writing, of their desire to meet, upon due and reasonable notice. In the event three (3) members act to request a meeting, their written notification to the chair may be served by either United States mail or facsimile transmission. The chairman shall publicize through appropriate channels the time and place of the meetings of the board. All meetings of the board of directors shall comply with Chapter 610, RSMo. Information concerning meetings or rules may be obtained by contacting *[Brydon, Swearingen & England P.C., 312 East Capitol Avenue, Jefferson City, MO 65101]* **the County Employees' Retirement Fund Administrative Office, P.O. Box 2271, Jefferson City, MO 65102.** Information concerning operations of the system may be obtained by writing or calling the CERF plan administrator. The contact person for the plan administrator is *[Terry Seboldt, Employee Benefits Officer. Mr. Seboldt] Sarah J. Maxwell, Executive Director. Ms. Maxwell* may be reached by mail at *[P.O. Box 577, Columbia, MO 65205]* **P.O. Box 2271, Jefferson City, MO 65102,** or by telephone at *[1 (800) 357-8557] (573) 632-9203.*

(3) Election of Officers. The board of directors, at the **first** regular meeting *[in February]* of each year, or at a special meeting, shall elect a chairman *[and]*, vice-chairman, **and secretary** to serve for a period of one (1) year commencing upon their election to office. The chairman shall preside at all meetings of the board; except that in the absence of the chairman, the vice-chairman shall preside. In the event of a vacancy in one (1) of the officers' positions, that vacancy will be filled at the next regular meeting by election.

(4) Quorum. A quorum required for a meeting of the board of directors shall consist of *[five (5)]* **six (6)** members. Each director shall be entitled to one (1) vote on any matter requiring a decision by the board and majority of concurring votes among the directors present shall be necessary for a decision.

(5) The custodian of records for the County Employees' Retirement Fund is its plan administrator. Anyone wishing to obtain information or make submissions or requests may do so by contacting *[Boone County National Bank]* **the County Employees' Retirement Fund,** Plan Administrator, *[P.O. Box 577, Columbia, MO 65205]* **P.O. Box 2271, Jefferson City, MO 65102,** or by calling *[1 (800) 357-8557] (573) 632-9203.*

AUTHORITY: section 50.1032, RSMo Supp. *[1997]* **1999.** Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed March 22, 1996, effective Oct. 30, 1996. Amended: Filed Sept. 9, 1997, effective Feb. 28, 1998. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed Sept. 29, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 1—Organization and Operation of Board of Directors

PROPOSED AMENDMENT

16 CSR 50-1.020 Appeal Process. The board is amending sections (2) and (4).

PURPOSE: This amendment clarifies administrative procedures for handling appeals.

(2) Requests.

(A) The request for review must be stated in writing, addressed to the [legal counsel of the board] plan administrator. The request must state what decision the board is being asked to review, and what action the board is being asked to take.

(4) The plan administrator, in conjunction with legal counsel, will prepare background material for the board, which will include documentation necessary for the board to review the decision. The background material will be provided to the appellant at the same time that it is provided to the board. Any requirements of law prohibiting reproduction or distribution of material will be observed.

AUTHORITY: section 50.1032, RSMo Supp. [1997] 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 9, 1997, effective Feb. 28, 1998. Amended: Filed Sept. 29, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 1—Organization and Operation of Board of Directors

PROPOSED AMENDMENT

16 CSR 50-1.030 Open Records Policy. The board is adding section (4).

PURPOSE: This amendment clarifies the procedure for determining costs for certain open records requests.

(4) Individuals requesting member records for purposes of seeking election to the board of directors shall be charged a reasonable cost established by a schedule promulgated by the board of directors to cover the administrative costs of providing such information.

AUTHORITY: section 50.1032, RSMo Supp. [1996] 1999. Original rule filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed Sept. 29, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.010 Definitions. This rule expanded on definitions found in section 50.1000, RSMo.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to define terms in accordance with the new law and to add other defined terms in light of the new law.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED RULE

16 CSR 50-2.010 Definitions

PURPOSE: This rule sets forth the defined terms necessary to describe the provisions of the Missouri County Employees' Retirement Fund.

(1) When used in these regulations or in sections 50.1000 to 50.1300, RSMo, the words and phrases defined hereinafter shall have the following meanings unless a different meaning is clearly required by the context of the plan:

(A) Accrued benefit means the amount that would be payable at normal retirement date, considering the participant's average final compensation, primary Social Security benefit, target replacement ratio, and creditable service at the date of termination. Notwithstanding the foregoing, a participant's accrued benefit under the plan shall not be less than his or her accrued benefit as of December 31, 1999, determined under the prior plan;

(B) Active member or active participant means an employee who does not currently have an election in effect to opt out of the plan, who has not incurred a separation from service, and who otherwise meets the criteria necessary to participate in the plan;

(C) Actuarial equivalence means equality in value of the aggregate amounts expected to be received under different forms of payment. Such equality in value shall be based on assumptions as to the occurrence of future events. The future events to be taken into account are mortality for participants, mortality for a beneficiary, and an interest discount for the time value of money. For this plan, the actuarial assumptions are as follows:

1. Mortality: the 1983 Group Annuity Mortality Table, weighted sixty-six and two-thirds percent (66 2/3%) male and thirty-three and one-third percent (33 1/3%) female;

2. Interest discount assumption: eight percent (8%), compounded annually;

(D) Actuary means an individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. 1242, or firm of actuaries, which has on its staff such an enrolled actuary, which enrolled actuary or firm of actuaries is selected by the board to provide actuarial services for the plan;

(E) Annuity means a form of payment under which monthly installments are made to a retired participant in accordance with the terms of this plan;

(F) Annuity starting date means:

1. The first day of the first period for which an amount is payable as an annuity;

2. In the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the participant to such benefit; or

3. In the case of a deferred annuity, the annuity starting date is the date for which the annuity payments are to commence, not the date that the deferred annuity is elected;

(G) Average final compensation means the monthly average of the two highest years of compensation received by the participant;

(H) Beneficiary means the person, persons, or legal entity entitled to receive benefits under this plan which become payable in the event of the participant's death;

(I) Board means the Board of Directors of the County Employees' Retirement Fund;

(J) Code means the *Internal Revenue Code* of 1986, as amended, and includes any regulations thereunder;

(K) Compensation means, for all periods on or after January 1, 2000, all salary and other compensation paid by an employer to an employee for personal services rendered as an employee as shown on the employee's Form W-2, plus amounts paid by an employer but excluded from W-2 compensation by reason of *Internal Revenue Code* sections 125, 402(g)(3), 414(h)(2), or 457, but not including travel and mileage reimbursement, and not including compensation in excess of the limit imposed by section 401(a)(17) of the Code. Compensation received from sources other than an employer and compensation received pursuant to independent contracting relationships shall not be included in calculating the retirement benefit. In the case of a participant who left the employer to join a uniformed service (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994), and returns to the employ of an employer before his or her reemployment rights under the statute expire, compensation, with respect to the plan years in which the participant was in the uniformed service,

shall mean the compensation the participant would have earned had he remained in the employ of the employer. The board has the discretionary authority to make a reasonable estimate of this amount. For periods before January 1, 2000, compensation shall be determined under the terms of the prior plan;

(L) Employee means any county elective or appointive officer or employee who is hired and fired by an employer and whose work and responsibilities are directed and controlled by the employer and who is compensated directly from county funds and whose position requires the actual performance of duties during not less than one thousand (1,000) hours per year, except county prosecuting attorneys covered pursuant to sections 56.800 to 56.840, RSMo, circuit clerks and deputy circuit clerks covered under the Missouri State Retirement System and county sheriffs covered pursuant to sections 57.949 to 57.997, RSMo; provided that individuals who receive some pay from a county but who are subject to the hiring, supervision, promotion or termination by an independent administrative body (such as the circuit court) or an independent authority are not employees of the employer for purposes of the plan. For purposes of the plan, the term "independent authority" shall mean any body or authority empowered pursuant to statute to i) exercise independent control over certain public functions on an independent basis; ii) establish rules for its own guidance, and iii) appoint and remove employees and fix their companies.

(M) Employer means each county in the state, except any city not within a county and counties of the first classification with a charter form of government;

(N) The entry date of a full-time employee is the hire date unless the employee opted out of the prior plan. The entry date of a part-time employee shall be the first semiannual entry date (January 1 or July 1) after the part-time employee satisfies the one thousand (1,000)-hour requirement during the calendar year;

(O) Former employee means a person who ceases to be an employee but who is entitled to a benefit from this plan;

(P) Full-time employee means an elective or appointive official or employee regularly employed by an employer who is under the direct control and supervision of the employer or an elected or appointed county official and who is subject to continued employment, promotion, salary review or termination by an employer or an elected or appointed county official and who is compensated directly from county funds and whose position requires the actual performance of duties during not less than one thousand (1,000) hours per calendar year, except county prosecuting attorneys covered under sections 56.800-56.840, RSMo, circuit clerks and deputy circuit clerks covered under the Missouri State Retirement System and county sheriffs covered under sections 57.949 to 57.997, RSMo, and employees who receive some compensation from an employer but who are subject to hiring, supervision, promotion or termination by an entity other than the employer such as an extension council or the circuit court;

(Q) Hire date means the date that an employee begins actual employment with an employer;

(R) Hour of service means each hour for which an employee is paid or entitled to payment for the performance of duties for the employer;

(S) LAGERS means the Local Government Employees' Retirement System presently codified at sections 70.600 to 70.755, RSMo;

(T) Normal form of benefit means an annuity paid in equal monthly installments on the first day of each calendar month in which the participant shall have lived the entire preceding calendar month;

(U) Part-time employee means an employee regularly employed by an employer or an elected or appointed county official who is under the direct control and supervision of an employer or an

ected or appointed county official and who is subject to continued employment, promotion, salary review or termination by an employer or an elected or appointed county official and who is compensated directly from county funds and whose position is not anticipated to require the actual performance of duties during one thousand (1,000) hours or more per calendar year;

(V) Participant means an employee covered by this plan and a former employee with a vested accrued benefit remaining in the plan;

(W) Plan, or CERF, means the County Employees' Retirement Fund, as described in sections 50.1000-50.1300, RSMo;

(X) Plan year means the calendar year;

(Y) Primary Social Security amount means the old age insurance benefit pursuant to section 202 of the Social Security Act (42 U.S.C. 402) payable to a participant at age sixty-two (62). Such determination shall be at the time that creditable service ends without assuming any future increases in compensation, any future increases in the taxable wage base, any changes in the formulas used pursuant to the Social Security Act, or any future increases in the Consumer Price Index; provided, however, that if the participant's creditable service ends after age sixty-two (62), the primary Social Security amount shall be determined pursuant to the Social Security Act as in effect at the time the participant reached age sixty-two (62). However, it shall be assumed that the employee will continue to receive compensation at the same rate as that received at the time the determination is being made, until the participant reaches age sixty-two (62). The first year of compensation as an employee shall be regressed at three percent (3%) per year with respect to years prior to the period of creditable service. For this purpose, the "first year of compensation" shall be the first complete calendar year in which the plan has documented information regarding the participant's compensation. If the board does not have records of a participant's compensation for a plan year, the board may make reasonable estimates of compensation, if the participant does not supply the records described in 16 CSR 50-2.050;

(Z) Prime rate means the prime rate at any given time as listed in the Historical Chart of Prime Rates at www.nfsn.com/library/prime/htm, or any other source which the board in its discretion deems to be reliable;

(AA) Prior plan means the County Employees' Retirement System as in effect on December 31, 1999;

(BB) Prior service means a participant's service rendered prior to August 28, 1994;

(CC) Required beginning date means the April first of the calendar year following the later of the calendar year in which the participant reaches age seventy and one-half (70 1/2), or the calendar year in which the participant separates from service;

(DD) Separation from service means the severance of a participant's employment with an employer for any reason, including retirement; provided that a participant shall not be deemed to have incurred a separation from service if the participant resumes employment with an employer within thirty (30) days after terminating employment with an employer;

(EE) Survivor annuitant means the individual other than a beneficiary eligible to receive an annuity following the death of a participant who is receiving an annuity;

(FF) Target replacement ratio means:

1. Eighty percent (80%), if a participant's average final compensation is thirty thousand dollars (\$30,000) or less;

2. Seventy-seven percent (77%), if a participant's average final compensation is forty thousand dollars (\$40,000) or less, but greater than thirty thousand dollars (\$30,000);

3. Seventy-two percent (72%), if a participant's average final compensation is fifty thousand dollars (\$50,000) or less, but greater than forty thousand dollars (\$40,000); and

4. Seventy percent (70%), if a participant's average final compensation is greater than fifty thousand dollars (\$50,000);

(GG) Trust fund means the custodial account established to fund benefits under the plan; and

(HH) Trustee means the entity, or individuals, or committee that is responsible for holding and managing the trust fund that is appointed by the board.

(2) The masculine gender shall be deemed to include the feminine and the singular shall include the plural unless otherwise clearly required by the context.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Rescinded and readopted: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.020 Payroll Contributions. This rule set forth what payroll contributions were required from employees in counties that either are or are not members of the Local Government Employees' Retirement System.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1998. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed June 1, 1999, effective Nov. 30, 1999. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS**Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits****PROPOSED RULE****16 CSR 50-2.020 Employee Contributions**

PURPOSE: This rule clarifies the nature of payroll contributions required from employees both in counties which are members of the Local Government Employees' Retirement System and those counties which are not members of the Local Government Employees' Retirement System.

(1) A participant who is not a member of Local Government Employees' Retirement System (LAGERS) is subject to a two percent (2%) monthly payroll deduction beginning with the first payroll period after the participant's entry date. This payroll deduction shall constitute the participant's required contribution to the plan and after January 1, 2000, shall be designated as an employer "pick-up" contribution, as described in section 414(h)(2) of the *Internal Revenue Code*. A participant may not waive this contribution, or terminate this contribution requirement by opting out of the plan.

(2) Participants who are members of LAGERS are not subject to any payroll deductions in connection with their participation in the plan.

(3) Contributions Required from Part-Time Employees in Non-LAGERS Counties. Participants in non-LAGERS counties have two (2) options with regard to the prior service earned while they are still qualifying for entry into the plan. A participant must make his or her election to either forego or purchase this prior service as outlined in subsections (A) and (B) upon their entry into the plan at the first available entry date. Such participant may either—

(A) Forego those months of prior service and accrue eight (8) years of service from their entry into the plan; or

(B) Purchase the prior service at the rate of two percent (2%) times the total compensation earned during this prior service period. Participants selecting this option may purchase the prior service with a lump-sum contribution or through monthly payroll deductions in addition to the regular monthly payroll deduction. If the participant elects to purchase the prior service with an additional payroll deduction, then the deduction shall not extend longer than the period of prior service being purchased.

(4) A participant shall not be eligible for a benefit under this plan until all contributions and other payments required by law have been received on behalf of a participant.

(5) When a participant receives a refund of contributions from LAGERS, pursuant to section 70.690, RSMo, the county clerk shall forward a copy of the LAGERS report of the refund to the plan administrator of County Employees' Retirement Fund (CERF) to notify CERF of the change in the participant's LAGERS status. The participant's service for the period refunded shall become non-LAGERS service and shall be calculated as such for purposes of the participant's retirement annuity and any purchase of prior service related thereto. The participant is responsible for notifying CERF of his or her intention to apply for a section 70.690 refund and for verifying that the information on any retirement information received from CERF is correct with respect to the participant's LAGERS or non-LAGERS status. If the participant fails to notify CERF of an incorrect LAGERS status on his or her retirement paperwork, the participant will be subject to the provisions of sections 50.1034 and 50.1036, RSMo.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed June 1, 1999, effective Nov. 30, 1999. Rescinded and readopted: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS**Division 50—The County Employees' Retirement Fund
Chapter 2—Membership****PROPOSED RESCISSION**

16 CSR 50-2.030 Eligibility for Benefits. This rule clarified who was eligible for membership in the County Employees' Retirement Fund.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS**Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits****PROPOSED RULE****16 CSR 50-2.030 Eligibility and Participation**

PURPOSE: This rule describes when employees may become plan participants.

(1) General Rule. An employee shall become a participant in the plan upon his or her entry date. Effective on and after January 1, 2000, an employee shall not be permitted to opt out of the plan.

(2) Prior Plan Opt-Outs. Before January 1, 2000, an employee had the right to opt out of the plan. Employees who exercised this opt-out option must wait three (3) years from the date the opt-out decision was made before becoming a participant. After this three (3)-year period has elapsed, the employee shall have a three (3)-month period to opt in to the plan. If the employee fails to opt in during an applicable three (3)-month period which begins on or after January 1, 2000, the employee shall be forever ineligible to participate in the plan.

(3) Membership service for part-time employees and service toward vesting in the plan for all participants will be calculated as follows:

(A) A participant must work one thousand (1,000) hours of service in a plan year to be enrolled in the plan;

(B) A participant must work one thousand (1,000) hours of service in a plan year to receive a year of vested service;

(C) A participant must have at least eight (8) years of service with at least one thousand (1,000) hours of service worked per plan year to be vested in the plan. A participant shall receive vesting service credit for a year only if he or she has received creditable service credit for the months in such plan year during which he earned hours of service.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Rescinded and readopted: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership**

PROPOSED RESCISSION

16 CSR 50-2.035 Timing of Applications and Benefit Start Date. This rule clarified when a member's benefits would begin.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1996. Original rule filed July 29, 1997, effective Jan. 30, 1998. Rescinded: Filed Sept. 29, 2000,

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits**

PROPOSED RULE

16 CSR 50-2.035 Payment of Benefits

PURPOSE: This rule clarifies options of benefit payments available to members of the County Employees' Retirement Fund, the procedure for selecting such options, and the timing of benefit payments.

(1) Method of Payment. Prior to his or her annuity starting date, each participant shall be offered the following optional methods of payment, in addition to the normal form of benefit. Any benefits payable under such optional methods of payment shall be the actuarial equivalent of the normal form of benefit:

(A) Joint and One Hundred Percent (100%) Survivor Annuity. An annuity whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in the same monthly amount to his or her survivor annuitant during his or her lifetime, on the first day of each calendar month in which the participant or his or her survivor annuitant shall have lived the entire preceding calendar month;

(B) Joint and Seventy-Five Percent (75%) Survivor Annuity. An annuity whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in three-quarters (3/4) of such monthly amount to his or her survivor annuitant during his or her lifetime, on the first day of each calendar month in which the participant or his or her survivor annuitant shall have lived the entire preceding calendar month;

(C) Joint and Fifty Percent (50%) Survivor Annuity. An annuity, whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in one-half (1/2) of such monthly amount to his or her survivor annuitant during his or her lifetime, on the first day of each calendar month in which the participant or his or her survivor annuitant shall have lived the entire preceding calendar month;

(D) Ten (10) Year Certain and Life Annuity. An annuity whereby a monthly installment shall be paid to the participant during his or her lifetime. If the participant dies after receiving one hundred twenty (120) monthly payments, the annuity shall end with the calendar month immediately preceding the participant's death. If the participant dies before one hundred twenty (120) monthly payments have been made, then the remaining payments under the form shall be made to the participant's beneficiary (if surviving), or in a single sum to the participant's estate, if the beneficiary predeceases the participant. If the beneficiary survives the participant, but dies before one hundred twenty (120) monthly payments have been made, then the remaining payments under the form shall be made to the beneficiary's estate in a single sum. In the case where the beneficiary and the participant die simultaneously before one hundred twenty (120) monthly payments have been made, then the remaining payments under the form shall be made in a single sum to the participant's estate;

(E) Level Income Option—Life Only. An annuity that is adjusted so that the monthly annuity payable for the months ending before the participant attains age sixty-two (62) is approximately equal to the sum of i) the monthly adjusted annuity payable for the

month coinciding with and subsequent to the month in which the participant reaches age sixty-two (62) and ii) the monthly Social Security benefit payable to the participant at age sixty-two (62); or

(F) Level Income Option—Joint and Survivor.

1. An annuity, whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in the percentage (either fifty (50), seventy-five (75), or one hundred (100)) of such monthly amount, as elected by the participant, to his or her survivor annuitant during his or her lifetime, on the last day of each calendar month in which the participant or his or her survivor annuitant shall have lived the entire month. The annuity shall be adjusted so that the monthly annuity payable for the months ending before the participant attains age sixty-two (62) is approximately equal to the sum of i) the monthly adjusted annuity payable for the month coinciding with and subsequent to the month in which the participant reaches age sixty-two (62) and ii) the monthly Social Security benefit payable to the participant at age sixty-two (62). If the participant dies before he or she reaches age sixty-two (62), the survivor annuitant's benefit shall be adjusted on the date the participant would have reached age sixty-two (62) in the manner that the participant's annuity would have been adjusted on such date.

2. Notwithstanding anything in the preceding paragraph to the contrary, if the monthly benefit payable to the participant under this form after the participant's sixty-second birthday is zero, then the monthly adjusted annuity before age sixty-two (62) shall be a period-certain annuity, commencing on the participant's annuity starting date, and ending on the date the participant attains (or would have attained) age sixty-two (62). If the participant dies before attaining age sixty-two (62), then the remaining payments under the form shall be made to the participant's survivor annuitant (if surviving), or in a single sum to the participant's estate, if the survivor annuitant predeceases the participant. If the survivor annuitant survives the participant, but dies before the participant's sixty-second birthday, then the remaining payments under the form shall be made to the survivor annuitant's estate.

(2) Election of Payment Method. A payment option shall be elected, changed or revoked by the participant, his or her guardian, or attorney-in-fact, by written notice filed with the board during the election period specified in section (3) below; provided, however:

(A) A survivor annuitant under an option may not be changed after an election has been received by the board (or by its designee);

(B) A participant shall be deemed to have elected the normal form of benefit unless he or she makes an affirmative election not to take such an annuity in accordance with this section. Such annuity shall commence as soon as administratively feasible following the participant's required beginning date.

(3) Election Period. Generally, a participant must complete an application for benefits at least thirty (30), but not more than ninety (90), days prior to the date he or she wishes benefits to commence. The annuity starting date for such a participant shall be the first of the month coincident with or following the date specified by the participant, or, if earlier, the participant's required beginning date. If the participant does not submit an application at least thirty (30) days prior to his or her separation from service, the payments will not be retroactive to the date of separation from service. Once a participant has submitted an application, if supporting documentation has been requested but has not been obtained by the annuity starting date selected by the participant and the application has not been completely processed, the participant will not receive the first benefit payment until the additional documentation has been received and the application has been completely processed. The payments will, however, be retroactive to the annuity starting date designated by the participant in his or her application. If a participant has not submitted an application upon his

or her separation from service, his or her benefits will start on the first of the month following a thirty (30)-day period from the date of the application.

(4) Payments after Death of Survivor Annuitant. In the event a participant has chosen an optional form of payment which provides for a continuing payment to a survivor annuitant after the death of the participant in which the participant received a reduced annuity during his or her lifetime and the participant's survivor annuitant precedes the participant in death, the participant's benefit shall revert, effective the next month following the death of the participant's survivor annuitant, to an amount equal to his or her normal annuity at the time of the annuity starting date plus any cost-of-living or other increases that the participant may have received prior to the survivor annuitant's death. Notwithstanding the preceding sentence, if the participant elected the Level Income Option—Joint and Survivor, the participant's benefit shall revert to the benefit he or she would have received had he or she elected the Level Income Option—Life Only. It shall be the participant's duty to inform the board or its designee of the death of such a survivor annuitant.

(5) 401(a)(9) Requirements. Regardless of any contrary provision in the plan, any distribution shall be determined in accordance with *Internal Revenue Code* section 401(a)(9) and the proposed regulations thereunder, including the "minimum distribution incidental benefit requirement" of Prop. Reg. section 1.401(a)(9)-2 (62 Fed. Reg. 67,780 (Dec. 30, 1997)). Accordingly, distribution of a participant's accrued benefit shall begin no later than his or her required beginning date.

(6) Non-Assignability of Benefits. A participant's right to an annuity or other benefits under the plan shall not be subject to execution, garnishment, attachment, writ of sequestration, the operation of bankruptcy or insolvency laws, a qualified domestic relations order (as defined in 26 U.S.C. section 414(p) or 29 U.S.C. section 1056(d)), or to any other claim or process of law whatsoever, and shall be unassignable.

(7) Return of Mistaken Payments. Notwithstanding anything to the contrary, a participant or beneficiary is entitled to only those benefits provided by the plan and promptly shall return any payment, or portion thereof, made by mistake of fact or law. The board may offset the future benefits of any recipient who refuses to return an erroneous payment, in addition to pursuing any other remedies provided by law.

(8) Correction of Underpayments. Should any error result in any participant or beneficiary receiving less than he or she should have been entitled, then such error shall be corrected by paying the participant or beneficiary a lump-sum amount equal to the underpayment, without interest.

(9) In the case of special consultants, as provided for in section 50.1090.2, RSMo, who do not return buyback invoices or requested supporting documentation, the benefit will begin on the first of the month following payment of the initial fifty percent (50%) buyback amount.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed July 29, 1997, effective Jan. 30, 1998. Rescinded and readopted: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.040 Refund of Contributions. This rule clarified eligibility for a refund of employee payroll contributions upon cessation of membership in the County Employees' Retirement Fund.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED RULE

16 CSR 50-2.040 Separation from Service Before Retirement

PURPOSE: This rule describes the effect of a separation from service on a participant's benefit.

(1) Upon separation from service, any participant with less than eight (8) vested years of service shall forfeit all rights under the plan, including the participant's creditable service as of the date of the participant's separation from service. This forfeiture shall be applied to reduce the board's obligation to contribute to the plan. Such a participant will receive a refund of any of his or her contributions upon the receipt by the board or its designee of a termination notice. Such refund shall be made to the participant in a single sum as soon as administratively feasible following receipt of the termination notice by the board (or its designee). For purposes of this section, it shall not be administratively feasible for the board or its designee to disburse a refund until the board or its designee also receives proper verification and reconciled contribution information from the employer.

(2) A participant who has a separation from service, before reaching the age of sixty-two (62), after having earned at least eight (8) vested years of service shall be entitled to a deferred vested benefit, determined in accordance with the formula described in 16 CSR 50-2.090. The participant may elect to defer the receipt of his or her deferred vested benefit, until the participant's attainment of age sixty-two (62), or the participant may elect to begin receiving his or her deferred vested benefit on the first day of any month following the later of the date of separation from service or age fifty-five (55). The amount of the benefit, if paid before the participant's sixty-second birthday, shall be the actuarial equivalent of the participant's accrued benefit.

(3) Members who terminate employment and then resume employment with an employer within thirty (30) days will not forfeit their prior service and will not be required to receive a refund of their payroll contributions.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded and readopted: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.050 Certification of Employment and Salary. This rule clarified the process for certifying employment and salary figures upon termination of employment for purposes of calculating retirement benefits in the future.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1998. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed April 16, 1999, effective Sept. 30, 1999. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED RULE

16 CSR 50-2.050 Certifying Service and Compensation

PURPOSE: This rule clarifies the process for certifying employment and salary figures upon separation from service for purposes of calculating retirement benefits in the future.

(1) Upon separation from service, a participant shall request that the county clerk complete a certification form on a form to be provided by the board or its designee which verifies the length of employment and the two (2) highest years of compensation received by the participant. The participant must provide documentation to support the compensation figures which must be attached to the certification including W-2 forms, 1099 forms, canceled checks and other supporting documentation reflecting compensation received. In determining average final compensation, County Employees' Retirement Fund (CERF) will use the cash receipts and disbursements method as defined by the *Internal Revenue Code*. Lump sum payments of benefits, back pay, or compensation for unused vacation days or sick leave will not be included in calculating average final compensation if the payments are attributable to a prior year or prior years than the year being claimed as a high year.

(2) The participant shall forward the completed certification to the board where it shall be maintained until needed to calculate the participant's retirement benefit.

(3) Any certification submitted without supporting documentation will be reviewed by the board.

(4) Fee-Based or Fee/Salary-Based Officials.

(A) Any participant whose compensation is collected partly or wholly from fees or a combination of fees and salary must submit, by March 1 of each year, proof of all fees and/or salary received, less operating and other expenses.

(B) Two percent (2%) of the net amount of all fees and/or salary collected as compensation by such participants who are not members of the Local Government Employees' Retirement System (LAGERS) must be submitted to the plan administrator not less than annually and no later than March 1 of each year for the preceding calendar year.

(C) Any unpaid balance of the required fee or salary contributions due to the fund must be paid in full prior to distribution of any retirement benefit amount or death benefit amount.

(D) Prior to January 1, 2000, some officials received partial or full compensation through various fees for personal services performed in their capacity as an elected official. If a member has such compensation which was not processed through county payroll prior to January 1, 2000, and the member chooses to use as a high year for retirement calculations a year including such fees, the member must make the required contributions on all of these fees collected between August 27, 1994, and December 31, 1999, prior to his or her retirement commencement.

(E) Beginning January 1, 2000, officials whose compensation is collected partly or wholly from fees or a combination of fees and salary may only include these fees if they are processed

through county payroll and in accordance with the definition of compensation included in 16 CSR 50-2.010(1)(K).

(F) Compensation received from sources other than an employer and compensation received pursuant to independent contracting relationships shall not be included in calculating the retirement benefit.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed April 16, 1999, effective Sept. 30, 1999. Rescinded and readopted: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.060 Survivorship Rights and Service Requirements. This rule clarified a prohibition on the eligibility for death benefits and also clarified the eligibility and enrollment of part-time employees.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Nov. 26, 1996, effective June 30, 1997. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Amended: Filed March 2, 1998, effective Aug. 30, 1998. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED RULE

16 CSR 50-2.080 Source of Pension Funds

PURPOSE: *This rule describes the source of funds available to the plan.*

(1) The source of contributions to this plan (if required) for a plan year shall be the funds described in sections 50.1020, 50.1190, 50.1200 and 150.150, RSMo that have been accumulated during the plan year. Such funds shall be held in a separate account until the board determines, in accordance with the advice of the actuary, the amount of such funds that must be contributed to this plan for a plan year to maintain its actuarial sufficiency. The board shall ensure that sufficient amounts shall be contributed so that this plan is funded in a manner consistent with the provisions of the *Internal Revenue Code* and such other laws and regulations as shall be applicable. The remainder of funds accumulated in the separate account during a plan year shall be contributed to the defined contribution plan established in sections 50.1210 to 50.1260, RSMo.

(2) Any gains arising from the death of participants prior to retirement or forfeiture upon separation from service shall not be utilized to increase the benefits to the remaining participants, but shall be retained in the trust fund.

(3) Notwithstanding anything to the contrary, any contribution made to the plan by the board as result of a mistake of fact shall be returned to the separate account as soon as practicably possible following discovery of the mistake, but not later than one year after the payment of the contribution. The maximum amount that may be returned is the excess of the amount contributed, over the amount that would have been contributed had no mistake of fact occurred. Earnings attributable to the excess contribution may not be returned, but losses attributable thereto must reduce the amount to be so returned.

AUTHORITY: *section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.*

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

PRIVATE COST: *This proposed rule will not cost private entities more than \$500 in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits**

PROPOSED RULE

16 CSR 50-2.090 Normal Retirement Benefit

PURPOSE: *This rule describes when a participant is eligible for unreduced retirement benefits under the plan.*

- (1) Eligibility for Normal Retirement Benefit. To be eligible to receive a normal retirement benefit from the plan, a participant must:
- (A) Have attained the age of sixty-two (62);
 - (B) Applied for retirement benefits as provided by applicable laws and regulations; and
 - (C) Earned eight (8) or more vested years of service.

(2) Benefit to Non-LAGERS Participants. The normal retirement benefit of a participant who is not a member of the Local Government Employees' Retirement System (LAGERS) shall be a monthly benefit in the normal form of benefit equal to the greater of:

- (A) Twenty-four dollars (\$24) multiplied by years of creditable service, up to a maximum of twenty-five (25) years; or
- (B) An amount determined according to the following formula:

$$((TRR \times AFC) - PSSA) \times (CS/25)$$

Where:

- TRR is the participant's target replacement ratio;
- AFC is the participant's average final compensation;
- PSSA is the participant's primary Social Security amount, on a monthly basis; and
- CS is the participant's creditable service (up to a maximum of twenty-five (25) years).

(3) Benefit to LAGERS Participant. The normal retirement benefit of a participant who is also a member of LAGERS shall be sixty-six and two-thirds percent (66 2/3%) of the normal retirement benefit determined pursuant to section (2).

(4) LAGERS Participant Defined. Generally, a participant is considered a member of LAGERS with respect to a period of creditable service (including prior service) if he or she has been exempt from making the mandatory two percent (2%) contribution on account of his or her membership in LAGERS. Accordingly, the formula set forth in section (3) shall be used to determine a participant's benefit for such period of creditable service. If a participant ceases to qualify for active membership or ceases to be an active member in LAGERS, the formula described in section (2) shall be used to determine the participant's benefit for the creditable service earned during periods when the participant ceased to so qualify or ceased to be an active member in LAGERS. If a participant receives a refund of contributions from LAGERS, pursuant to section 70.690, RSMo, then the formula described in section (3) shall be used to determine the participant's benefit, if the participant makes an additional contribution to the plan. The amount of such additional contribution shall be equal to two percent (2%) of the participant's compensation for the period in which he or she was a LAGERS participant (plus any interest and penalties assessed by the board). The amount may be paid in one lump sum, or by payroll deduction.

(5) Minimum Benefit. The normal retirement benefit of a participant shall not be less than the annuity the participant had earned as of the day before January 1, 2000, under the prior plan. This minimum benefit shall be determined without regard to any exclusion of prior service mandated by the terms of the prior plan.

(6) Maximum Benefit. No benefit payable from the plan shall exceed the maximum benefit permitted under section 415(b) of the *Internal Revenue Code* (Code). If a participant's membership in another retirement plan results in the violation of the limits of Code section 415, the participant's benefit in this plan shall be reduced in order to ensure compliance with such Code section.

AUTHORITY: *section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.*

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

PRIVATE COST: *This proposed rule will not cost private entities more than \$500 in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the County*

Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits**

PROPOSED RULE

16 CSR 50-2.100 Early Retirement Benefit

PURPOSE: This rule describes when a participant may receive early retirement benefits from the plan.

A participant who has not attained age sixty-two (62) but has both attained at least his or her fifty-fifth birthday and has eight (8) or more vested years of service may elect to retire as of the first day of any calendar month following written notice to the board (or its delegatee). At the option of the participant, benefits may begin as of any calendar month following his or her early retirement and preceding the participant's sixty-second birthday. Such early retirement benefit of a participant shall be payable to him/her as the normal form of benefit, and shall equal the greater of the actuarial equivalent of his or her accrued benefit or his or her accrued benefit as of his or her annuity starting date, reduced by four-tenths of one percent (0.4%) for each month by which the annuity starting date precedes the participant's sixty-second birthday, and by an additional three-tenths of one percent (0.3%) for each month by which the annuity starting date precedes the participant's sixtieth birthday.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits**

PROPOSED RULE

16 CSR 50-2.110 Rehires

PURPOSE: This rule clarifies the treatment of a former employee who returns to covered employment.

(1) Suspension of Benefits. If a participant returns to employment after a separation from service, benefit payments to the individual will be suspended, pending the termination of employment and completion of a new retirement application. All elections made in the original retirement application will be revoked upon completion of an enrollment form indicating a return to county employment. While employed, the individual will accrue creditable service, which, upon termination of employment and submission of a new retirement application, will be used to recalculate the benefit

in accordance with the provisions of this chapter. If the individual had started a buyback of prior service during the first benefit payment period, the total paid toward the buyback will be subtracted from the new buyback figure. Benefits less any remaining buyback will recommence upon termination of employment. The buyback will extend for a maximum of forty-eight (48) months less the total number of months during which the individual had already made a buyback.

(2) Rejoining the Plan. Notwithstanding the provisions of section (1), a participant may work as a part-time employee, and continue to receive benefit payments. Such service as a part-time employee shall not increase or change the participant's benefit, unless the participant has an entry date, and again becomes an active participant in the plan. In such case, a participant shall not receive creditable service for any period of employment preceding his or her entry date unless i) the participant purchases such service in accordance with section 16 CSR 50-3.010(3) or ii) such creditable service was used in calculating the participant's accrued benefit as of the date of his or her separation from service.

(3) Nonvested Participants. A participant who has a separation from service with less than eight (8) years of creditable service forfeits creditable service at the time of his or her separation from service. Accordingly, if such an individual is rehired as an employee, that individual is treated as a new employee for all purposes under the plan. However, such a rehired individual may be able to repurchase his or her forfeited creditable service under section 16 CSR 50-3.010(3).

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits**

PROPOSED RULE

16 CSR 50-2.120 Benefits Upon Participant's Death

PURPOSE: This rule describes the benefits available to the beneficiaries of participants who die before receiving a retirement benefit.

(1) Lump Sum Death Benefit. A death benefit of ten thousand dollars (\$10,000) shall be paid to the beneficiary of every active participant upon his or her death or, if the participant fails to designate a beneficiary, then to the participant's surviving spouse or, if there is no spouse, then in equal shares to the participant's surviving children. If there is neither a surviving spouse nor surviving children, then the benefit shall be paid to the active participant's estate.

(A) Designation of Beneficiary. Each participant may name a beneficiary on a form provided by the board and delivered to the board. Such designation may include more than one (1) person

with one (1) or more secondary or contingent beneficiaries and shall be subject to change upon written request of such participant in the same manner as the original designation.

(B) If the participant executes a beneficiary designation form and lists more than one (1) beneficiary but fails to list the percentage of benefit that each beneficiary should receive, then the benefit shall be divided equally among the named beneficiaries.

(2) **Spousal Death Benefit.** If a participant dies before his or her annuity starting date but after completing eight (8) or more years of creditable service, the surviving spouse shall be entitled to survivorship benefits under the fifty percent (50%) annuity option as set forth in subsection 16 CSR 50-2.035(1)(C). If the participant was age sixty-two (62) or older at death, the surviving spouse's benefit shall begin to accrue on the first day of the month following the participant's death. If the participant was under age sixty-two (62) at death, the surviving spouse's benefits shall begin to accrue on the first day of the month following the date the participant would have attained age sixty-two (62) had the participant lived. In the event that a delay in the submission or processing of paperwork or some other delay results in the first payment of survivorship benefits commencing after the month in which the survivorship benefits began to accrue, such survivorship benefits shall be retroactive to the date on which the survivorship benefits began to accrue. Alternatively, the surviving spouse may elect to receive the reduced actuarially equivalent benefit payable on the first day of any month following the date of the participant's death and prior to the date the participant would have attained age sixty-two (62).

(3) **No Benefits Payable to Beneficiary Who Intentionally Kills Participant.** The board shall cease paying benefits to any survivor annuitant or beneficiary who is charged with the intentional killing of a participant without legal excuse or justification. A survivor annuitant or beneficiary who is convicted of such charge shall no longer be entitled to receive benefits. If the survivor annuitant or beneficiary is not convicted of such charge, the board shall resume payment of benefits and shall pay the survivor annuitant or beneficiary any benefits that were suspended pending resolution of such charge.

(4) The death benefit will only be extended to part-time and seasonal employees in months for which they receive pay.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits**

PROPOSED RULE

16 CSR 50-2.130 Direct Rollover Option

PURPOSE: This rule describes the direct rollover option authorized by section 50.1260, RSMo.

(1) A distributee may elect to have an eligible rollover distribution paid directly to a single eligible retirement plan specified by the distributee. However, this election may not be made if the total eligible rollover distributions paid to the distributee will be less than two hundred dollars (\$200).

(2) A distributee may elect to divide an eligible rollover distribution so that part is paid directly to an eligible retirement plan and part is paid to the distributee. However, the part paid directly to the eligible retirement plan must total at least five hundred dollars (\$500).

(3) A distributee may elect a direct rollover after having received a written notice which complies with the rules of *Internal Revenue Code* (Code) section 402(f). In general, payment to a distributee shall not begin until thirty (30) days after the notice is given. However, payment may be made sooner if the notice clearly informs the distributee of the right to a period of at least thirty (30) days to consider the decision of whether or not to make a direct rollover, and the distributee, after receiving the notice, makes an affirmative election to receive an immediate distribution. A distributee who fails to make an election in the thirty (30)-day period shall receive the eligible rollover distribution immediately after the thirty (30)-day period expires.

(4) For purposes of this regulation, the following terms have the meanings set forth below:

(A) An "eligible rollover distribution" is any distribution or withdrawal payable under the terms of this plan to a participant, which is described in Code section 402(c)(4). In general, this term includes any single-sum distribution, and any distribution which is one in a series of substantially equal periodic payments made over a period of less than ten (10) years, and is less than the distributee's life expectancy. However, an eligible rollover distribution does not include the portion of any distribution that constitutes a minimum required distribution under Code section 401(a)(9). Such term also does not include a distribution to the participant's beneficiary, unless the beneficiary is the participant's spouse.

(B) "Eligible retirement plan" means:

1. An individual retirement account described in Code section 408(a);
2. An individual retirement annuity described in Code section 408(b);
3. An annuity plan described in Code section 403(a); and
4. A retirement plan qualified under Code section 401(a), but only if the terms of the plan permit the acceptance of rollover distributions.

However, in the case of an eligible rollover distribution to a beneficiary who is a surviving spouse, an "eligible retirement plan" is an individual retirement account or an individual retirement annuity.

(C) "Distributee" means a participant or the spouse of a deceased participant.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED RULE

16 CSR 50-2.140 Cost-of-Living Adjustment

PURPOSE: This rule describes the eligibility and amount of any cost-of-living adjustment.

(1) Eligibility for Annual Cost-of-Living Adjustment. To be eligible to receive any cost-of-living adjustment (COLA), adopted by the board pursuant to section 50.1070, RSMo, a retired participant must meet the following criteria:

(A) Is presently receiving an annuity, even if the annuity is payable in accordance with the prior plan, and has been receiving such annuity since at least July 1 of the previous year; and

(B) Has not waived his or her right to receive the COLA increase.

(2) The amount of the COLA increase for a year shall be determined by the board in February of each year, based on the excess of the consumer price index for the preceding calendar year over the consumer price index for the calendar year immediately prior thereto. Notwithstanding the preceding sentence, this automatic increase shall not exceed one percent (1%) per year. The total increase in the amount of benefits received pursuant to the provisions of this section shall not exceed fifty percent (50%) of the participant's accrued benefit determined as of his or her most recent separation from service.

(3) Any COLA approved by the board will be payable to eligible retirees monthly, including those who retired under the terms of the prior plan, commencing on July 1 of any given year, following the board's determination of the appropriate increase. The application of any COLA with regard to retired and rehired members is shown in Table 1 to 16 CSR 50-2.150.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED RULE

16 CSR 50-2.150 Transition Rules and Effective Date

PURPOSE: This rule sets forth the effective date of the rules of this chapter and describes the classes of participants to whom the 1999 legislative changes to the plan apply.

(1) Classes of Participants Affected by Amendment. The following matrix, which is shown in Table 1 and incorporated by reference herein, sets forth different classes of participants who are affected

by the amendments to sections 50.1000 to 50.1300, RSMo, which became effective January 1, 2000.

(2) USERRA. A participant who incurs a separation from service before January 1, 2000, on account of his or her stint in a uniformed service shall be treated as eligible for benefits determined under the new plan formula that is effective January 1, 2000, if such treatment would be required under the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994.

(3) Consequences of Treatment as a Former Employee. To the extent a participant is treated as a former employee under this section:

(A) Creditable service shall be determined in accordance with the provisions of the prior plan; and

(B) The participant's retirement benefit shall be determined in accordance with the benefit formula set forth in the prior plan.

(4) Continued Application of Forfeiture Rules. Nothing in this section shall reinstate amounts previously forfeited in accordance with section 50.1140, RSMo. Accordingly, a participant who had a separation from service before January 1, 2000, but was not vested in his or her accrued benefit before January 1, 2000, shall be treated as a new employee.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

TABLE 1

County Employers' Retirement Fund
Treatment of Service After Rehire, Membership Service, and Prior Service for Purposes of Benefit Determination at Ultimate Retirement Date
Depending Upon Employment Status on June 10, 1999, and When Return to Work

	In County Employment on June 10, 1999						In County Employment on June 10, 1999, Terminates Before December 31, 1999					
	Ultimately Terminates After December 31, 1999			Ultimately Terminates Before January 1, 2000			Ultimately Terminates Before January 1, 2000			Ultimately Terminates Before January 1, 2000		
	Had Returned to Work <2000	Future Service	Prior Service	Had Returned to Work >=2000	Future Service	Prior Service	Had Returned to Work <2000	Future Service	Prior Service	Had Returned to Work >=2000	Future Service	Prior Service
Past Retiree	NP	OP	OP Subject to Purchase**	NP	NP	NP	OP	OP	OP Subject to Purchase	NA	NA	NA
Vested Termination	NP	NP	NP	NP	NP	NP	OP	OP	OP Subject to Purchase	NA	NA	NA
Non-vested Termination	NP*	NP*	NP*	NP*	NP*	NP*	OP*	OP*	OP* Subject to Purchase	NA	NA	NA
	Previous			Previous			Previous			Previous		
	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service
	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service
	Not in County Employment on June 10, 1999			Not in County Employment on June 10, 1999			Not in County Employment on June 10, 1999, Back to Work and Terminates Before 12/31/99			Not in County Employment on June 10, 1999, Back to Work and Terminates Before 12/31/99		
	Ultimately Terminates After December 31, 1999			Ultimately Terminates After December 31, 1999			Ultimately Terminates Before January 1, 2000			Ultimately Terminates Before January 1, 2000		
	Had Returned to Work <2000	Future Service	Prior Service	Had Returned to Work >=2000	Future Service	Prior Service	Had Returned to Work <2000	Future Service	Prior Service	Had Returned to Work >=2000	Future Service	Prior Service
	Previous			Previous			Previous			Previous		
	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service
	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service
Past Retiree	NP	OP	OP Subject to Purchase**	NP	NP	NP	OP	OP	OP Subject to Purchase	NA	NA	NA
Vested Termination	NP	OP	OP Subject to Purchase	NP	NP	NP	OP	OP	OP Subject to Purchase	NA	NA	NA
Non-vested Termination	NP*	NP*	NP* Subject to Purchase	NP*	NP*	NP*	OP*	OP*	OP* Subject to Purchase	NA	NA	NA
	Previous			Previous			Previous			Previous		
	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service	Membership Service
	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service	Future Service

Key to Abbreviations and Terminology
 NP: New Plan formula effective January 1, 2000
 OP: Old Plan formula in effect on December 31, 1999
 Future Service is service on and after January 1, 2000
 Previous Membership Service is service between August 28, 1994, and December 31, 1999
 Prior Service is service before August 28, 1994

*Subject to Completion of 8 Years of Vesting Service
 **With COLAs (cost of living increases) granted since the time of rehire

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED RULE

16 CSR 50-2.160 Administration of Fund

PURPOSE: This rule sets forth general rules regarding the administration of the plan.

(1) Plan Administration. The board shall have sole discretionary responsibility for the operation, interpretation, and administration of the plan and for determining eligibility for plan benefits. Any action taken on any matter within the discretion of the board shall be final, conclusive, and binding on all parties. In order to discharge its duties hereunder, the board shall have the power and authority to delegate ministerial duties and to employ such outside professionals as may be required for prudent administration of the plan. The board shall also have authority to enter into agreements as may be necessary to implement this plan. Any individual member of the board who is otherwise eligible may participate in the plan, but shall not be entitled to make decisions solely with respect to his or her own participation and benefits under the plan.

(2) To implement the plan, the board shall enter into a trust agreement, so that plan funds shall be segregated from an employer's own assets and held in trust by the trustee for the exclusive benefit of participants and their beneficiaries. Any or all benefits that may accrue to any participant or beneficiary under this plan shall be subject to the terms and conditions of said trust agreement. Except as provided in section (5), it shall be impossible under any circumstances at any time for any part of the corpus or income of the trust fund to be used for, or diverted to purposes other than the exclusive benefit of participants and their beneficiaries.

(3) Plan Expenses. All expenses of plan administration, including (by way of illustration and not limitation) those incurred by the board and the fees of the trustee shall be paid from the trust fund.

(4) Claims for Benefits. A claim for a benefit under this plan shall be reviewed by the board (or by its designee) in accordance with the procedure outlined in 16 CSR 50-2.035. An appeal of an adverse claim decision shall be processed in accordance with 16 CSR 50-1.020.

(5) Facility of Payments. If any participant shall be physically, mentally or legally incapable of receiving or acknowledging receipt of any payment under the plan to which he or she is entitled, the board, upon the receipt of satisfactory evidence of his or her incapacity and satisfactory evidence that another person or institution is maintaining him/her and that no guardian or committee has been appointed for him/her, may cause any payment otherwise payable to him/her to be made to such person or institution so maintaining him/her.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty

days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.010 Calculation of Creditable Service. This rule clarified the process for calculating creditable service of a member.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1994. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RULE

16 CSR 50-3.010 Creditable Service

PURPOSE: This rule describes what constitutes creditable service under the plan, and describes how such service may be purchased.

(1) General Rule. Creditable service means a participant's period of employment as an employee, including the participant's prior service, except as provided in section (2). In addition, absences for sickness and injury of less than twelve (12) months shall be counted as creditable service, and any periods of service in a uniformed service (as defined in section 414(u) of the *Internal Revenue Code* (Code)), shall be included in creditable service to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994. A participant (other than a part-time employee) shall receive credit for one-twelfth (1/12) of a year for each month in which the participant earns an hour of service. Elective or appointive county officials receive one (1) year of service for each year in office. A person may not earn more than one (1) year of creditable service in any plan year.

(2) Excluded Service. Unless the participant purchases such service in accordance with section (3), a participant's creditable service shall not include:

(A) A period of employment during which the participant opted out of the plan, and any prior service excluded under the terms of the prior plan as a result of the opt-out;

(B) Prior service by a former employee, unless purchased in accordance with the terms of the prior plan or unless purchased by a special consultant as provided for in section 50.1090.2, RSMo and in 16 CSR 50-3.060;

(C) Service prior to a separation from service, if the participant was not vested at the time of the separation from service;

(D) If the participant is a part-time employee, service prior to the participant's entry date, unless the participant purchases service (up to a maximum of one (1) year) pursuant to section (3) of this regulation;

(E) Service after a participant's entry date, if the required two percent (2%) contribution is not withheld from the participant's pay for any reason; or

(F) A participant's stint in a uniformed service (within the meaning of section 414(u) of the Code), if the participant was not a member of Local Government Employees' Retirement System (LAGERS) before such stint.

(3) Purchase of Service. A participant described in subsections (2)(A), (2)(B), (2)(D), (2)(E) or (2)(F) may purchase his or her service excluded under such paragraphs by notifying the board, in writing, of his or her election to buy back such service within sixty (60) days following the date the employee becomes a plan participant. A participant described in subsection (2)(C) who purchases excluded service as described in the preceding sentence will become vested in his or her accrued benefit only if the participant completes eight (8) years of uninterrupted creditable service after his or her return to county employment. The written election shall include a statement indicating the portion of the excluded service he or she elects to purchase. If a participant makes a request in accordance with this section to purchase service, the board, or its designee, will calculate the cost of buying back the service including interest and penalties provided by statute. The participant shall be notified of the cost to buy back service. After receiving this notice, the participant may elect to buy back service either through a lump-sum payment due at the time of the election or a payroll deduction beginning with the first pay period after the participant makes the election. The participant may request that the payroll deduction be made in equal monthly installments over a period not to exceed the period of prior service being purchased or four (4) years, whichever is shorter. If the participant elects to buy back excluded service through an installment plan of payroll deductions and either dies or separates from service prior to completing the installment plan, then the participant or his or her spouse may pay the remaining amount due under the installment plan within sixty (60) days following the participant's death or separation from service in a manner acceptable to the board or its designee. If such payment is not made, the participant shall not receive credit towards his or her retirement benefits for any unpaid portion of the service which is the subject of the installment plan.

(4) Part-Time Employees.

(A) Working More Than One Thousand (1,000) Hours. If a part-time employee works more than one thousand (1,000) hours of service in a plan year, he or she will receive one (1) full year (or twelve (12) months) of creditable service.

(B) Working Less Than One Thousand (1,000) Hours. If a part-time employee works less than one thousand (1,000) hours of service in a plan year, his or her creditable service shall be calculated by dividing the total number of hours worked by ninety-one (91) to arrive at the number of months of creditable service. This number shall be rounded to the next nearest whole number of months. If a part-time employee started or terminated employment within the calendar year, he or she may not receive more months of creditable service than the actual number of months worked.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded and readopted: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.020 Purchase of Prior Creditable Service. This rule clarified situations in which a member is entitled to purchase prior service as prior creditable service.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by other rules and because, with certain exceptions, members are no longer required to purchase prior service.

AUTHORITY: section 50.1032, RSMo 1994. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.030 Buyback of Prior Creditable Service Following Opt-Out by Member. This rule clarified the procedures for buying back prior creditable service when a member has opted out of membership in the County Employees' Retirement Fund for a period of time.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by

other rules, because, with certain exceptions, members are no longer required to purchase prior service, and because, after January 1, 2000, members are no longer permitted to opt out of the County Employees' Retirement Fund.

AUTHORITY: section 50.1032, RSMo 1994. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.040 Buyback of Prior Creditable Service Earned Before Creation of Retirement System. This rule clarified the procedure by which county employees could purchase prior service accrued before August 28, 1994, as prior creditable service.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by other rules and because, with certain exceptions, members are no longer required to purchase prior service.

AUTHORITY: section 50.1032, RSMo 1994. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.050 Buyback of Prior Creditable Service Following Forfeiture of Creditable Service. This rule clarified procedures for buying back prior service following forfeiture of creditable service.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by other rules and because, with certain exceptions, members are no longer required to purchase prior service.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 50—The County Employees' Retirement Fund Chapter 3—Creditable Service

PROPOSED AMENDMENT

16 CSR 50-3.060 Buyback by a Special Consultant to the Board. The board is amending section (1) and deleting section (2).

PURPOSE: This amendment clarifies the language in section (1) to comply with terminology used in other regulations promulgated by the Board of the County Employees' Retirement Fund. This amendment also removes the language in section (2) because it is superseded by other regulations.

(1) Former county employees who were employed between January 1, 1990 and August 27, 1994, and who worked for [the county] **an employer** for at least eight (8) years may apply to the board to serve as a special consultant on the problems of retirement. Calculation of the amount required to purchase the prior service shall be in accordance with applicable statutes. The former employee must submit at least fifty percent (50%) of the purchase price with [his/her] **his or her** application to serve as a special consultant. If the former employee submits less than one hundred percent (100%) of the purchase price with [his/her] **his or her** application, then the remainder of the purchase price shall be deducted from the consultant's retirement benefits in equal monthly installments as agreed by the board and the consultant. Such payments shall not extend over more than four (4) years.

[(2) The County Employees' Retirement Fund will follow Missouri's common law which prohibits a spouse from receiving survivorship benefits if the spouse intentionally killed the member.]

AUTHORITY: section 50.1032, RSMo Supp. [1998] 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Nov. 26, 1996, effective June 30, 1997. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed Sept. 29, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

**Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service**

PROPOSED AMENDMENT

16 CSR 50-3.070 Refund of Buybacks. The board is amending sections (1) and (2).

PURPOSE: This amendment clarifies the regulation to comply with terminology used in other regulations promulgated by the Board of the County Employees' Retirement Fund.

(1) *[Individuals]* Former county employees who have tendered their fifty percent (50%) buyback to County Employees' Retirement Fund (CERF) as provided in 16 CSR 50-3.060, but have not received a benefit, may request a refund of their buyback. To receive a refund, the *[individual]* former county employee must submit a written request to the plan administrator of CERF. Upon executing the refund request, the *[individual]* former county employee will forfeit the spousal survivorship benefit.

(2) *[Any individual]* A former county employee who receives a refund of his or her buyback may reapply to serve as a special consultant in the future.

AUTHORITY: section 50.1032, RSMo Supp. [1997] 1999. Original rule filed Nov. 26, 1996, effective June 30, 1997. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed Sept. 29, 2000.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

**Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service**

PROPOSED RESCISSION

16 CSR 50-3.080 Changes in Buyback When a Retiree Returns to Employment with the County. This rule clarified benefit payments when a retired person returned to employment.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative

session. This rule is being rescinded because it is superseded by other rules and because, with certain exceptions, members are no longer required to purchase prior service.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

**Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service**

PROPOSED RESCISSION

16 CSR 50-3.090 Early Buyback of Prior Creditable Service. This rule explained the process for handling early buyback of prior service.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because, with certain exceptions, members are no longer required to buy back prior creditable service.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Sept. 17, 1998, effective March 30, 1999. Rescinded: Filed Sept. 29, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and
Licensure
Chapter 80—Family Care Safety Registry**

PROPOSED RULE

19 CSR 30-80.010 Definitions

PURPOSE: This rule provides definitions to be used in the interpretation and enforcement of 19 CSR 30-80.010 through 19 CSR 30-80.040.

(1) "Access line," toll-free telephone service established and maintained by the department in accordance with section 210.918, RSMo for the purpose of promoting family and community safety by allowing access to certain information recorded in the Family Care Safety Registry, as provided in section 210.921, RSMo.

(2) "Agency of record," the state agency that has program control over maintaining or updating one or more of the sources of background information listed in section 210.909, subsection 1, subdivisions (1) through (5), RSMo.

(3) "Department," the Missouri Department of Health.

(4) "Family Care Safety Registry workers," a current listing of child-care and elder-care workers who have completed application for registration with the department pursuant to section 210.906, subsections 1 through 2, RSMo, or volunteers who have completed application for registration pursuant to section 210.906, subsection 4, RSMo, including limited available information on workers' background pursuant to section 210.909, subsection 1, subdivisions (1) through (5), RSMo.

(5) "Family Care Safety Registry providers," a current listing of child-care and elder-care providers, pursuant to section 210.909, subsections (2) and (5), RSMo, who have been refused licensure or have experienced licensure suspension or revocation pursuant to sections 210.481 through 210.536, RSMo, sections 210.201 to 210.259, RSMo, or Chapter 198, RSMo.

(6) "Patrol," the Missouri State Highway Patrol.

(7) "Registrant," any person hired on or after January 1, 2001, as a child-care or elder-care worker, or any person not required to register pursuant to the provisions of sections 210.900 to 210.936, RSMo, who voluntarily applies to the department for registration and who meets the requirements of sections 210.906 and 210.909, RSMo, including submitting to the background checks of subsection 1 of section 210.909, RSMo.

(8) "Registry," the Family Care Safety Registry.

AUTHORITY: sections 210.915 and 210.924, RSMo Supp. 1999. Emergency rule filed Sept. 19, 2000, effective Jan. 1, 2001, expires June 29, 2001. Original rule filed Sept. 19, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health, Division of Health Standards and Licensure, P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and
Licensure
Chapter 80—Family Care Safety Registry**

PROPOSED RULE

19 CSR 30-80.020 General

PURPOSE: This rule provides sources to contact to obtain registration forms and outlines specific responsibilities that apply to all registrants in the Family Care Safety Registry.

(1) Registration forms used for the purpose of registering in the Family Care Safety Registry may be obtained by contacting one of the following sources:

- (A) The Family Care Safety Registry toll-free access line;
- (B) The local Department of Health office;
- (C) The local Division of Aging office;
- (D) The local Division of Family Services office; or by
- (E) Accessing the Department of Health website (www.health.state.mo.us).

(2) Completed applications for registration in the Family Care Safety Registry shall be mailed to the Missouri Department of Health, Fee Receipts Unit, P.O. Box 570, Jefferson City, MO 65102.

(3) Change of Name. Registrants in the Family Care Safety Registry shall notify the Department of Health in writing of a change of name no later than thirty (30) days following the change. Until a change of name is received, actions required pursuant to sections 210.900 to 210.936, RSMo, may continue under the name indicated on the most recent application form.

(4) Change of Address. Registrants in the Family Care Safety Registry shall notify the Department of Health in writing of a change of mailing address no later than thirty (30) days following the change. Until a change of address is received, all correspondence will be mailed to the individual's mailing address indicated on the most recent application form.

AUTHORITY: sections 210.906 and 210.924, RSMo Supp. 1999. Emergency rule filed Sept. 19, 2000, effective Jan. 1, 2001, expires June 29, 2001. Original rule filed Sept. 19, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health, Division of Health Standards and Licensure, P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and
Licensure
Chapter 80—Family Care Safety Registry**

PROPOSED RULE

19 CSR 30-80.030 Child-Care and Elder-Care Worker Registration

PURPOSE: This rule establishes procedures for submitting completed applications for registration in the Family Care Safety Registry.

(1) Application for Registration.

(A) The application for registration in the Family Care Safety Registry shall include the following:

1. A completed Child-Care and Elder-Care Worker Registration Form, provided by the department, shall be typewritten or printed in ink. The application shall include the following:

- A. Applicant's valid Social Security number;

B. Information on applicant's right to appeal the information contained in the registry pursuant to section 210.912, RSMo;

C. Signed consent of the applicant for the background checks pursuant to section 210.906, RSMo;

D. Signed consent of the applicant for the release of information contained in the background check for employment purposes only;

E. Worker category;

F. Applicant's last name, first name, middle name;

G. Prior names used by applicant;

H. Applicant's home address;

I. Applicant's current mailing address, if different than home address;

J. Applicant's county of residence;

K. Applicant's date of birth;

L. Applicant's gender;

M. Name, address and county of applicant's current employer (if applicable); and

N. Signature of the applicant and date of signature, in ink, which certifies that all information in the registration form is complete and true to the best of the applicant's knowledge;

2. A photocopy of applicant's Social Security card; and

3. A check or money order for the nonrefundable fee of five dollars (\$5) made payable to the Missouri Department of Health.

(B) Upon submitting an incomplete application, the applicant shall provide the required information to the department. If the required information is not received by the department within sixty (60) days from receipt of the application, the application shall be void and another application shall be filed.

(C) Applications for registration may be submitted to the Family Care Safety Registry by the individual applicant or their employer or prospective employer. An employer may submit completed registration forms using a batch processing form, provided by the department, that will also serve as a request for background screening information.

(D) A batch processing form, provided by the department, shall include the employer's name and address, a listing of applicants for whom applications for registration are attached, and the employer's signature that certifies the requested information is for employment purposes only and will not be used for any other purpose. Once the application process has been completed and background checks conducted the Family Care Safety Registry will notify the worker and the employer of the results of the determination recorded on the registry.

AUTHORITY: sections 210.906 and 210.924, RSMo Supp. 1999. Emergency rule filed Sept. 19, 2000, effective Jan. 1, 2001, expires June 29, 2001. Original rule filed Sept. 19, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will cost child-care workers \$37,445 and elder-care workers \$204,065 annually in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health, Division of Health Standards and Licensure, P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 19 - DEPARTMENT OF HEALTH

Division: 30 - Division of Health Standards and Licensure

Chapter: 80 - Family Care Safety Registry

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-80.030, Child-Care and Elder-Care Worker Registration

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
7,489	Child-Care Applicants	\$ 37,445 annually
40,813	Elder-Care Applicants	\$ 204,065 annually

III. WORKSHEET

The estimates in the aggregate were calculated as follows:

<u>Child-Care Applicants</u>	<u>Annually</u>
New hires	7,489
\$5.00 registration fee	x <u>\$ 5.00</u>
Total Estimated Annual Cost	\$ 37,445

<u>Elder-Care Applicants</u>	<u>Annually</u>
New hires	40,813
\$5.00 registration fee	x <u>\$ 5.00</u>
Total Estimated Annual Cost	\$ 204,065

IV. ASSUMPTIONS

Any person hired on or after January 1, 2001, as a child-care or elder-care worker, as defined in section 210.900, RSMo, is required to apply for registration in the Family Care Safety Registry within 15 days of beginning employment. Persons employed before this date are not required to register unless they leave their current position and become re-employed as a child-care worker or elder-care worker after January 1, 2001.

Each applicant for registration in the Family Care Safety Registry will be charged a \$5.00 registration fee to cover the costs of a criminal background check. The Department of Health anticipates that the employer will incur the cost for some applicants, however, this number is unknown.

Child-care and elder-care workers applying for registration in the Family Care Safety Registry will only be required to register one time. The registry will have the capability to automatically update registrant background screenings, making it unnecessary for child-care and elder-care workers to renew registration.

It is estimated annually 7,489 persons will be newly hired as child-care workers, and 40,813 persons will be newly hired as elder-care workers

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated.

The estimated number of child-care and elder-care workers to be hired annually was calculated as follows:

Child-Care Workers

There are currently 1,569 licensed child day care centers in Missouri. The 1,569 child day care centers have an average of eight employees per facility (1,569 x 8 = 12,552 employees). Based on turnover rates of 30% the Department of Health estimates that 3,766 persons will be hired annually.

There currently are 2,349 licensed family child-care homes in Missouri. Family child-care homes have an average of 1.5 persons per facility (2,349 x 1.5 = 3,524 persons). Based on turnover rates of 30%, the Department of Health estimates that 1,057 persons will be hired annually.

There are currently 438 license-exempt child care centers with an average of eight employees per center (438 x 8 = 3,504 employees). Based on turnover rates of 30%, the Department of Health estimates 1,051 persons will be hired annually.

There are approximately 3,965 licensed foster homes in Missouri. Based on turnover rates of 3.5%, the Department of Health estimates 140 persons will become foster parents annually.

There are approximately 2,750 child-care workers in residential care facilities that are licensed by the Division of Family Services (DFS). Based on turnover rates of 10%, the Department of Health estimates that 275 persons will become child-care workers annually.

There are approximately 21,720 registered child-care providers that are reimbursed by Division of Family Services to provide child care services. The Division of Family Services estimates that 1,200 persons will become registered child-care providers annually.

In summary, the Department of Health estimates that the following number of child-care workers will be hired annually:

<u>Child-care workers</u>	
Licensed child-care center	3,766
Licensed family child-care home	1,057
License-exempt child-care center	1,051
Foster care parents	140
Residential child-care	275
Providers registered with Family Services	1,200
Est. child-care new hires per year	<u>7,489</u>

Elder-Care Workers

There are approximately 109,250 elder-care workers in the state. This includes certified nurse assistants, registered nurses, medication aides, and medical technicians. This also includes nursing assistants employed by hospice organizations. There are approximately 5,000 home health aides for a total of 114,250 (109,250 + 5,000 = 114,250). Based on turnover rates of 35%, the Department of Health estimates that 39,988 persons will be hired annually.

There are approximately 2,664 persons working in hospitals for which subdivision (3) of subsection 1 of section 198.012, RSMo applies. Based on turnover rates of 31%, the Department of Health estimates that 825 persons will be hired annually.

In summary, the Department of Health estimates that the following number of elder-care workers will be hired annually:

<u>Elder-care workers</u>	
Elder-care workers (Division of Aging)	39,988
Hospital workers (§ 198.012, RSMo)	825
	<hr/>
Est. elder-care new hires per year	40,813

All costs are based on approximations and estimations by the department.

If there was more than one method to calculate a cost, the most expensive method was used.

**Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and
Licensure
Chapter 80—Family Care Safety Registry**

PROPOSED RULE

19 CSR 30-80.040 Updates and Appeals of Registry Information

PURPOSE: This rule establishes guidelines pertaining to the updating of information contained in the registry and the registrant's right to appeal such information.

(1) Records in the Family Care Safety Registry shall be updated as the department deems necessary.

(2) Pursuant to section 210.912, RSMo, registrants shall be advised of updated information contained in the registry. Registrants shall also be advised of the right to appeal the accuracy in the transfer of updated information to the registry.

AUTHORITY: sections 210.912 and 210.915, RSMo Supp. 1999. Emergency rule filed Sept. 19, 2000, effective Jan. 1, 2001, expires June 29, 2001. Original rule filed Sept. 19, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health, Division of Health Standards and Licensure, P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.