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Missouri State Auditor

Summary of State and Local Audit Findings - Legislative Impact

November 2009
Report No. 2009-132



auditor.mo.gov



Office of the
Missouri State Auditor
Susan Montee, JD, CPA

November 2009

The following report is a summary of State and Local Audit Findings- Legislative Impact.

This report compiles audit issues and recommendations pertaining to statutory provisions and addressed to the General Assembly, state agencies, and/or local governments, or related to information agencies should provide to the General Assembly. This information was compiled using audit reports issued between November 2007 and August 2009 and our prior summary report (No. 2007-75). Unimplemented recommendations from our prior summary report have been repeated in this report. Recommendations address a variety of topics, including the need for new legislation, revisions to existing statutory provisions, clarification of statutory provisions, and the evaluation of agency or local government procedures as compared to statutory provisions. Current status information is provided for each recommendation.

This report serves to improve awareness of the General Assembly regarding the status of legislative issues addressed in our audit reports and to encourage consideration of these recommendations in those cases where action has not been taken.

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YELLOW SHEET

SUMMARY OF STATE AND LOCAL AUDIT FINDINGS - LEGISLATIVE IMPACT

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STATE AUDITOR'S REPORT



SUSAN MONTEE, JD, CPA
Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Members of the General Assembly

The Missouri State Auditor's office, as required by Chapter 29, RSMo, and Attorney General's opinion, is responsible for audits of state agencies, boards, and commissions; counties that have not elected a county auditor; all divisions of the circuit court system; and other political subdivisions, such as municipalities, upon petition by the voters of those subdivisions.

This report was compiled using audit reports issued between November 2007 and August 2009 (report no. 2007-67 through 2009-80), our prior report (report no. 2007-75) issued in December 2007, the General Assembly joint bill tracking system, and follow up with various agency personnel. The objectives of this report were to:

1. Identify and provide status information on recent audit issues and recommendations:
 - Addressed to the General Assembly.
 - Addressed to a state agency recommending the agency work with the General Assembly, pursue legislation regarding an issue, or provide information to the General Assembly.
 - Regarding unclear or conflicting provisions of state law.
2. Update the status of unimplemented recommendations included in our prior report that remain applicable and significant.

Our methodology to accomplish these objectives included reviewing audit reports, house and/or senate bills, revisions to statutory provisions, and information obtained from inquiries of various agency officials. The status of recommendations has been determined by reviews and inquiries of the sources noted above. As such, this information, in some cases, has not been audited. The work for this summary was substantially completed by September 2009.

The following Executive Summary, Audit Issues, and Appendix sections are presented for informational purposes.

A handwritten signature in black ink that reads "Susan Montee". The signature is written in a cursive style with a large initial 'S'.

Susan Montee, JD, CPA
State Auditor

EXECUTIVE SUMMARY

SUMMARY OF STATE AND LOCAL AUDIT FINDINGS -
LEGISLATIVE IMPACT
EXECUTIVE SUMMARY

This report compiles audit issues and recommendations pertaining to statutory provisions and addressed to the General Assembly, state agencies, and/or local governments, or related to information agencies should provide to the General Assembly. This information was compiled using audit reports issued between November 2007 and August 2009 and our prior summary report (report no. 2007-75). Unimplemented recommendations from our prior summary report have been repeated in this report. The description of these audit issues and the recommendations have not been updated. Recommendations address a variety of topics, including the need for new legislation, revisions to existing statutory provisions, clarification of statutory provisions, and the evaluation of agency or local government procedures as compared to statutory provisions. Current status information is provided for each recommendation. This information was obtained from a variety of sources and is unaudited.

The State Audit Issues section reports on audit issues by state agency. A coordinated effort by the agency and General Assembly is needed to evaluate statutory provisions and take appropriate action.

The Local Audit Issues section reports on audit issues impacting local governments. The issues addressed pertain to multiple local governments.

The Appendix provides a listing of each report and its publication date used as a source for the issues presented.

This report serves to improve awareness of the General Assembly regarding the status of legislative issues addressed in our audit reports and to encourage consideration of these recommendations in those cases where action has not been taken.

STATE AUDIT ISSUES

**SUMMARY OF STATE AND LOCAL AUDIT FINDINGS –
LEGISLATIVE IMPACT
STATE AUDIT ISSUES**

DEPARTMENT OF AGRICULTURE

DEPARTMENT OF AGRICULTURE

Analysis of Fees

The Missouri Department of Agriculture has several programs that are partially funded from license, inspection, and or membership fees in which program expenditures exceed fee revenues. The department had performed a fee analysis for several programs in 2005 but did not propose any adjustments to the fees or report the results of the analysis to the legislature. The fees for these programs are generally set forth in regulations or statutes and some changes would require legislative action. Additional fee revenues would reduce General Revenue funding requirements for the programs.

Recommendation: The department perform an analysis of fees and expenditures for all fee funded programs, consider adjusting fees where possible by administrative action to cover the programs' costs, and report the results of the analysis to the legislature for their consideration.

Status: The department indicated it continues to work with the Governor and the General Assembly to identify appropriate levels of existing fees and the need for any new fees. As part of the fiscal year 2009 budget process the department provided the Governor and appropriation committees with an extensive evaluation of its fiscal year 2007 fee revenues. The department also supported legislation in the 2008 legislative session that included an increase in pesticide registration fees (House Bill 1956) and an increase in grain dealer and warehouse fees (Senate Bill 1111). However, these bills did not pass.

Report Source: 2008-45

DEPARTMENT OF ECONOMIC DEVELOPMENT

MISSOURI DEVELOPMENT FINANCE BOARD

BUILD Tax Credit Program

The Business Use Incentives for Large-Scale Development (BUILD) program is operated by the Missouri Development Finance Board under Sections 100.700 to 100.850, RSMo. This program is an economic development incentive program offered to companies that are considering locating or expanding their investment and employment in Missouri.

The current BUILD program structure unnecessarily increases the amount of state tax credits issued and is overly complex. The board operates the program as a private activity revenue bond issue program, as specified by state law.

The board should evaluate the benefits, including the reduction in the amount of tax credits issued, of changing the BUILD program from a bond issue/loan program to a tax credit program. The board should report the results of that evaluation to the legislature for its consideration of possible changes to state law to enhance the program's effectiveness. In November 2005, the Incentives Review Committee appointed by the Director of the Department of Economic Development issued the Report on Missouri Incentives Programs which included a similar recommendation.

Recommendation: The board evaluate alternative methods for the delivery of tax credits under the BUILD program to eliminate credits issued for unnecessary interest and related fees, and report the results of that evaluation to the legislature for its consideration.

Status: The board indicated an evaluation of the program has not been undertaken. In addition, no legislation to change the program was introduced during the 2009 legislative session.

Report Source: 2007-12

**TAX CREDIT ANALYSIS OF THE NEW GENERATION COOPERATIVE INCENTIVE
TAX CREDIT PROGRAM**

Tax Credit Will Not Create Sufficient Economic Activity

The New Generation Cooperative Incentive tax credit program will not create enough economic activity to offset the tax credits used. The program sunsets December 31, 2010. Because of the minimal economic benefits resulting from program costs, the General Assembly should evaluate

whether the program's social benefits outweigh those costs when considering the program's extension.

Recommendation: The General Assembly evaluate whether the program's social benefits outweigh its costs when considering its extension.

Status: The Missouri Agricultural and Small Business Development Authority (MASBDA) indicated no legislative action has been taken regarding this recommendation; however, the Joint Committee on Tax Policy is in discussions for possible changes.

Report Source: 2007-06

Tax Credit Law Needs Clarification

State law does not require new generation cooperatives to own or operate facilities in Missouri and does not define when a facility would have to be placed in operation to remain eligible for tax credits. In addition, unclear statutes can allow individuals to exceed the \$15,000 tax credit limit per cooperative per producer member. As a result, the tax credit's potential economic benefit to the state is less than it could be and some individuals may be able to benefit from the credit more than the General Assembly intended.

Recommendations: The MASBDA request the General Assembly to:

- Modify state law to ensure new generation cooperatives establish facilities within the state and establish a timeframe by which the facility needs to be in place (for example 3 to 5 years after issuance of the credits).
- Clarify in state law whether entity name or tax identification number controls who is considered a separate producer member for tax credit eligibility.

Status: The MASBDA indicated Senate Bill 252 passed during the 2009 legislative session. This bill amended Section 348.432.2, RSMo, to require facilities to be built in the state of Missouri.

Report Source: 2007-06

DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

EDUCATOR CERTIFICATION BACKGROUND CHECKS

Inadequate State Laws For Background Checks Leave Public School Students At Risk

Imprecise language in state law and the omission of other critical requirements from state law and Department of Elementary and Secondary Education (DESE) policies increases the risk an individual who has a criminal background or history of committing other offenses can obtain an educator certificate and actively teach in Missouri's public schools. Family Care Safety Registry (FCSR) background checks cannot be performed using the method required by state law and applicants for an educator certificate are not required to register with the FCSR. As a result, DESE has not required FCSR background checks and has recommended school districts should determine if these checks need to be performed. We found cases of certified educators who had a criminal background and/or a history of committing other offenses, such as child abuse or neglect. DESE officials had been aware of some of these cases, determined the educator was not a risk to students and cleared the background. However, DESE officials had not been aware of all of the cases we found because FCSR checks and periodic background checks have not been required.

To help ensure the safety of Missouri's public school students, state laws attempt to prohibit individuals who have disqualifying criminal offenses from obtaining a certificate to teach. However, due to the omission of critical language and the lack of other laws and adequate policies, public school students face being taught by or having contact with educators who have a criminal background or history of other offenses. Adequate funding is also necessary to ensure sufficient resources are available to support the FCSR background checks and other reviews needed to help ensure the safety of Missouri's public school students.

Recommendations: The General Assembly:

- Revise state laws to ensure adequate background checks are performed before an educator can obtain a certificate to teach or have contact with Missouri's public school students. These revisions should include requiring:
 - FCSR background checks be performed using name, date of birth and social security number and clarify which department is responsible for performing the checks.
 - Applicants for an educator certificate to register with the FCSR and consider requiring all active educators to register.

- FCSR background checks prior to issuance of the educator certificate and prior to a new employee in a school district having contact with students.
- Periodic FCSR background checks of all educators and others who have contact with students.
- Ensure adequate funding is available to support FCSR background checks and any resulting process changes at the DESE, the Department of Health and Senior Services, and the Missouri State Highway Patrol.

Status: Senate Bill 41 was proposed during the 2009 legislative session to address the above recommendations. However, the Senate Bill was not approved by the Education Hearing Committee and therefore was not passed by the legislature.

Report Source: 2007-32

SCHOOL DISTRICT PURCHASING PRACTICES

Procurement Procedure Improvements

Officials cannot ensure they are receiving the lowest overall cost and the best value on goods and services purchased if they are not competitively bidding purchases. Current state law does not require districts to competitively select most purchases. Also, the state has not established any type of procurement guidelines to help school districts regarding procurement policies. Other states, such as Texas, Florida and Arkansas, have implemented or are implementing legislation intended to increase the fiscal accountability of school districts. These states have established financial management "best practices," which include guidelines on procurement.

Recommendations: The General Assembly:

- Revise state statutes to require the competitive selection of goods and services at the school district level.
- Implement financial management "best practices" legislation to increase the fiscal accountability of the school districts similar to Texas, Florida, and Arkansas. This legislation should include guidelines on procurement.

Status: The DESE indicted no legislation was passed during the 2009 legislative session which addressed these issues.

Report Source: 2006-43

HIGH SCHOOL GRADUATION RATES

Documentation Is Not Required For Home School Students

State law does not currently require parents and guardians who choose to home school their children to notify the local school. Without notification students are withdrawing to home school, schools are not able to accurately verify these students are not dropouts.

Recommendation: The General Assembly pass legislation requiring persons who home school students to file written documentation with the local school.

Status: The DESE indicated it is not aware of any legislation introduced by the General Assembly relating to this recommendation for home school students.

Report Source: 2006-20

GENERAL OBLIGATION BOND SALES PRACTICES FOLLOW-UP

Competitive Bond Sales Not Always Required By State Law And Issuers Have Not Obtained Independent Financial Advice

Public entity issuers incurred unnecessary interest costs on general obligation bonds due to continued reliance on negotiated sales. This situation has occurred, in part, because state law has not required public school districts and municipalities to use competitive bond sales. While various Missouri statutes require the use of competitive sales in a variety of instances, the statute pertaining to school districts and municipalities does not contain this restriction. Legislation is needed to require school districts and other public entities to use independent financial advisors and use competitive sales of bonds when bond issues have a rating of "A" or higher.

Issuers also did not seek the advice of independent financial advisors. Instead, they have continued to receive and rely on financial services obtained from underwriters of bonds who have a vested interest in using the negotiated sale method in issuing bonds. The underwriter may benefit financially if a negotiated method of sale is chosen. In addition, when underwriters have been used, they have not been selected competitively.

Recommendations: The General Assembly revise Section 108.170, RSMo to require:

- The use of a competitively selected financial advisor, who is independent of the bond sale, when issuing public debt.
- Public entities to use the competitive method of sale for general obligation bond issues with a credit rating of "A" or higher.
- The use of a competitively selected underwriter, when appropriate, for necessary negotiated sales.

Status: The DESE indicated no legislation was passed regarding Section 108.170, RSMo.

Report Source: 2005-101

**DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION'S CHARTER
SCHOOL OVERSIGHT**

Improvements Are Needed In The Oversight Of Charter Schools

DESE officials believe they have little authority over the charter school program, and are limited in what they can require of sponsors and/or charter schools because charter school law does not specify requirements the department may place on sponsors and/or charter schools. Officials also said they do not have the authority to intervene and penalize schools or require corrective action. However, the DESE has placed departmental and other requirements on charter schools and penalized schools if certain requirements were not met. While state statutes are silent on the DESE's role, we believe it should, as the state agency overseeing public education, assume a proactive approach in ensuring charter schools are fully accountable and comply with state statutes.

Recommendation: The General Assembly enact legislation to give the State Board of Education rule-making authority over the charter school program, authorizing the establishment of commonly recognized standards of accountability.

Status: The DESE indicated legislation has not been passed granting such rule-making authority.

Report Source: 2004-59

MISSOURI WESTERN STATE COLLEGE

A+ Schools Program

Missouri Western State College's (MWSC) participation in the A+ Schools Program (A+ Program) appears to circumvent the intent of state law. Since the college's participation in the A+ Program from fall 2000 through spring 2003, MWSC has received reimbursements totaling approximately \$1,425,000. Section 160.545.5, RSMo, provides for the "reimbursement of the costs of tuition, books, and fees to any public community college or vocational or technical school" for eligible students. Since MWSC is not a community college, the college entered into an agreement with a local vocational technical school (Hillyard) whereby students would be enrolled at Hillyard and could attend classes at MWSC. Hillyard's only function is to request the reimbursements from the DESE. Hillyard requests the A+ reimbursements because the DESE has identified Hillyard, not MWSC, as an eligible institution for the A+ Program.

Recommendation: The General Assembly should evaluate the participation in the A+ program statewide to be certain its implementation is following the intent of the legislation.

Status: The DESE indicated it has evaluated the participation in the A+ program statewide and is certain that the implementation of the program is following the intent of legislation.

Report Source: 2004-24

**DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
EDUCATIONAL FUNDING**

Noncompliance In Funding - Video Instructional Development And Educational Opportunity Program (VIDEO)

Section 170.250, RSMo, requires \$4 million to be transferred from the state's General Revenue Fund to the VIDEO Fund annually. However, only \$1,091,081 and \$1,089,519 were appropriated for school years 2001 and 2002, respectively. Furthermore, due to budget restraints on the state, the funding was eliminated for the VIDEO Fund for school year 2003. This program's purpose was to encourage all educational institutions in Missouri to supplement educational opportunities through telecommunications technology and satellite broadcast instruction.

Recommendation: The DESE continue to request the funding levels for video programs as required by state law.

Status: The DESE indicated funding has not been requested pursuant to Section 170.250, RSMo, nor has there been any legislation proposed.

Report Source: 2003-36

ANALYSIS OF SCHOOL BUS DRIVER COMPLIANCE REQUIREMENTS

Proposed Changes in Law Could Have Strengthened Screenings of Drivers

State law has not required school districts to obtain fingerprint based criminal record checks on bus drivers and/or aides hired prior to January 1, 2005. In addition, state law has not required districts to conduct follow-up criminal record checks on a periodic basis. However, changes proposed in House Bill 1314 during the 2008 legislative session could have strengthened the screening process. If proposed legislation had been enacted, drivers would have been subject to FCSR registration and screening, as of January 1, 2009. Also, the proposed legislation would have required school bus drivers to undergo criminal record checks and FCSR checks on an annual basis. However, the General Assembly did not adopt the proposed legislation. The General Assembly should consider introducing legislation in the next legislative session to strengthen screening of school bus drivers.

Recommendation: The General Assembly strengthen screening of school bus drivers by enacting requirements such as those proposed in House Bill 1314.

Status: The DESE indicated it recommends to school districts and school bus contractors that the employers have policies in place to regularly monitor school bus drivers' criminal records and driving records. In addition, no legislation was passed during the 2009 legislative session which addressed this issue.

Report Source: 2008-36

SAFE SCHOOLS INITIATIVES

Improvements Are Needed in Policies, Procedures, and Programs Related to School Safety

Some school districts have insufficient violence prevention programs, anti-bullying policies, safety procedures and programs, and emergency management plans and safety drills. In addition, Missouri school districts need to better address Internet safety, sex offenders, and the state violence hotline (866-748-7047), and should consider evaluating their policies, procedures, and programs to determine the extent to which improvements are needed.

The state has not appointed a state agency and/or other entity to be responsible for assisting and monitoring school districts for sufficient safety policies, procedures, and programs or compliance with state laws and regulations.

State laws and regulations do not address certain safe schools issues. For example, there is no state law or requirement that school districts have emergency management plans or conduct drills addressing emergencies such as natural disasters (other than earthquakes), intruders, bombs or bomb threats, or other threatening situations.

Recommendations: The DESE:

- In conjunction with the General Assembly; Department of Public Safety (DPS), Office of Homeland Security; other state agencies; and school districts develop state laws and regulations, guidelines, or procedures, as needed, to address the weaknesses identified in the school districts' safe schools policies, procedures, and programs.
- In conjunction with the General Assembly and DPS, Office of Homeland Security, designate an entity to coordinate and monitor safe schools programs, initiatives, and funding.
- In conjunction with the General Assembly; DPS, Office of Homeland Security; other state agencies; and school districts consider whether additional laws or regulations are needed to help strengthen the security and safety of Missouri schools.

Status: The DESE indicated no legislation was passed during the 2009 legislative session to address these issues.

Report Source: 2008-52

DEPARTMENT OF HEALTH AND SENIOR SERVICES

SCHOOL CHILDREN IMMUNIZATION COMPLIANCE REQUIREMENTS

Procedures to Ensure Students are Properly Immunized are Ineffective

State law does not contain provisions to penalize schools that (1) do not submit the required immunization reports to the Department of Health and Senior Services (DHSS), (2) allow non-immunized students to attend school and (3) do not enforce the compulsory attendance state law.

Recommendation: The Director of the DHSS pursue legislation to establish penalty provisions for schools that do not comply with state law or regulations relating to immunization.

Status: The DHSS indicated legislation for this recommendation will not be pursued at this time.

Report Source: 2008-69

PROTECTING CHILDREN AT CHILD CARE PROVIDERS

Increased Penalties Could Deter Illegal Providers

Penalties imposed have not been adequate to deter providers from operating illegally. Prosecutors can only charge illegally operating unlicensed child care providers with an infraction that provides for a maximum \$200 fine for a first violation. Subsequent violations are treated as Class A misdemeanors.

Recommendation: The General Assembly establish state law that increases criminal penalties and/or creates provisions for the department to assess and enforce penalties for illegally operating day cares.

Status: The DHSS indicated House Bill 383 was introduced during the 2009 legislative session to address this recommendation; however, the bill did not pass. If House Bill 383 had passed, any person violating child care licensure requirements or illegally obtaining a child care license, two or more times, would have been guilty of a Class A Misdemeanor and assessed a fine of \$200 per day, not to exceed \$10,000. Unlicensed child care facilities operating illegally would be immediately closed by the DHSS and the county prosecuting attorney could file suit to obtain a permanent order preventing the facility from further operations.

Report Source: 2008-03

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS,
AND PROFESSIONAL REGISTRATION**

INSURANCE

Examination Tax Credit

Missouri is one of only five states to allow insurance companies to receive tax credits for examination costs. Section 148.400, RSMo, allows all insurance companies to deduct the entire cost of examinations from premium taxes paid to the state and deposited into the state's General Revenue Fund. Additionally, this statute allows insurance companies to carry forward these credits for 5 years. In essence, the state's General Revenue Fund is paying a significant portion of the examination costs instead of charging all the costs to insurance companies as a part of doing business in Missouri. For tax years 2006 and 2005, examination tax credits claimed were approximately \$2.1 million and 1.9 million, respectively.

Recommendation: The department review this issue and consider seeking legislation to reduce or eliminate the examination tax credit.

Status: The department indicated it continues to track and provide information on the examination tax credit as well as the other tax credits taken by insurance companies to the General Assembly as required under the Tax Credit Accountability Act - Senate Bill 1099. The department presents this information to the House and Senate in a scheduled tax credit hearing and the department always makes sure to address the fact that Missouri is one of five states to allow this credit.

Examination fee credits were \$2.9 million in 2007 and \$1.9 million in 2008. The 2008 reduction is due largely as a result of changes in examination billing included in Senate Bill 66 (2007). Even though all companies are eligible for the examination fee credit due to retaliatory tax issues, the credit is mostly taken by Missouri domiciled insurance companies. According to department officials, the General Assembly and industry view the tax credit as an economic incentive for Missouri companies. The department estimates that examination fee credits will continue to be lower due to Senate Bill 66 and that large carryover amounts will not ever be taken due to the retaliatory tax issue with other states.

Report Source: 2007-84

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SECOND INJURY FUND

Fund Likely To Become Insolvent Unless Corrective Action Taken

Legislative changes implementing the 3 percent surcharge cap have eliminated the division's ability to assess an employer surcharge rate sufficient to cover fund expenditures. As a result, the fund will become insolvent during 2008 unless corrective action is taken. Prior to the legislative changes in 2005, the surcharge rate formula, in place since 1993, was a self-adjusting fund mechanism which used a variable surcharge rate to ensure revenues were sufficient to cover expenses. While the 2005 changes are expected to result in fund expenditure reductions, the changes will also impact the premium base, and therefore, the revenue side of the surcharge equation. In the event the premium base drops, a 3 percent surcharge rate will result in less revenue than it did in prior periods. The lack of a variable surcharge rate does not allow the fund to collect adequate funds to remain solvent.

A January 2007 Missouri Supreme Court decision will result in additional future fund liabilities. Determining a more specific impact of the court's decision would assist the General Assembly in determining the extent of action to be taken to cover expected shortfalls in funding. Action is needed because state laws provide no contingency plan or funding available to cover the expected shortfall. In addition, pending legislation does not address the short-term solvency concerns of the fund, therefore additional funding sources are needed to address this short-term insolvency of the Second Injury Fund.

Recommendations:

- The General Assembly take action to ensure fund solvency in 2008 and in the future.
- The Department of Labor and Industrial Relations (DLIR) in conjunction with the General Assembly, develop a contingency plan to address potential fund shortfalls.

Status:

A legislative committee studying this issue has met several times. However, the department indicated legislation addressing Second Injury Fund issues was introduced during the last few legislative sessions but failed to pass.

Report Source: 2007-19

WORKERS' COMPENSATION PROGRAM

Opportunities Exist To Improve Missouri's Workers' Compensation System

Missouri has a medical rating process that is unstructured and has not provided consistent and predictable results for injured workers. This situation has occurred because Missouri law does not contain specific information regarding how injured workers' disabilities are to be rated.

The workers' compensation system has not ensured Temporary Total Disability (TTD), and Permanent Partial Disability (PPD) benefits have been provided in a timely manner. State law requires TTD benefits be made at least every 2 weeks. However, according to division personnel familiar with the process, the statute does not contain clear language as to when the first TTD payment is to be made and does not require the employer or insurance carrier to make the first payment in a timely fashion. State law has not required PPD benefits be paid in a timely manner once a physician's final rating has been issued, and contains no penalties for slow payment.

The statutory formula for determining the administrative fund tax and surcharge rate has not allowed the division to ensure adequate funding will be available for future expenditures. State law requires the division to project the year end fund balance by October 31 of each year, and compare it to 110 percent of fund expenditures from the prior full year to determine whether an administrative tax and surcharge will be imposed on employers for the coming year. The division's plan to upgrade its data system illustrates the inadequacy of the current formula. The division's plan requires spending a significant amount of administrative funding over the next several years. However, these future year expenditures cannot be taken into account when deciding whether an administrative tax/surcharge rate can be charged in those periods. Instead, the division must look at the previous year expenditure level.

Recommendations: The General Assembly:

- Change state law to implement a more structured disability rating process.
- Clarify state law on how quickly TTD benefit payments should begin and what requirements are necessary to ensure timely payments and/or medical treatments are provided.
- Change state law to ensure timely payment of PPD benefits once the claimant has reached maximum medical improvement.
- Revise state law to allow the division to consider future administrative expenses when calculating the administrative tax and surcharge rates.

Status: The DLIR indicated it has not proposed any legislation related to these issues. If and when legislation is introduced, the department will cooperate with the General Assembly by providing information regarding the impact of proposed legislation, if it can be determined.

Report Source: 2008-57

DEPARTMENT OF NATURAL RESOURCES

ANALYSIS OF WOOD ENERGY TAX CREDIT PROGRAM

Wood Energy Tax Credit Is More Costly Than Anticipated

Annual wood energy tax credits issued and redeemed are at least three times more than the original estimates when the General Assembly reauthorized the tax credit. This cost increase occurred because Department of Natural Resources (DNR) officials established a higher tax credit rate for charcoal products in state regulations based on input weight to create the wood product (charcoal) rather than the output weight. The tax credit statute states the tax credit shall be \$5 per ton of processed wood material. The officials interpreted the phrase to mean the input weight, but it is not clear that was the legislative intent of the wording.

Recommendation: The Director of the DNR work with the General Assembly to clarify in the Wood Energy tax credit law whether processed wood material is intended to be defined as input material or output material and change the program's regulations as necessary.

Status: The department indicated no legislation has been passed to address this recommendation.

Report Source: 2007-58

DEPARTMENT OF PUBLIC SAFETY

OVERSIGHT OF AMUSEMENT RIDE SAFETY

Missouri's Amusement Ride Safety Laws Are Lacking

Other states have stricter requirements for inspecting portable rides at each set up and reporting accidents and mechanical failures. In addition, current state law does not require owner-hired inspectors to be independent, and Missouri's amusement ride safety requirements are not all inclusive.

Recommendation: The Director of the Department of Public Safety conduct a comprehensive review of inspection requirements and recommend program enhancements to the General Assembly. This review should include addressing areas such as inspections of portable rides at each set up, strengthening requirements on the reporting of accidents and mechanical failures, and requiring owner hired inspectors to be independent. Other states' ride safety programs should be considered in this review.

Status: The Division of Fire Safety indicated many of these recommendations would require changes to promulgated rules, not state law. No legislation has been passed and no rules have been promulgated addressing these issues. Rules changes are being considered regarding reporting of accidents and mechanical failures, and inspector independence.

Report Source: 2005-23

PEACE OFFICER STANDARDS AND TRAINING PROGRAM (LICENSING, TRAINING, AND COMPLAINT INVESTIGATION ASPECTS)

Program Enhancements-Discipline For Misconduct

Section 590.080.1, RSMo, does not allow discipline for misconduct unless the misconduct occurred while the officer was on duty or was a criminal act. To ensure public safety is maximized, Peace Office Standards and Training (POST) program officials should pursue legislative changes that allow disciplinary action for instances of misconduct that occur when a peace officer is not on duty.

Recommendation: POST program officials seek legislative changes allowing for discipline in more situations.

Status: The department indicated legislation has not been pursued and the attempt to regulate behavior of off-duty peace officers has serious opposition in the legislature because of employee/labor court decisions. The department also indicated it has no future plans to pursue legislation.

Report Source: 2005-10

Program Enhancements-Revealing Employment History

State law prevents POST program officials from revealing employment history to prospective law enforcement agency employers. Section 590.180.2, RSMo, states that POST can release the name, licensure status, and commissioning agency as open records, and can release to law enforcement agencies the final determination of cause for discipline. However, POST cannot release information regarding previous employment or termination.

Recommendation: POST program officials seek legislative changes allowing POST to reveal previous employment information to prospective local law enforcement employers.

Status: The department indicated legislation has not been pursued. The POST Commission has reviewed proposals regarding employment history and voted to take no action.

Report Source: 2005-10

Licensing Procedures And Entrance Standards-Verification Of State Income Tax Returns

State law requires certain governmental entities that issue various professional licenses to obtain verification from the Missouri Department of Revenue that their licensees' have filed state income tax returns in the three previous years. However, peace officer licenses are not subject to this law. It appears reasonable that peace officer licenses should also be subject to state income tax compliance provisions.

Recommendation: Consider pursuing legislation that would require individuals to file and pay state taxes before receiving a peace officer license.

Status: The department indicated legislation has not been pursued. The POST Commission has reviewed proposals regarding income tax verification and voted to take no action.

Report Source: 2005-10

MISSOURI STATE HIGHWAY PATROL'S USE OF HIGHWAY FUNDS

Missouri State Highway Patrol's Use Of Highway Funds

Approximately \$343,000 of the \$167,000,000 appropriated to the Missouri State Highway Patrol (MSHP) from the State Highways and Transportation Department Fund was not spent for highway-related activities during fiscal year 2008 and therefore was not spent in compliance with state law. Although the MSHP requested funding to be reallocated from highway funds to other funds in its fiscal year 2009 budget, no reallocation was approved.

Recommendation: The General Assembly authorize the transfer of \$343,000 from the state's General Revenue Fund to the State Highways and Transportation Department Fund and make needed adjustments to MSHP's fiscal year 2009 supplemental budget.

Status: The MSHP indicated it is continuing to study its activities and funding sources and to pursue appropriate fund switches through legislative budget requests. The General Assembly did not make any adjustments to MSHP's fiscal year 2009 supplemental budget, and to date has not authorized any transfer from the General Revenue Fund to the State Highways and Transportation Department Fund.

Report Source: 2008-98

FIREWORKS LICENSING AND INSPECTION

Additional Resources and Other Changes Would Benefit the Program

The Division of Fire Safety (DFS) has not received additional funding for personnel or expenses to support administering the fireworks program since program inception in 1985, including expanded responsibilities in 2004. The 2004 change occurred in part because the statutory formula for the Fire Education Fund funding had never resulted in a transfer to the fund. Increasing statutory responsibilities without authorizing additional resources may weaken an agency's ability to accomplish required tasks. Fee revenue dedicated to the Fire Education Fund could be fully or partially redirected to fund division operations if state law was clarified as to how insurance company retaliatory tax is to be distributed. In addition, Missouri fireworks permit and license fees are primarily lower than the fees in the 12 states we surveyed. Evaluation by the General Assembly of the funding formula for the Fire Education Fund and the permit and license fee rates is needed.

Recommendations: The Director of the Department of Public Safety work with the General Assembly and the Office of Administration to obtain funding for the fireworks program. Areas needing evaluation include fireworks permit and license fees going to the Fire Education Fund and current fireworks permit and license fee rates.

The General Assembly:

- Evaluate (1) funding for the fireworks program, (2) the funding formula for the Fire Education Fund, and (3) fireworks permit and license fee rates.
- Clarify in Section 375.916, RSMo, as to how retaliatory tax is to be distributed.

Status: Division officials indicated there have been no legislative changes made to address these recommendations.

Report Source: 2008-01

Improved Procedures and Changes to State Law and Regulations Needed

State law allows local jurisdictions to establish safety standards for displays, proximate fireworks displays and fireworks businesses that differ from DFS standards. Public safety may be harmed due to weaker local safety standards.

Division officials said background checks have not been performed because state law does not mandate the division perform background checks nor has the division received funding to perform background checks. A MSHP official said state law gives state agencies the authority to obtain fingerprint background checks for licensing purposes; however, the official said the law would need to be updated to give the division specific authority to obtain background checks.

State law or regulations do not require manufacturers, distributors, wholesalers, jobbers, or seasonal retailers operating in a permanent structure to furnish proof of financial responsibility in order to satisfy claims for damages to property or personal injuries arising out of any act or omission. The fireworks state law or regulations do not require fireworks manufacturers, distributors, wholesalers or jobbers to maintain accurate records of sale, shipment or purchases or allow the State Fire Marshal access to these records.

Recommendations: The General Assembly:

- Revise state law to ensure consistent fireworks standards are implemented on a statewide basis.

- Revise state law to clarify DFS has the authority to obtain fingerprint background check results as part of the operator licensing process. Ensure adequate funding is available for these background checks.
- Consider requiring fireworks businesses show proof of financial responsibility and give DFS access to financial records.

Status: Division officials indicated there have been no legislative changes made to address these recommendations.

Report Source: 2008-01

DEPARTMENT OF REVENUE

SALES AND USE TAX

Sales And Use Tax Refund Liabilities

The Department of Revenue (DOR) records reflect sales and use tax refund requests filed as of June 30, 2006, totaling approximately \$210 million, which are related to one issue and have not been validated.

The issue is related to the tax exemption addressed in an opinion handed down on December 20, 2005, by the Missouri Supreme Court in the case of *Southwestern Bell Telephone Company, v. Director of Revenue*. Interest, which could be substantial, continues to accrue on these claims. In a February 5, 2007, letter to the State Auditor, the Director of Revenue indicated that refund claims filed citing a connection to the abovementioned case had risen to approximately \$300 million. However, the Director would not provide us with any detailed or other supporting documentation to allow us to verify her statement.

Given the potential fiscal impact of these liabilities on state and local funds, it is essential that this issue be addressed, including the development of a plan to validate the use tax refund requests by the DOR and a funding plan by the General Assembly for the payment of amounts (including interest) determined to be valid and due.

Recommendation: The DOR, along with the General Assembly, determine the most feasible course of action and develop a plan to address in a timely manner the refund claims and related liabilities noted above.

Status: The department indicated telecommunication refund claims with an estimated liability of \$171 million had been resolved, by negotiated settlement, as of June 30, 2009, for a total settled amount of approximately \$120 million. Of the settled amount, the DOR has paid approximately \$79

million, resulting in approximately \$41 million in future scheduled payments. The department estimates there is approximately \$34 million (excluding any applicable interest) in unsettled claims as of June 30, 2009.

The department intends to continue to resolve claims by negotiated settlement. The department obtains documentation from the taxpayer to determine, among other things, the claim was filed within the statute of limitations and meets other legal requirements, the tax associated with the claim was actually paid, and the equipment and machinery for which the refund is sought is exempt. Only then do DOR management and General Counsel staff negotiate resolution.

Report Source: 2007-15

Sales And Use Tax Exemptions

The DOR does not track information regarding all sales and use tax exemptions and, as a result, cannot determine the effects on state revenue related to each of the exemptions.

Failure to determine the fiscal impact of various sales and use tax exemptions on state revenues reduces the General Assembly's ability to make informed decisions regarding the propriety of current and possible future exemptions. A method of reporting, which would provide reliable additional information for various sales and use tax exemptions, should be developed to accumulate the information that should already be available. Such information should be reported to the General Assembly annually.

Recommendation: The DOR develop a comprehensive system to compile and maintain exemption information so that the reductions of state revenue related to each exemption can be determined.

Status: The department indicated that currently no method exists to efficiently or reliably capture exemption data. The department would need to either purchase or develop a new sales tax system which would incorporate the tracking of sales tax exemption information. In addition to programming costs, the department would also require additional staff to record and analyze this information.

Report Source: 2005-13

Sales And Use Tax Refunds

State law does not require vendors to return sales and use tax refunds and related interest to the original purchaser when applicable, resulting in a windfall for the vendor. While House Bill No. 600, which passed in the 2003 legislative session, provides additional guidance related to sales and use tax refunds, it does not provide that refunds must be returned to the original purchaser.

We addressed this issue in previous reports and the department agreed with the recommendation to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser; however, such legislation has not been successful.

Recommendation: The DOR continue to support legislation that would require sales and use tax refunds and related interest to be returned to the original purchaser.

Status: The department indicated it continues to support legislation introduced to return refunds and interest to the original purchaser.

Report Source: 2005-13

Project Exemptions Certificates

The department lacks procedures to monitor the issuance or use of project exemption certificates issued by tax-exempt entities. Section 144.062.2, RSMo, provides that when any tax-exempt entity contracts for the purpose of constructing, repairing or remodeling facilities, and purchases of tangible personal property and materials to be incorporated in the project are to be made on a tax-exempt basis, such entity shall issue project exemption certificates. Project exemption certificates authorize contractors to purchase materials to be consumed in projects without paying sales tax.

Without adequate documentation or proper monitoring of materials used in the tax-exempt project, the department cannot determine whether the tax exemption was applied in compliance with state law.

Recommendation: The DOR develop procedures to monitor the issuance and use of project exemption certificates.

Status: The department indicated it has not identified a cost-beneficial mechanism to monitor the issuance and use of all project exemption certificates. However, the department continues to review project exemption certificates in the course of sales and use tax audits, to the extent applicable. The assigned auditor verifies the exemption claim with the purchase invoices to ensure the amount purchased correlates with a properly documented tax exempt project.

Report Source: 2003-55

BRANCH OFFICE CONVERSION

Selection Of Contract Agents

The department has not established criteria or solicited proposals for selection of contract agents. It should be noted that the method used by the current administration to appoint or select contract agents has been a long-standing practice within state government. It appears that the appointed contract agents should be held to standards other than just their political affiliation. The DOR should support any legislation requiring the contract agents to be selected through a competitive process.

Recommendation: The DOR consider establishing minimum experience and educational requirements for potential candidates. In addition, the DOR should consider soliciting proposals to maintain an acceptable level of service and support legislation that requires contract agents to be selected through a competitive evaluation process.

Status: The department indicated Governor Nixon implemented a competitive bidding process on January 13, 2009 that allows Missourians to submit proposals to run a license office, just as if they were competing for any other state contract. Interested individuals or organizations submit proposals which include details on their business plan, financing, hours of operation, relevant experience, and other factors related to the service they plan to provide. Bidders' proposals are scored by department staff using an objective point system. The bidder earning the most points is awarded the office.

This new process was supported by the bipartisan majority of legislators who voted to make the competitive process a permanent part of Missouri law. House Bills 381 and 683 were signed into law on July 1, 2009, with an effective date of August 28, 2009.

Report Source: 2006-37

MISSOURI STATE TAX COMMISSION

Certificates Of Value

The State Tax Commission (STC) does not have access to adequate market data statewide. A law mandating the use of certificates of value (COV) would require the disclosure of detailed sales information and provide another tool which assessors could use to more equitably assess property and the STC could use to perform ratio studies.

Available STC annual reports showed a statewide COV law has been recommended to the General Assembly every year since 1980. Such bills have been introduced in the General Assembly seven times since 1995; however, none of the legislation has been successful.

Recommendation: The STC continue to develop procedures and begin testing in the jurisdictions which have passed a local sales disclosure law. In addition, the STC should continue to support legislation which will ensure equitable and uniform assessments throughout the state.

Status: The STC indicated it recommended to the General Assembly, in its annual report, the adoption of COVs. However, the bill drafted did not move out of committee.

Report Source: 2005-30

EFFORTS TO ENFORCE UNINSURED MOTORIST LAW

Uninsured Motorist Law

The exclusion of commercial, fleet and rental vehicles from compliance with the motor vehicle responsibility law hinders the DOR's ability to ensure insurance companies report all necessary records. The state's \$20 reinstatement fee for a first offense of not having a vehicle insured is the lowest compared to 12 other states reviewed. The legislature reduced the fee effective January 2000 with the apparent intent of increasing reinstatements; however, the lower fees have not created the intended result.

Recommendation: The General Assembly revise compliance under the motor vehicle responsibility law to include commercial, fleet, and rental vehicles and evaluate increasing the first offense reinstatement fee.

Status: The department indicated Chapter 303, RSMo, has not been revised to include commercial, fleet, and rental vehicles. In addition, the \$20 first offense reinstatement fee is still intact pursuant to Section 303.042.2 (1).

Report Source: 2005-16

DEPARTMENT OF SOCIAL SERVICES

CHILD SUPPORT DELINQUENCIES

Opinions Differ On Terminating Judicial Orders Of Support

Clarifying state law to identify who shall be responsible for terminating judicial support orders and obligations on the automated system would provide uniformity and consistency, and ensure arrears do not continue to accrue when child support is no longer due. Until state law is clarified, the division should identify courts where judges have stated they do not want division personnel terminating judicial orders, and amend policy to require division personnel to terminate judicial support orders originating in all other courts once statutory criteria has been met.

Recommendation: The General Assembly clarify state law to clearly identify who has the authority and responsibility to terminate judicial orders of support and end further accruals of unpaid support on the automated system, when child support is no longer due.

Status: The Department of Social Services (DSS) indicated there have been no legislative changes related to this recommendation.

Report Source: 2007-59

EARLY CHILDHOOD DEVELOPMENT, EDUCATION, AND CARE FUNDING

Fewer Departments May Better Administer Early Childhood Development, Education, and Care (ECDEC) Funded Child Care Programs

ECDEC funded child care programs may be administered more efficiently and effectively if fewer departments were involved. Currently, ECDEC funded child care programs include DSS (for children ages birth to 3), Department of Elementary and Secondary Education (for children ages 3 to 5), and Department of Health and Senior Services for licensure purposes. As a result, child care facilities are subject to regulation and monitoring visits from at least two and possibly three state departments.

Recommendation: We recommend the General Assembly consider utilizing fewer agencies to administer ECDEC programs.

Status: The DSS indicated a subcommittee of the Coordinating Board for Early Childhood was created to examine and make appropriate recommendations on Missouri's early childhood professional

development system. A final report of the professional development subcommittee was issued in September 2008.

Report Source: 2007-87

MEDICAID PROVIDER MONITORING

Copy Costs a Concern

The number of records reviewed on provider cases is limited. Program Integrity Unit analysts said supervisors have instructed them to limit most record requests to 25 or 30 items over concern providers will charge the state for copy costs.

The state's agreement with Medicaid providers requires them to furnish, on request, information regarding payments claimed. Section 191.227.2, RSMo, allows healthcare providers to condition the furnishing of a patient's health care records to the patient, the patient's authorized representative, or any other person or entity authorized by law to obtain or reproduce such records upon payment of a fee to cover copy or other costs associated with providing the information. During fiscal years 2005 and 2006 the division paid a total of about \$5,300 for medical record copies.

Recommendation: The Director of the DSS seek legislative change or amend the provider participation agreement, as necessary, to require providers to supply copies of records at no cost to the Program Integrity Unit.

Status: The department indicated it is not planning on requesting any legislative changes. The department disagreed with the recommendation to include a legislative requirement that providers absorb copy costs for review of their records.

Report Source: 2009-39

**DEPARTMENTS OF HEALTH AND SENIOR SERVICES, MENTAL HEALTH, AND
SOCIAL SERVICES**

PROTECTING CLIENTS FROM ABUSE

DSS Not Automatically Disqualifying Individuals Based on Crimes or Abuse

DSS policy and state law have not automatically precluded individuals with child abuse charges or criminal convictions from being employed at residential facilities. Instead, the decision of whether anything in a potential employee's background would prevent the individual from being employed at a facility is left to the discretion of the residential facility's executive director.

Recommendation: The Director of the DSS develop policies and procedures, and work with the General Assembly to develop law that disqualifies persons from employment that have serious child abuse and/or criminal histories.

Status: The department indicated there were no legislative actions on this issue in fiscal year 2009. However, the department indicated rules requiring residential child care staff to register with the Family Care Safety Registry were promulgated by the division and became effective August 4, 2008.

Report Source: 2007-70

Department of Mental Health (DMH) not Automatically Disqualifying Persons Included on DSS's Central Registry

Persons included on DSS's Central Registry have not been disqualified from employment at DMH state-run facilities and contract providers because state law does not prohibit persons who have committed child abuse from working with DMH clients.

Recommendation: The General Assembly establish state law that disqualifies persons on DSS's Central Registry from employment at DMH facilities and providers.

Status: The DMH indicated the General Assembly has made no changes to the law.

Report Source: 2007-70

Persons with Dangerous Histories Permitted to Work in Long-Term Care

State law does not disqualify persons with histories of child abuse or neglect; and stealing, theft, and forgery convictions from working in long-term care facilities.

Recommendation: The General Assembly establish state law that disqualifies persons on DSS's Central Registry, and those convicted of forgery or theft offenses from employment at Department of Health and Senior Services (DHSS) licensed long-term care facilities.

Status: The past three legislative sessions, DHSS recommended legislation pursuing changes to the disqualifying crimes. The recommendations in the proposed legislation would have broadened the scope of crimes that disqualified persons from working in long-term care facilities. Specifically, the recommendations would have expanded the disqualifying crimes by adding Class A and B Felony drug violations, forgery, felony violation of stealing or three misdemeanor violations of stealing, and financial exploitation of an elderly or disabled person and would prohibit employment of a registered sex offender. The recommendations, however, did not include those persons listed on the DSS Central Registry. Currently there remains no statutory authority to include placement on the DSS Central Registry as a disqualifying factor.

Report Source: 2007-70

Persons With Pending Charges Worked With Clients

The DHSS allows persons charged with, but not yet convicted of, a disqualifying crime to work with long-term care clients. Department officials told us that until convictions occurred, nothing could be done on these cases.

Recommendation: The General Assembly establish state law that ensures persons charged with, but not yet convicted of, disqualifying crimes are not allowed to have contact with clients.

Status: The DHSS indicated it is unaware of any legislative proposals having been recently introduced regarding this issue. The DHSS recognizes the seriousness of this matter, and will explore legislative changes that could address client safety and still provide due process protection for the individual.

Report Source: 2007-70

Improvements Needed in Family Care Safety Registry (FCSR) Registration, Screenings, Law, and Processing Waivers

Child care, elder care, and personal care workers are required by law to register with the FCSR. However, state law has not required child care or long-term care facilities to conduct FCSR screenings of employees.

Recommendation: The General Assembly establish state law that requires child and elder care facilities conduct FCSR screenings.

Status: The DHSS indicated the FCSR provides information that is not required to be reviewed in making employment decisions in long term care facilities. The DHSS concentrated on expanding the list of crimes as the initial step to comply with the recommendations. However, that proposed legislation has not passed. Missouri statute requires child caregivers to register with the FCSR, and DHSS Section for Child Care Regulations (SCCR) rules require background screenings. A provider may opt to use the Missouri Uniform Law Enforcement System or the DSS Child Abuse/Neglect Screening, but is not required by rule to use the FCSR. The SCCR proposed rule revisions to address this issue and require national background screenings for caregivers who work in Missouri but live in a bordering state or who have lived in Missouri for less than five years.

Report Source: 2007-70

Providers Have Not Been Required to Conduct Nationwide or Other State Background Checks

Providers have not been required to perform national criminal background checks or checks of states that border Missouri. State law has not required nationwide criminal history checks for employees of DMH contracted providers, DHSS licensed long-term care facilities and contracted in-home care providers, unless the prospective employee has not lived in Missouri for the past 5 years and only then if state funding is available for that purpose. State funding for nationwide criminal history checks is subject to appropriation by the General Assembly and according to DMH and DHSS officials, funds have not been provided.

Recommendation: The General Assembly establish state law that requires a nationwide criminal history check for all persons seeking employment at licensed residential facilities, DMH contracted providers, long-term care providers, and in-home care providers. In addition, clarify existing state law to allow providers to seek reimbursement from applicants.

Status: The DHSS indicated it is unaware of any legislative proposals having been recently introduced regarding this issue. Section 660.317.4, RSMo states, ". . . the obligation of a provider to obtain a nation-wide criminal background check shall be subject to the availability of appropriations." The DHSS indicated it will evaluate the appropriation that would be needed.

The DMH indicated legislation has been pursued; however, no laws have been passed that would address this recommendation.

Report Source: 2007-70

Supreme Court Ruling Prevents DSS from Placing Substantiated Abusers on Central Registry Until Criminal Charges Are Resolved

A ruling by the Missouri Supreme Court in March 2007 required changes in DSS procedures that prevent the DSS from placing individuals with substantiated findings of child abuse on the Central Registry if they have criminal charges pending. The Supreme Court found an individual is entitled to notice and a hearing with the Child Abuse and Neglect Review Board (CANRB) before being placed on the Central Registry. The DSS changed its procedures to comply with this ruling. However, current state law does not allow a person who has criminal charges pending to request a CANRB hearing until after the court's final disposition or dismissal of the charges.

Recommendation: We recommend the General Assembly establish state law that ensures individuals with substantiated child abuse charges have a CANRB hearing before the court has dismissed or reached a final disposition on related criminal charges.

Status: The DSS indicated legislation was introduced during the 2009 legislative session regarding this recommendation, but it did not pass.

Report Source: 2007-70

GOVERNOR

OFFICE OF GOVERNOR

State Resources and Governor's Security Costs

State laws are ambiguous and contradictory regarding the use of state resources by the Office of Governor for political and personal purposes. The Governor uses the security and some transportation resources provided by the Missouri State Highway Patrol (MSHP) for all official, political, and personal activities. He does not reimburse the state for any political or personal use.

The total costs for the Governor's security cannot be readily determined. Significant costs of the Governor's security division, within the MSHP, are not specifically identified in the division's appropriations.

Recommendations: The Office of the Governor:

- Pursue legislation regarding its use of state resources, including those of the MSHP, for anything other than official use. With the possible exception of security, until state law is clarified, the Governor should reimburse the state for the use of state resources for purposes other than official state business or discontinue such use.
- In conjunction with Department of Public Safety, MSHP, pursue appropriations for the security division sufficient to fund all division operating expenses, including personnel and vehicle expenses.

Status: The Office of Governor indicated no legislation regarding these recommendations has been passed.

Report Source: 2008-09

LIEUTENANT GOVERNOR

OFFICE OF LIEUTENANT GOVERNOR

State Vehicle

The Lieutenant Governor reimbursed the state for personal use of his state-owned vehicle; but there is no provision in state law which allows a state vehicle to be used for anything other than official use.

There is no provision that exists in state law that allows any state official to use state vehicles for personal or political purposes. Furthermore, there are no provisions that allow non-official use as long as there is appropriate reimbursement. Regarding state-owned vehicles, Section 301.260, RSMo, provides that "No officer or employee or other person shall use such a motor vehicle for other than official use." If the state intends to allow elected or other state officials to use state resources for anything other than business purposes, legislation should be pursued to clearly allow this practice and any other related conditions, such as reimbursement, for such use. Until such provisions are approved, no state resource should be used for purposes other than official state business.

Recommendation: The Office of Lieutenant Governor, in conjunction with the Office of Administration and other state officials, pursue legislation regarding the proper use of state-owned vehicles and other state resources by elected and other state officials.

Status: The Office of Lieutenant Governor indicated no legislative action was proposed and the state-owned vehicle is used only for official use.

Report Source: 2007-64

GENERAL ASSEMBLY

GENERAL ASSEMBLY AND SUPPORTING FUNCTIONS COMMITTEE ON LEGISLATIVE RESEARCH

Fiscal Impact Of Legislative Decisions

The Committee on Legislative Research's (COLR) Oversight Division provides information to the General Assembly regarding the estimated fiscal impact of proposed legislation. This information is provided through fiscal notes developed by the division with assistance from the affected agency(ies). However, there are no statutory provisions or any other means or mechanism which require or provide for the actual fiscal impact of legislative decisions to be reported to the General Assembly after legislation has been passed. The audit disclosed various examples where the actual fiscal impact of legislative decisions was not determined and reported to the legislature. In some instances, the actual fiscal impact may have been significantly different than the fiscal impact estimated when the related legislation was being considered.

Sections 23.250 to 23.298, RSMo (The Missouri Sunset Act) provides that any new program authorized into law will sunset after a period of not more than 6 years unless it is reauthorized. That legislation provides the Committee on Legislature Research shall review the new programs before their sunset dates and present a report to the General Assembly regarding the need and performance of the programs and make recommendations regarding the sunset, continuation, or reorganization of each affected program. While these statutory provisions include criteria to be considered during these program reviews, we saw no requirement that the actual fiscal impact of such programs be compared to original estimates.

Recommendation: The COLR work with the General Assembly in establishing a means or mechanism to follow-up and report on the actual fiscal impact of significant legislative decisions. Such an effort may result in the need to make revisions to the Missouri Sunset Act or other statutes.

Status: The COLR indicated a new section, the Legislative Budget Office (LBO), was created in 2007 with one of the duties being to follow-up on and report on the actual fiscal impact of past legislative decisions as directed by the legislature. However, that office has not yet been directed to review any past fiscal notes for actual fiscal impact. Senate bill 514 was introduced in the 2009 legislative session that would have directly addressed this recommendation. That bill would have established specific

legislative authority for the LBO and specifically included as one of its statutory duties to review the actual fiscal impact of past significant legislative decisions. However, this senate bill did not pass.

Report Source: 2005-87

COMPLIANCE WITH CLOSED MEETING AND CLOSED SESSION PROVISIONS OF THE SUNSHINE LAW

Notices Posted By Public Bodies Did Not Document Compliance With The 24-hour Rule

The Sunshine Law does not specifically state public meeting notices must include the posting date and time, but requires the public body and its members demonstrate compliance with all law provisions, including the 24-hour posting requirement. Unless a notice includes the posting date and time, a public body cannot clearly demonstrate compliance with the 24-hour rule.

Recommendation: The General Assembly revise the Sunshine Law to require notices posted for public meetings include the date and time the notice is posted.

Status: A review of statutory provisions and revisions since this report was issued, shows that no changes were made to the Sunshine Law to require the date and time of the notice to be provided.

Report Source: 2003-20

OFFICE OF ADMINISTRATION

MISSOURI ETHICS COMMISSION

Statutory Requirements

The Missouri Ethics Commission (MEC) has the responsibility for the enforcement of conflict of interest and lobbying laws (Sections 105.450-498, RSMo). However, as similarly discussed in our prior report, the MEC's enforcement authority is often limited or non-existent because the state laws are vague, confusing, and inconsistent, and contain numerous exceptions to the various reporting requirements. Legislative changes have been pursued by the MEC that would resolve some of these issues, but the changes have not passed.

Recommendation: The MEC continue to pursue statutory changes to Chapter 105 to ensure the laws include appropriate enforcement provisions.

Status: The MEC indicated that multiple bills with provisions related to Chapter 105 were introduced during the 2009 legislative session, but none passed.

Report Source: 2006-51

TOBACCO SETTLEMENT FUNDS

Non-Participating Manufacturers

Tobacco manufacturing companies that are not part of the Master Settlement Agreement (MSA) (collectively the Non-Participating Manufacturers or NPMs) make no payments and have not agreed to any limitations on advertising, marketing, and promotion of their cigarettes. However, the NPMs are not released from potential state claims. To ensure that Settling States that are successful in a future lawsuit against a NPM would have monies against which they can recover any judgment/settlement money, the MSA recommended the adoption of a model statute requiring the establishment of qualified escrow accounts. Missouri adopted the model statute, effective July 1, 1999.

The state has not passed additional legislation that would amend the model statute passed in 1999. The National Association of Attorneys General (NAAG) has recommended the model statute be amended to include two components, referred to as complimentary legislation and the allocable-share amendment.

According to the NAAG, the purpose of the complimentary legislation is to make enforcement of the model statute more effective. Additionally, the allocable-share amendment would close a loophole in the model statute which allows the release of certain funds placed in the NPMs' escrow accounts.

Recommendation: The state needs to consider passing additional legislation to amend the model statute.

Status: The Attorney General's Office indicated various legislation was introduced related to the model statute, but none was passed.

Report Source: 2006-16

ANALYSIS OF STATE ENERGY EFFICIENCY PROGRAMS

Alternative Fuel Vehicle Purchases and Fuel Requirements

Missouri has established standards for state agency use of alternative fleet vehicles and alternative fuels, but the requirements are not being fully met. This situation exists because (1) some universities do not meet the fleet requirements, (2) the state's fuel law has a relatively easy exception that helps the state achieve the established requirement, (3) alternative fuel vehicles are not always in locations where the fuel is available, (4) agency best practices are not communicated statewide, and (5) agency alternative fuel plans are outdated.

Recommendation: The General Assembly consider changes to the state's alternative fuel and fuel vehicle purchasing laws which may include:

- Establishing penalties for agency noncompliance
- Removing the consideration of exempt vehicle alternative fuel purchases in the compliance computation
- Amending Section 414.403, RSMo, to require state agencies to periodically update their alternative fuel plans

Status: The Office of Administration (OA) indicated it had no knowledge of any new legislation regarding this recommendation.

Report Source: 2008-25

The State's Biodiesel Revolving Fund May Not Be Needed

Missouri is one of only three states that utilize a biodiesel revolving fund. Other states allow state agencies to sell EPart credits directly and fund individual programs or provide general operating funding rather than fund biodiesel exclusively.

Recommendation: The Department of Natural Resources (DNR) evaluate if the Biodiesel Revolving Fund continues to be useful for the state and recommend any changes needed to the General Assembly. Also evaluate if more cost-effective options are available if the state continues to sell EPart credits.

Status: The department indicated no legislation was passed during the 2009 legislative session which addressed these issues.

Report Source: 2008-25

State Building Energy Efficiency Improved

Twenty-seven states have mandatory goals to reduce energy consumption within state office buildings. Missouri has a goal to reduce energy use by 15 percent, but the goal is not mandatory. The Governor's Energy Policy Council developed the goal but it is not established by law.

Recommendation: The General Assembly establish or modify laws to require a specific percentage reduction in energy use by state buildings and require achievement of specific standards for new state building construction.

Status: The OA indicated, in the absence of specific legislative action, Executive Order 2009-18 deals with both energy use reduction goals and building construction standards. The OA and the DNR are working on an implementation plan to meet the goals of the Executive Order.

Report Source: 2008-25

State Not Requiring Energy Star® for Procurement

Missouri does not require the purchase of Energy Star® rated equipment or appliances by state agencies resulting in potentially higher energy costs. Twenty-seven other states have laws that require or encourage the use of Energy Star® rated equipment.

Recommendation: The General Assembly establish laws requiring the OA and state agencies include Energy Star® rated office equipment and appliances in bidding proposals and include life-cycle cost analysis as part of the purchasing decision.

Status: Senate Bill 376 passed in 2009. This bill added Section 8.305, RSMo, to require the purchase of Energy Star® rated appliances unless cost exceeds savings.

Report Source: 2008-25

State Building Laws Are Redundant

Redundant state laws currently require the DNR Energy Center and the OA to manage the energy efficiency of state buildings. The Energy Center discontinued its work with state buildings in the late 1990s. In 2004, the General Assembly passed new legislation that gave OA the responsibility to improve the energy efficiency of state buildings, but did not eliminate the requirements for the DNR.

Recommendation: The General Assembly eliminate redundancy in current law regarding OA and DNR responsibilities for state energy efficiency programs.

Status: The department indicated no legislation was passed during the 2009 legislative session which addressed this issue.

Report Source: 2008-25

Missouri's Renewable Resource Utility Law Lags Behind Other States

Missouri does not require utility companies to produce energy from renewable resources. Instead, a 2007 state law only encourages Missouri utility companies to make a good faith effort to generate sufficient energy from renewable technologies.

Recommendation: The General Assembly evaluate whether Section 393.1020, RSMo, needs to require utility compliance with renewable technology generation goals rather than require a good faith effort.

Status: The department indicated Missouri voters approved Proposition C in November 2008 (amending Chapter 393, RSMo). Proposition C establishes a requirement that investor-owned electric utilities provide specified percentages of electrical generation from renewable resources.

Report Source: 2008-25

MISSOURI CONSOLIDATED HEALTH CARE PLAN

REVIEW OF MISSOURI CONSOLIDATED HEALTH CARE PLAN MANAGEMENT

Missouri Consolidated's Administrative Structure And Costs Could Be Reduced

The Missouri Consolidated Health Care Plan (MCHCP) could reduce costs by streamlining its administrative structure through one, or a combination of factors. Missouri Consolidated has not performed a review of its structure to determine if the organization and number of employees is necessary or most appropriate given its current state and public entity membership levels. In addition, Missouri Consolidated's organization as a separate benefits agency is uncommon compared to most other area states reviewed. Reducing staffing levels and/or sharing some functions by relocating Missouri Consolidated into an existing state agency could reduce payroll and benefits costs.

Missouri Consolidated has not analyzed whether offering healthcare to public entities is useful or cost-effective to the state. By discontinuing offering healthcare services to public entities, Missouri Consolidated could further reduce costs. Not all costs associated with providing service to public entity members were covered by public entity administrative fees and the bases used to allocate some of the costs were not related to the actual effort expended to provide the service. The result is that the state and state members may be subsidizing some of the costs of offering healthcare to public entity members.

Recommendations: The General Assembly determine whether to:

- Maintain the administration of the Missouri Consolidated Health Care Plan as a separate independent organization rather than as a benefits division within an existing state agency.
- Continue offering healthcare options to Missouri's public entities through Missouri Consolidated Health Care Plan.

Status: The MCHCP indicated the General Assembly proposed numerous pieces of legislation regarding the structure of benefits administration related to the MCHCP during the 2008 and 2009 legislative sessions; however, none of the legislation was passed.

Report Source: 2004-51

MISSOURI HIGHER EDUCATION LOAN AUTHORITY

MISSOURI HIGHER EDUCATION LOAN AUTHORITY

Identification And Use Of Any Surpluses

Since the Missouri Higher Education Loan Authority (MOHELA) was created in 1981, it has generally reinvested its operating surpluses in additional student loans, resulting in the accumulation of a substantial amount of net assets. While a portion of the authority's net assets are restricted or invested in fixed assets (and are not available for distribution), the authority has accumulated a substantial amount of marketable assets, the sale of which can generate significant amounts of cash for operations and other programs. The MOHELA's authorizing statutes (Sections 173.350 to 173.450, RSMo) do not include any provisions establishing a means or mechanism to identify the extent of any surplus funds or which specify how such funds, if distributed, should be used.

During the 2007 legislative session, the General Assembly passed legislation that includes provisions which will require the MOHELA to distribute \$350 million to the state over the next 6 years, primarily for various capital improvement projects at the state's public colleges and universities. This legislation became effective August 28, 2007; however, on August 9, 2007, a class-action lawsuit was filed (on behalf of two individuals with student loans) in the Cole County Circuit Court against the MOHELA contending that this plan is an illegal diversion of MOHELA assets. The lawsuit asked that the court bar the authority from financing this capital improvements plan and declare the related legislation illegal. While this lawsuit was pending, the MOHELA transferred the \$230 million initial distribution to the state on September 14, 2007. In late November 2007, this lawsuit was dismissed at the request of those who had sued.

Action is needed to ensure any available surpluses are used in the future to further MOHELA's public mission. The MOHELA has a fiduciary responsibility to identify any available surplus funds and use them in an appropriate manner. In addition, the General Assembly should consider adding appropriate provisions to the MOHELA's authorizing statutes to provide some guidance regarding the identification and appropriate use of future surpluses, rather than leaving those decisions to the discretion of the public officials at the time their availability may be determined. Those legally authorized uses should closely correlate with the MOHELA's mission, which is, in part, to eliminate barriers for students so they can access higher education.

Recommendation: The MOHELA, in the future, identify the extent of any surplus funds and distribute such monies in a manner consistent with its mission. In conjunction with this, the authority should work with the General Assembly to add appropriate provisions to its authorizing statutes.

Status: MOHELA indicated that to its knowledge, no legislation was passed to address this issue and MOHELA continues to conduct its financial affairs in compliance with the Missouri Higher Education Loan Authority Act.

In addition, due to changes in the student loan market, MOHELA has had recent financial problems and has fallen behind in its payments to the state. Of the \$265 million due as of June 30, 2009, the MOHELA had paid \$243,843,849 (\$233,925,960 in transfers to the state and \$9,917,889 in accrued interest revenue on the payments already made). Therefore, the MOHELA is \$21,156,151 behind in its payments and it is unclear when or if the overdue amount and the remaining \$85 million due over the next four years will be paid.

Report Source: 2007-56

Closed Board Meetings

The MOHELA Board's closure of some of its meetings may constitute a violation of state law. During the past several years, according to the open meeting minutes, the MOHELA Board closed its meetings on at least 21 occasions, apparently believing that the matters discussed were of the nature that allowed the meetings to be closed pursuant to Section 610.021, RSMo, of the Missouri Sunshine Law. However, the closure of these meetings may not be in accordance with state law, including that section of the Sunshine Law.

Section 173.365, RSMo, in referring to the MOHELA, states, "Each meeting of the authority **for any purpose whatsoever** shall be open to the public" (emphasis added). The Sunshine Law generally allows public governmental bodies to close meetings based on certain criteria; however, it appears exceptions to the open meetings requirement are superseded by other laws requiring open meetings/records. Section 610.021, RSMo, of the Sunshine Law states "**Except to the extent disclosure is otherwise required by law**, a public governmental body is authorized to close meetings, records, and votes. . ." (emphasis added). Therefore, given this language and the requirement in Section 173.365, RSMo, that all meetings of the MOHELA

Board are required to be open to the public, it does not appear the board is currently authorized to close any of its meetings.

Recommendation: The MOHELA comply with Section 173.365, RSMo, and discontinue holding meetings that are closed to the public. If the board desires the legal authority to close its meetings pursuant to Section 610.021, RSMo, the board should pursue the necessary legislative change(s).

Status: MOHELA indicated that to its knowledge, no legislation was passed to address this issue and MOHELA continues to conduct its board meetings in the same manner.

Report Source: 2007-56

MISSOURI HOUSING DEVELOPMENT COMMISSION

ANALYSIS OF LOW INCOME HOUSING TAX CREDIT PROGRAM

Total Tax Credits Issued Are Not Limited By State Law

State law does not limit the amount of state tax credits which may be authorized and issued. Missouri is 1 of 2 states, out of 11 with a state Low Income Housing Tax Credit (LIHTC), which have not implemented statutory limits on the amount of tax credits which may be authorized in a given timeframe. States limit the amount of state LIHTCs authorized based on a specific dollar limit, a percentage match of the federal credit, or a combination of both factors.

Recommendation: The General Assembly evaluate implementing a limit on the amount of LIHTCs that can be awarded annually.

Status: The Missouri Housing Development Commission (MHDC) indicated House Bill 191, passed during the 2009 legislative session, established a \$6 million annual cap on certain LIHTC authorizations and other LIHTCs were already limited to the credit ceiling set each year based on the state's population.

Report Source: 2008-23

Options Exist to Improve Efficiency

To achieve significant improvements to the efficiency of the tax credit model, state law would have to be modified. Modifying state law to allow for a refundable tax credit, such as in use in North Carolina, would eliminate the need for state credits to be bought and sold in an open market and would increase the efficiency of the program. However, questions regarding the tax treatment of the loans from North Carolina's housing agency would need to be addressed. Modifying state law to allow a certificated LIHTC model which utilizes not-for-profit housing

entities, such as the model in place in Massachusetts, would eliminate the federal tax consequences of the current model, increase demand for Missouri's state credits, and result in significantly higher prices being paid for state credits. Both models would result in more tax credit dollars being used for the construction of housing, giving the state a significantly higher return on its tax credit investment. These changes could be made without significantly disrupting the federal LIHTC market already in place. If Missouri wishes to continue to make significant investments in low income housing, steps need to be taken to ensure state funds are invested as efficiently as possible.

Recommendation: The General Assembly evaluate changing the Missouri LIHTC to a model that will provide more tax credit equity to projects which may include models similar to the ones used in Massachusetts and North Carolina.

Status: The MHDC staff has worked with the MHDC Tax Credit Committee and the Joint Committee on Tax Policy to consider revisions to the MO LIHTC model. To date, no legislation has yet been passed regarding these recommendations.

Report Source: 2008-23

Lack of Sunset Provision

State law does not contain a sunset provision to limit the timeframe in which the current level of LIHTCs may be awarded. The lack of a sunset provision has also allowed the current funding level to continue without legislative attention.

Recommendation: The General Assembly establish sunset provisions in state law to ensure the LIHTC receives periodic legislative attention.

Status: The MHDC staff has worked with the MHDC Tax Credit Committee and the Joint Committee on Tax Policy to consider revisions to the MO LIHTC model. To date, no legislation has yet been passed regarding these recommendations.

Report Source: 2008-23

Missouri Recapture Period Limited

Missouri's LIHTC recapture period is less than the recapture period for the federal LIHTC. State law provides for state tax credit recapture the first 10 years after projects are placed in service, although Section 42 of the Internal Revenue Code requires project compliance over 15 years and federal credit recapture for the entire 15-year compliance period. As a result, if property owners fail to comply with tax credit requirements, after 10 years, the state has no recourse with regard to recapture of state credits for the remainder of the 15-year compliance period.

Recommendation: The General Assembly change state law to extend the recapture period for LIHTCs to 15 years from the current 10 years.

Status: The MHDC staff has worked with the MHDC Tax Credit Committee and the Joint Committee on Tax Policy to consider revisions to the MO LIHTC model. To date, no legislation has yet been passed.

Report Source: 2008-23

ANALYSIS OF AFFORDABLE HOUSING TAX CREDIT PROGRAM

Affordable Housing Assistance Program Could Be Improved

Our review of projects showed donations to fill funding gaps in LIHTC projects were typically made by individuals or parties directly affiliated with a project's development team. We also noted instances where a bank or tax credit syndicator already involved in a LIHTC development provided a separate donation to help fill funding gaps in an ongoing project and received Affordable Housing Assistance Tax Credits (AHATC) for the donation.

State law excludes most individual taxpayers from participation in the AHATC Program. Missouri law allows contributions by business firms which are defined as a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state. Based on the law, MHDC officials limit donations to businesses, or individuals with farm or rental income. Four of the five other states with donation related housing tax credits allow any individual along with businesses to make contributions.

State law limits annual credit issuances to \$10 million for housing production and \$1 million to help cover not-for-profit organization administrative costs. MHDC staff said the credits for administrative costs are generally completely issued with requests for funding often being prorated due to demand exceeding the \$1 million limit. They also said the allocated production credits may not be issued if not-for-profit organizations cannot raise the necessary donations. MHDC records showed the maximum limit of credits issued for housing production had only occurred in one fiscal year since the inception of the tax credit. MHDC officials said an adjustment in state law allowing them to distribute a portion of the credits restricted to housing production for administrative purposes, when all production credits would not have been issued, could benefit the program and participating not-for-profit organizations.

Recommendations: The General Assembly:

- Evaluate if the intent of the program is to allow developers and related organizations to fill project funding gaps by donating to their own projects that have received or are receiving assistance from other state programs.

- Change state law to allow issuance of AHATCs for donations from any taxpayer rather than just those with farm or rental income.
- Evaluate modifying state law to give MHDC the ability to increase tax credits distributed for administrative purposes, when production related credits cannot be fully issued. Possible options would include a specific dollar limit or percentage of production credits not issued.

Status: The MHDC indicated no legislative action has been taken regarding these recommendations.

Report Source: 2008-47

LOCAL AUDIT ISSUES

**SUMMARY OF STATE AND LOCAL AUDIT FINDINGS -
LEGISLATIVE IMPACT
LOCAL AUDIT ISSUES**

SPECIAL ROAD DISTRICT FINANCIAL REPORTING PRACTICES

Many special road districts are not filing annual financial reports with the State Auditor's Office as required by law, and some financial reports that were filed did not provide sufficient information. Monitoring procedures over county funds provided to special road districts are inconsistent, and some counties indicated no monitoring is performed. Only certain special road districts are required by law to provide annual settlements to the county commission and highway and transportation commission. In addition, state agencies provide little, if any, independent monitoring of special road district financial activity, and special road districts are not required to obtain independent audits.

It was also noted that counties have different methods for assessing permanent road levies and distributing the property tax monies generated from those levies even though the same statutory provisions are in existence. Also, the percentages used to allocate property tax revenues between the county and the special road district varied.

Recommendation: The Missouri General Assembly should review the laws pertaining to special road district financial reporting practices. Consideration should be given to strengthening the reporting requirements and rectifying inconsistencies between types of special road districts. Applicable county and state officials should improve monitoring and assistance to help strengthen the special road districts' financial reporting and accountability.

Status: No legislation has been passed which addressed these issues.

Report Source: 2007-03

TRANSPORTATION DEVELOPMENT DISTRICTS

There is no requirement that the petitions filed with the circuit court include any information regarding estimated transportation project costs or the anticipated revenues that will be collected over the life of the Transportation Development District (TDD).

There is no requirement for an independent review or oversight of TDD transportation project costs or other expenditures.

There is disagreement over whether the construction of a TDD-funded transportation project(s) can be started prior to the legal establishment of the applicable TDD.

Most TDD sales taxes are not collected by the Missouri Department of Revenue, creating less assurance over the controls and monitoring of such revenue.

Many TDDs had not filed annual financial reports with the State Auditor's Office (SAO), as required, and the current audit requirements related to TDDs need to be reconsidered.

In many cases, significant project costs were initially paid by the private developer(s), who were then subsequently reimbursed by the TDD after bonds or other debt had been issued. Such a reimbursement process weakens the accountability over project-related costs.

The revenues of TDDs located in Tax Increment Financing (TIF) areas are being handled in different manners, and in some instances there is not adequate assurance TDD sales tax revenues are only used to pay the TDD's share of bond financing costs.

Recommendation: The General Assembly review the public awareness, accountability, and compliance issues addressed in this report and work with the Missouri Department of Transportation, the State Auditor's Office, and other governmental entities to make necessary revisions to the TDD-related statutes.

Status: House Bill 191 which became effective August 28, 2009, requires (1) the petition filed initiating the creation of the TDD to set forth details of the budgeted expenditures, including estimated expenditures for real physical improvements, estimated land acquisition expenses, estimated expenses for professional services, and estimated interest charges, (2) at least one public hearing on the creation and funding of the proposed district, if the petition for creating such district was filed by the owners of record of all real property within the proposed district, (3) the DOR to perform all functions related to the administration and collection of future districts' sales taxes, and (4) the imposition of a fine of \$500 per day for the failure to submit annual financial statements to the state auditor.

Report Source: 2006-12

TOWNSHIP FINANCIAL REPORTING PRACTICES

The financial reporting practices of Missouri's 312 townships need significant improvement. Our review noted high rates of noncompliance with statutory provisions requiring townships to file financial reports with various entities. Monitoring procedures over county funds provided to townships are inconsistent, and some counties indicated no monitoring is performed because townships are separate political subdivisions. This report indicates an overall lack of

accountability over township operations and their estimated annual revenues of more than \$23 million and \$21 million during 2002 and 2001, respectively.

Recommendation: The Missouri General Assembly should review the laws pertaining to township financial reporting practices. Consideration should be given to pass or amend laws to strengthen the requirement that all townships prepare complete and accurate financial statements, and to improve independent monitoring of township financial reporting practices. Applicable county officials should consider providing monitoring and assistance to help improve the townships' financial reporting and accountability.

Status: Section 231.280, RSMo, was amended to repeal the requirement that townships submit annual financial reports to the Missouri Department of Transportation. No other legislation was passed that addresses township reporting issues.

Report Source: 2003-30

**TAX INCREMENT FINANCING DISTRICTS' EFFECT ON PROPERTY TAX
ROLLBACK CALCULATIONS**

State law does not address the effect of sales tax distributions to city Tax Increment Financing (TIF) districts on property tax rollback calculations.

Section 67.505, RSMo, requires the county to reduce property taxes for a percentage of sales taxes collected. Counties are sometimes required to distribute sales tax monies to city TIF districts. State law does not address how the sales tax monies distributed to the TIF districts should be considered for purposes of property tax rollback calculations. The audit reports included a recommendation that the county consult with legal counsel to determine the effect of sales tax distributions to TIF districts on the calculations.

Status: Section 67.505, RSMo, has not been revised to address how the sales tax monies distributed to the TIF districts should be considered for purposes of property tax rollback calculations.

Report Source: 2006-74 and 2006-71

APPENDIX

APPENDIX

STATE AGENCY AUDIT REPORTS

Report Number	Title	Publication Date
2003-20	Compliance with Closed Meeting and Closed Session Provisions of the Sunshine Law	March 2003
2003-36	Department of Elementary and Secondary Education Educational Funding	April 2003
2003-55	Division of Taxation and Collection Sales and Use Tax	June 2003
2004-24	Missouri Western State College	March 2004
2004-51	Review of Missouri Consolidated Health Care Plan Management	June 2004
2004-59	Department of Elementary and Secondary Education's Charter School Oversight	August 2004
2005-10	Peace Officer Standards and Training Program (Licensing, Training, and Complaint Investigation Aspects)	February 2005
2005-13	Division of Taxation and Collection Sales and Use Tax	March 2005
2005-16	Efforts to Enforce Uninsured Motorist Law	March 2005
2005-23	Oversight of Amusement Ride Safety	March 2005
2005-30	Missouri State Tax Commission	May 2005
2005-87	General Assembly and Supporting Functions / Committee on Legislative Research	December 2005
2005-101	General Obligation Bond Sales Practices Follow up	December 2005
2006-16	Tobacco Settlement Funds	March 2006
2006-20	High School Graduation Rates	April 2006
2006-37	Branch Office Conversion	June 2006
2006-43	School District Purchasing Practices	July 2006
2006-51	Missouri Ethics Commission	August 2006
2007-06	Tax Credit Analysis of the New Generation Cooperative Incentive Tax Credit Program	February 2007
2007-12	Missouri Development Finance Board	March 2007
2007-15	Sales and Use Tax	April 2007
2007-19	Second Injury Fund	April 2007
2007-32	Educator Certification Background Checks	August 2007
2007-56	Missouri Higher Education Loan Authority	October 2007
2007-58	Analysis of Wood Energy Tax Credit Program	October 2007
2007-59	Child Support Delinquencies	October 2007
2007-64	Office of Lieutenant Governor	October 2007
2007-70	Protecting Clients from Abuse	November 2007
2007-84	Insurance	December 2007
2007-87	Early Childhood Development, Education, and Care Funding	December 2007
2008-01	Fireworks Licensing and Inspection	January 2008
2008-03	Protecting Children at Child Care Providers	January 2008
2008-09	Office of Governor	February 2008
2008-23	Analysis of Low Income Housing Tax Credit Program	April 2008
2008-25	Analysis of State Energy Efficiency Programs	April 2008
2008-36	Analysis of School Bus Driver Compliance Requirements	June 2008
2008-45	Department of Agriculture	July 2008
2008-47	Analysis of Affordable Housing Tax Credit Program	July 2008
2008-52	Safe Schools Initiatives	August 2008
2008-57	Worker's Compensation Program	September 2008
2008-69	School Children Immunization Compliance Requirements	October 2008
2008-98	Missouri State Highway Patrol's Use of Highway Funds	December 2008
2009-39	Medicaid Provider Monitoring	April 2009

APPENDIX

LOCAL GOVERNMENT AUDIT REPORTS

Report Number	Title	Publication Date
2003-30	Township Financial Reporting Practices	April 2003
2006-12	Transportation Development Districts	March 2006
2006-71	Miller County	December 2006
2006-74	Dekalb County	December 2006
2007-03	Special Road District Financial Reporting Practices	February 2007