

FIRST REGULAR SESSION
[PERFECTED]
HOUSE SUBSTITUTE FOR
HOUSE BILL NO. 555
91ST GENERAL ASSEMBLY

Taken up for Perfection April 25, 2001. House Substitute for House Bill No. 555 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

1232L.05P

AN ACT

To amend chapters 192 and 196, RSMo, by adding thereto twenty new sections relating to a life sciences research program and tobacco settlement, with a referendum clause for certain sections.

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

Section A. Chapters 192 and 196, RSMo, are amended by adding thereto twenty new sections, to be known as sections 192.1010, 192.1012, 192.1013, 192.1014, 192.1015, 192.1020, 192.1025, 192.1035, 196.1075, 196.1078, 196.1081, 196.1084, 196.1087, 196.1090, 196.1093, 196.1096, 196.1099, 196.1102, 196.1105 and Section 1, to read as follows:

192.1010. 1. There is hereby established within the department of health, the "Life Sciences Research Program". The program shall be administered by the director of the department of health based upon the recommendations of the "Life Sciences Research Board", which is hereby created. The program shall consist of grant awards designed to achieve the goals stated in subsection 3 of this section.

2. The life sciences research board shall consist of seven members who shall be appointed in the following manner:

(1) Each member shall be appointed by the governor with the advice and consent of the senate for a term of six years, except for the terms of the initial members. The board shall select its own chairperson from among its members;

(2) The members of the board shall be generally familiar with the life sciences and current research trends and developments, with either technical or scientific expertise in life sciences, and with an understanding of the application of the results of life sciences

14 research;

15 (3) The initial members of the life sciences research board shall not be appointed
16 until at least six months after the effective date of this section to permit the life sciences
17 citizens' committee to approve the organization and structure of the initial centers for
18 excellence for life sciences research as hereinafter provided;

19 (4) One member of the board shall be a resident within the geographical area for
20 a St. Louis area center for excellence, as defined in section 192.1012, and shall be referred
21 to as the St. Louis member; one member shall be a resident within the geographical area
22 for a Kansas City area center for excellence, as defined in section 192.1012, and shall be
23 referred to as the Kansas City area member; and one member shall be a resident of this
24 state and shall be referred to as the university member. The remaining four members shall
25 be residents of this state and shall be referred to as at-large members. No more than one
26 at-large member shall reside in a single United States congressional district when
27 appointed. If an additional center for excellence for life sciences research is established for
28 another geographical area pursuant to section 192.1012, the at-large position on the board
29 that next becomes vacant shall become a position on the board for a member who resides
30 within the geographical area of such additional center for excellence;

31 (5) The first appointees as the St. Louis member and the Kansas City member of
32 the board shall be appointed to two-year terms; the first appointee as the university
33 member of the board shall be appointed to a four-year term; two of the first two appointees
34 as at-large members of the board shall be appointed to four-year terms; and the remaining
35 two initial at-large members shall be appointed to six-year terms. All subsequent
36 appointees shall be appointed to six-year terms;

37 (6) The St. Louis area center for excellence for life sciences research may
38 recommend one or more persons to the governor for appointment as the St. Louis member
39 of the board; the Kansas City area for excellence for life sciences research may recommend
40 one or more persons to the governor for appointment as the Kansas City member of the
41 board; the University of Missouri system center for excellence for life sciences research
42 may recommend one or more persons to the governor for appointment as the university
43 member of the board; and any additional center for excellence for life sciences research
44 that is created pursuant to section 192.1012 may recommend one or more persons to the
45 governor for appointment as the member of the board from that center's geographic area.
46 Before making any appointment to fill a vacancy in the office of the St. Louis member, the
47 Kansas City member, the university member or a member for an additional center's
48 geographical area, the governor shall take into consideration any such recommendation
49 made pursuant to this subdivision, but the governor shall not be required to follow such

50 recommendations in making an appointment;

51 (7) No member of the life sciences research board shall serve more than two
52 consecutive full six-year terms on the board;

53 (8) No member of the life sciences research board shall participate in the making
54 of any decision to provide a grant-in-aid to such member, any person who is related to such
55 member within the fourth degree of consanguinity or affinity, any public entity for which
56 such member serves as an officer, director or other member of the entity's governing body,
57 or any private entity for which such member or such member's spouse is employed, serves
58 as an officer, director or other member of the entity's governing body. The board may,
59 from time to time, issue conflict of interest guidelines and requirements with respect to the
60 administration of the life sciences research program, the actions of its employees and
61 agents, and the implementation of the provisions set forth in this subdivision.

62 3. The life sciences research board shall utilize the moneys in the life sciences
63 research fund created in section 192.1014 to increase the capacity and infrastructure for
64 quality life sciences research in the state of Missouri and to improve the quantity and
65 quality of life sciences research. Such research shall include: basic research, including the
66 discovery of new knowledge; translational research, including translating knowledge into
67 a usable form; and developmental research and clinical research, including but not limited
68 to health research in human development and aging, cancer, endocrine, cardiovascular,
69 neurological, pulmonary and infectious disease, and nutrition and food safety.

70 4. The board shall accept and approve applications for grants-in-aid for projects
71 which address the goals stated in subsection 3 of this section. The applications shall be
72 designed by the department of health and shall contain information necessary to determine
73 the potential benefits of grants-in-aid to be awarded, as well as other information deemed
74 necessary for the administration of this program.

75 5. In determining projects to authorize, the board shall consider those proposals
76 endorsed by a center for excellence, subject to a process of peer review, and shall also
77 consider the potential of any proposal to bring both health and economic benefit to the
78 people of Missouri. At least eighty percent of the funds that are appropriated to the board
79 in each fiscal year shall be distributed to the institutions or organizations whose programs
80 and proposals have been recommended by a center for excellence. Collectively, the
81 institutions or organizations with a single center for excellence shall receive in any one
82 fiscal year no more than fifty percent of the funds appropriated to the board for that fiscal
83 year. Collectively, the institutions or organizations within a single center for excellence
84 shall receive in any one fiscal year no less than ten percent of the funds appropriated to the
85 board for that fiscal year. No single institution or organization shall receive in any

86 consecutive fiscal three-year period more than forty percent of the funds appropriated to
87 the board during such three-year period.

88 6. The life sciences research board shall have the authority to:

89 (1) Award research grants;

90 (2) Enter into contracts relating to research;

91 (3) Adopt research standards;

92 (4) Promulgate rules governing the administration of research programs, research
93 grants, research contracts and licensing contracts, and the reimbursement of costs,
94 utilization of intellectual property rights and conflict of interest guidelines, consistent with
95 sections 192.1010 to 192.1035;

96 (5) Make provision for peer review panels to recommend and review research
97 projects;

98 (6) Contract for administrative and support services;

99 (7) Lease or acquire facilities and equipment;

100 (8) Employ administrative staff; and

101 (9) Receive, retain, hold, invest, disburse and administer any funds which it
102 receives.

103 7. The funds appropriated to the board that are not expended by the board in a
104 fiscal year to a center for excellence or for a center for excellence endorsed program
105 pursuant to subsection 5 of this section, if any, hereinafter referred to as "remaining
106 funds", shall be held in reserve by the board or shall be awarded on the basis of peer
107 review panel recommendations to research initiatives proposed by public and private not-
108 for-profit academic, research or health care institutions or organizations, or individuals
109 engaged in competitive research in targeted fields consistent with the provisions of this
110 section. The remaining funds appropriated by the board may be used to increase the
111 capacity of the state of Missouri and public and private not-for-profit institutions or
112 organizations located in this state for quality life sciences research. Research projects
113 receiving funding through or endorsed by a center for excellence for life sciences research
114 shall not be eligible for additional funding from the remaining funds. The remaining funds
115 may be awarded for research projects to such public or private institutions or
116 organizations that are a part of a system or regional consortium constituting a center for
117 excellence if such research projects are not endorsed by such center for excellence.

118 8. The board shall utilize as much of the funds as reasonably possible for research
119 rather than for administrative expenses. The board shall not in any fiscal year expend
120 more than two percent of the total moneys appropriated to it, the moneys which it has in
121 reserve or the moneys which it has received from other sources for its own administrative

122 expenses; provided that the general assembly, by appropriation from the life sciences
123 research fund, may authorize a limited amount of additional funds to be expended for
124 administrative costs.

125 **9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
126 **that is created under the authority delegated in sections 192.1010 to 192.1035 shall become**
127 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
128 **RSMo, and, if applicable, section 536.028, RSMo. The rulemaking authority granted in**
129 **such sections and the provisions of chapter 536, RSMo, are nonseverable and if any of the**
130 **powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to**
131 **delay the effective date or to disapprove and annul a rule are subsequently held**
132 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
133 **after August 28, 2001, shall be invalid and void.**

192.1012. Centers for excellence for life sciences research shall be established and
2 **shall be subject to the following provisions:**

3 **(1) A "center for excellence for life sciences research" means a system or regional**
4 **consortium of public and private not-for-profit academic, research or health care**
5 **institutions or organizations engaged in competitive research in targeted fields consistent**
6 **with the strategic purposes of life sciences research as provided in sections 192.1010 to**
7 **192.1035;**

8 **(2) The life sciences research board shall monitor and promulgate such rules as are**
9 **necessary to assure quality and accountability in the operations of the centers for**
10 **excellence for life sciences research;**

11 **(3) One St. Louis area center for excellence may be established within the**
12 **geographical area encompassing the City of St. Louis and St. Louis, St. Charles, Jefferson**
13 **and Franklin counties. If any part of a municipality is located within any one of these**
14 **counties and also encompasses a part of another county in this state, the entire area**
15 **encompassed within the city limits of such municipality shall be a part of the geographical**
16 **area of the St. Louis area center for excellence;**

17 **(4) One Kansas City area center for excellence may be established within the**
18 **geographical area encompassing Jackson, Clay and Platte counties. If any part of a**
19 **municipality is located within any one of these counties and also encompasses a part of**
20 **another county in this state, the entire area encompassed within the city limits of such**
21 **municipality shall be a part of the geographical area of the Kansas City area center for**
22 **excellence;**

23 **(5) A University of Missouri system center for excellence may be established which**
24 **shall encompass the institutions and campuses within the University of Missouri system.**

25 The board of curators of the University of Missouri may determine which institutions and
26 campuses will participate in the University of Missouri system center for excellence, and
27 the extent and nature of such participation. Institutions and campuses of the University
28 of Missouri system that are within the geographical area of another center for excellence
29 may participate in such center unless prohibited by the board of curators;

30 (6) The board may establish additional geographical areas within the state within
31 which a center for excellence for life sciences research may be established. Prior to
32 establishing such a geographical area within which a new center may be established, the
33 board shall first find and determine that:

34 (a) A new center for excellence within such geographical area is needed;

35 (b) Resources are available for a new center for excellence within such geographical
36 area; and

37 (c) The establishment of a new center for excellence within such geographical area
38 will not adversely affect any existing center for excellence;

39 (7) The geographical areas specified herein for a St. Louis area center for excellence
40 and a Kansas City area center for excellence, or a geographical area which is hereinafter
41 established by the board for a center for excellence as herein provided may be expanded
42 by the board to include additional contiguous areas within the state;

43 (8) Any center for excellence for life sciences research that is established within a
44 geographical area specified in this section or a geographical area established by the board
45 shall be comprised of a consortium of public and private not-for-profit academic, research
46 or health care institutions or organizations which collectively have at least fifteen million
47 dollars in annual research expenditures in the life sciences, including a collective minimum
48 of two million dollars in basic research in life sciences;

49 (9) Each center for excellence for life sciences research shall appoint a screening
50 committee. The centers, through their screening committees, shall solicit, collect, prioritize
51 and forward to the board proposed research initiatives for consideration for funding by
52 the board. Members of each screening committee shall be generally familiar with the life
53 sciences and current trends and developments, with either technical or scientific expertise
54 in the life sciences, with an understanding of life sciences and with an understanding of the
55 application of the results of life sciences research. No member of a screening committee
56 shall be employed by any public or private entity eligible to receive financial support from
57 the board;

58 (10) The centers for excellence for life sciences research shall have any and all
59 powers attendant to carrying out the operations which are not contrary to the provisions
60 of this section or any rules, guidelines or decisions adopted by the board.

192.1013. 1. To initially implement the provisions of sections 192.1010 to 192.1035, the governor shall appoint a seven-member "Life Sciences Citizens' Committee" within ninety days of the effective date of sections 192.1010 to 192.1035. The members of the committee shall be generally familiar with the life sciences and current research trends and developments, with either technical or scientific expertise in life sciences and with an understanding of the application of the results of life sciences research.

2. The committee shall:

(1) Receive and review suggestions for the formation and composition, determine the initial composition of, and consider and approve the organizational structure of the centers for excellence for life sciences research within the St. Louis area and the Kansas City area before such centers shall be considered as a center for excellence pursuant to sections 192.1010 to 192.1035;

(2) Review, consider and approve the organization plan and structure of the University of Missouri system center for excellence before such center shall be considered a center for excellence pursuant to sections 192.1010 to 192.1035.

3. After the committee has approved the composition and organizational structure of the three centers for excellence in subsection 2 of this section, the committee shall be immediately disbanded, but in no event shall the committee be disbanded later than one year after its appointment. After the committee's disbandment, the board shall perform the functions of the committee.

4. Before any center for excellence is considered to be a center for excellence for life sciences research pursuant to sections 192.1010 to 192.1035, the center's composition and organizational structure shall be approved by the life sciences citizens' committee if that committee is in existence, and if it is not in existence, such approval shall be obtained from the life sciences research board.

5. The appointment of a person to the life sciences citizens' committee shall not disqualify a person from serving as a member, either contemporaneously or later, on the life sciences research board.

192.1014. 1. There is hereby established in the state treasury the "Life Sciences Research Fund" which shall be used only for life sciences research purposes as provided in sections 192.1010 to 192.1035.

2. Moneys in the life sciences research fund shall be used to strategically enhance, in cooperation with other governmental and not-for-profit private entities, the state's ability to serve the health and welfare of the residents of the state as a center of life sciences research and development by building on the success of research institutions located in the state and enhancing their ability to carry out their respective missions.

9 **3. The management, governance and control of moneys in the life sciences research**
10 **fund shall be vested with the life sciences research board. All moneys appropriated by the**
11 **general assembly to the life sciences research fund shall be utilized by the life sciences**
12 **research board.**

13 **4. Moneys in the life sciences research fund received by the board may be used for**
14 **the purposes authorized in sections 192.1010 to 192.1035, including but not limited to the**
15 **costs of personnel, supplies, equipment and renovation or construction of physical**
16 **facilities, provided that in any single fiscal year, no more than ten percent of the funds**
17 **appropriated shall be used for physical facilities.**

18 **5. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys**
19 **in the fund shall not revert to the credit of general revenue at the end of the biennium.**

192.1015. The life sciences research board shall make provision for and secure from
2 **the state auditor or outside certified public accounting firm an annual audit of its financial**
3 **affairs and the funds expended from the life sciences research fund. Such audit shall be**
4 **performed on a fiscal year basis. The board will make copies of each audit publicly**
5 **available. Every three years the board with assistance of its staff or independent**
6 **contractors as determined by the board shall prepare a comprehensive report assessing the**
7 **work and progress of the life sciences research program. Such assessment report shall**
8 **analyze the impact of the board's programs and research performed, shall be provided to**
9 **the governor and members of the general assembly and shall be publicly available.**

192.1020. Grant awards made by the life sciences research board shall provide for
2 **the reimbursement of costs. Whether reimbursement of particular costs will be allowed**
3 **depends on the application of a four-part test balancing, which shall include:**

- 4 **(1) The reasonableness of the cost;**
5 **(2) The connection to the grant;**
6 **(3) The consistency demonstrated in assigning costs to the grant; and**
7 **(4) Conformance with the particular terms and conditions of the award.**

192.1025. Grant recipients have an obligation to preserve research freedom, to
2 **ensure timely disclosure of their research findings to the scientific community, including**
3 **through publications and presentations at scientific meetings, and to promote utilization,**
4 **commercialization and public availability of their inventions and other intellectual**
5 **property developed in the performance of research funded by a grant award. Institutions**
6 **or organizations receiving grant awards shall retain all right, title and interest, including**
7 **all intellectual property rights in and to any inventions, ideas, data, improvement,**
8 **modifications, discoveries, know-how, creations, copyrightable material, trade secrets,**
9 **methods, processes, discoveries and derivatives, whether patentable or not, which are made**

10 in the performance of work under a grant award. The life sciences research board may,
11 however, adopt reasonable regulations to ensure that any such intellectual property rights
12 are utilized reasonably and in a manner which is in the public interest.

192.1035. 1. Notwithstanding the provisions of sections 192.1010 to 192.1025, no
2 grant awards shall be paid, granted or used to subsidize in whole or in part:

3 (1) Abortion services; or

4 (2) Destructive human research; or

5 (3) Development of drugs or chemicals intended to be used to induce an abortion;

6 or

7 (4) Human cloning.

8 2. For purposes of this section, the following terms mean:

9 (1) "Abortion services", performing or inducing, assisting in performing or
10 inducing, or referring a woman for an abortion, except when necessary to save the life of
11 the mother;

12 (2) "Child", if in utero, the same as an unborn child as defined in section 188.015,
13 RSMo, and if ex utero, a human being at any of the stages of biological development of an
14 unborn child from conception onward;

15 (3) "Destructive human research", research in which there is the taking or
16 utilization of the organs, tissue or cellular material of a:

17 (a) Deceased child, unless consent is given in the manner provided in sections
18 194.210 to 194.290, RSMo, relating to anatomical gifts, and neither parent cause the death
19 of such child or consented to another person causing the death of such child;

20 (b) Living child, when the intended or likely result of such taking or utilization is
21 to kill or cause serious harm to the health, safety or welfare of such child, or when the
22 purpose is to target such child for possible destruction in the future;

23 (4) "Facilities and administrative costs", those costs that are incurred for common
24 or joint objectives and therefor cannot be identified readily and specifically with a
25 particular research project or any other institutional activity;

26 (5) "Grant awards", awards of state funds pursuant to sections 192.1010 to
27 192.1035;

28 (6) "Human cloning", the replication of a human being genetically identical to
29 another human being;

30 (7) "Research project", research specified in the grant award conducted under the
31 auspices of the institution or institutions that applied for and received such grant award
32 pursuant to sections 192.1010 to 192.1035, regardless of whether the research is funded in
33 whole or part by such grant award. Such research shall include basic research, including

34 the discovery of new knowledge; translational research, including translating knowledge
35 into a usable form; and development research and clinical research, including but not
36 limited to health research in human development and aging, cancer, endocrine,
37 cardiovascular, neurological, pulmonary and infectious disease, and nutrition and food
38 safety.

39 3. No grant awards shall be paid or granted pursuant to sections 192.1010 to
40 192.1035 to or on behalf of an existing or proposed research project that involves, as part
41 of the project, abortion services, destructive human research, development of drugs or
42 chemicals intended to be used to induce an abortion or human cloning. A research project
43 that receives a grant award shall not share costs with another research project, person or
44 entity not qualified to receive a grant award pursuant to sections 192.1010 to 192.1035;
45 provided, however, the research project that receives a grant award may pay facilities and
46 administrative costs directly allocable to such research project. A research project that
47 receives a grant award shall maintain financial records that demonstrate strict compliance
48 with this section. The audit conducted pursuant to section 192.1015 shall also certify
49 compliance with this section.

50 4. The grant application shall describe in detail the proposed research project and
51 how the research project shall be conducted in compliance with the requirements of
52 sections 192.1010 to 192.1035. The life sciences research board shall not approve a grant
53 award unless the board makes specific written findings that such research project shall be
54 conducted in compliance with sections 192.1010 to 192.1035. The grant application and
55 the grant award shall be a public record within the meaning of chapter 610, RSMo. The
56 board shall promulgate rules in accordance with chapter 536, RSMo, to implement the
57 provisions of this subsection.

58 5. Any taxpayer of this state or its political subdivisions shall have standing to bring
59 suit against the department of health, members of the board, and the officers and
60 employees of the department and the board in any circuit court with jurisdiction to enforce
61 the provisions of this section.

62 6. Sections 192.1010 to 192.1035 shall not be construed to permit or make lawful
63 any conduct that is otherwise unlawful pursuant to the laws of this state.

64 7. All of the provisions of sections 192.1010 to 192.1025 are severable; provided,
65 however, the provisions of this section are not severable from the provisions of sections
66 192.1010 to 192.1025. If any provision of sections 192.1010 to 192.1025 is found to be
67 invalid, unenforceable or unconstitutional, the remaining provisions of sections 192.1010
68 to 192.1025 shall be and remain valid. However, if any provision of this section is found
69 to be invalid, unenforceable or unconstitutional, all of the provisions of sections 192.1010

70 to 192.1025 shall be invalid and unenforceable.

196.1075. 1. As used in sections 196.1075 to 196.1105, the following terms mean:

2 (1) "Account", an account within the health care trust fund created in subsection
3 2 of this section;

4 (2) "Health care trust fund", the fund created in subsection 2 of this section;

5 (3) "MSA", the master settlement agreement entered into on November 23, 1998,
6 as amended, in the tobacco case;

7 (4) "Tobacco case", the case of *State of Missouri ex rel. Jeremiah W. (Jay) Nixon,*
8 *Attorney General v. The American Tobacco Company, Inc., et al.*, case number 972-1465,
9 filed in the circuit court of the City of St. Louis, state of Missouri;

10 (5) "Tobacco claim", any claim of the state of Missouri for conduct, acts or
11 omissions arising out of or in any way related, in whole or in part, to the use, sale,
12 distribution, manufacture, development, advertising, marketing or health affects of tobacco
13 products; the exposure to tobacco products; or research, statements or warnings regarding
14 the potential adverse affects of tobacco use, including those asserted in the tobacco case
15 and any claims of the same or similar nature against any person or entity, including but
16 not limited to the defendants in the tobacco case, provided that a claim of the state of
17 Missouri for taxes or licensure fees shall not be considered a tobacco claim;

18 (6) "Tobacco claim payment", any moneys or proceeds of any moneys, including
19 interest thereon, paid into the state treasury as a result of a tobacco claim, including but
20 not limited to a payment to the state of Missouri pursuant to the MSA or any other tobacco
21 claim settlement, award or judgment. Tobacco claim payment shall include any moneys
22 paid into the state treasury that results in a direct offset or reduction of moneys received
23 into the state treasury pursuant to the MSA or any other tobacco claim settlement, award
24 or judgment.

25 2. The first one hundred twenty-five million dollars of tobacco claim payments shall
26 be deposited in an endowment fund to be known as the "Fund for Missouri's Future" and
27 shall not be subject to appropriation without a two-thirds vote of the members elected to
28 each house of the general assembly as authorized by a concurrent resolution. The state
29 treasurer shall invest moneys in the fund in the same manner as surplus funds are invested
30 pursuant to section 30.260, RSMo. All earnings resulting from the investment of the
31 moneys in the fund for Missouri's future shall be credited to such fund until the corpus of
32 the fund reaches one billion dollars. A separate and special trust fund to be known as the
33 "Health Care Trust Fund" is hereby created in the state treasury. All tobacco claim
34 payments received by the state after the initial one hundred twenty-five million dollars is
35 deposited in the fund for Missouri's future as provided in this subsection and all earnings

36 resulting from the investment of the moneys in the fund for Missouri's future after the
37 corpus of such fund reaches one billion dollars shall be deposited into the health care trust
38 fund. All moneys received in the health care trust fund shall be allocated by the state
39 treasurer into separate accounts within the health care trust fund in accordance with
40 sections 196.1075 to 196.1105 and shall be subject to appropriation for smoking prevention
41 and cessation, early childhood care and education, prescription drug coverage and health
42 care, and life sciences and medical research. If a transfer of the one hundred twenty-five
43 million dollars into the endowment fund is made prior to the effective date of the act, it
44 shall satisfy the provisions of this subsection and no additional transfers into the
45 endowment fund shall be made unless as further provided by law.

46 3. No moneys shall be withdrawn from the health care trust fund or any account
47 of such fund except by an appropriation for the purpose and use authorized for such fund
48 and any applicable account. No obligation for payment of moneys so appropriated from
49 the health care trust fund and any applicable account of such fund shall be incurred and
50 paid unless the commissioner of the office of administration certifies it for payment and
51 further certifies that:

52 (1) The moneys were properly allocated to the health care trust fund and any
53 applicable account by the state treasurer;

54 (2) The expenditure is within the purpose and use required for the health care trust
55 fund and any applicable account;

56 (3) The expenditure is within any more specific purpose or use lawfully contained
57 within the appropriation made by the general assembly; and

58 (4) There is an appropriation of an unencumbered balance within the health care
59 trust fund and any applicable account sufficient to pay it.

60

61 At the time of issuance, each certification shall be entered on the general accounting books
62 as an encumbrance on the appropriation.

196.1078. 1. The state treasurer shall allocate tobacco claim payments credited to
2 the health care trust fund as follows:

3 (1) Sixty percent of such moneys shall be placed into the prescription drug coverage
4 and health care treatment and access account created in subsection 1 of section 196.1081;

5 (2) Ten percent of such moneys shall be placed into the tobacco prevention,
6 education and cessation account created in section 196.1084;

7 (3) Ten percent of such moneys shall be placed into the early childhood and youth
8 development care and education account created in section 196.1087;

9 (4) Twenty percent of such moneys shall be placed into the life sciences and medical

10 research account created in section 196.1090.

11 2. All moneys in the health care trust fund shall be appropriated by the general
12 assembly in a separate appropriations bill.

196.1081. The "Prescription Drug Coverage and Health Care Treatment and
2 Access Account" is hereby created within the health care trust fund. Appropriations made
3 by the general assembly from the health care treatment and access account, shall be used
4 and expended solely for prescription drug coverage and health care.

196.1084. The "Tobacco Prevention, Education and Cessation Account" is hereby
2 created within the health care trust fund. Moneys in the account shall be used solely for
3 tobacco prevention, education and/or cessation, including but not limited to programs to
4 prevent tobacco usage by minors, to prevent or reduce tobacco usage generally, and to
5 prevent tobacco addiction.

196.1087. The "Early Childhood and Youth Development Care and Education
2 Account" is hereby created within the health care trust fund. Moneys in the account shall
3 be used solely for early childhood and youth development care and/or education, including
4 but not limited to community grants. Appropriations made by the general assembly from
5 the account shall be used and expended solely for the purpose provided in this section.

196.1090. The "Life Sciences and Medical Research Account" is hereby created
2 within the health care trust fund and shall be used and expended solely for life sciences and
3 medical research purposes.

196.1093. At least ten percent of moneys appropriated from the accounts pursuant
2 to sections 196.1081, 196.1084, 196.1087 and 196.1090, other than moneys used for
3 prescription drug coverage, shall be used for programs and grants that benefit minorities,
4 women and at-risk children and communities through community based not-for-profit
5 organizations.

196.1096. The commissioner of administration shall establish such books of account
2 as are necessary to account for the proceeds of any tobacco claim payments made to the
3 state of Missouri and interest thereon and shall make or refuse to make such certifications
4 as are necessary to ensure that these funds are allocated, used and expended only for the
5 purposes and in the proportions set forth in sections 196.1075 to 196.1105.

196.1099. Moneys which are appropriated from the health care trust fund for the
2 purposes provided in sections 196.1075 to 196.1105 shall constitute additional amounts
3 over and above any moneys that are appropriated for such purposes from general revenue
4 as of July 1, 2000. The state shall not reduce the level of funding that was in effect on July
5 1, 2000, for such a purpose from general revenue sources because of the appropriation of
6 moneys for such purpose from the health care trust fund. This section shall not apply to

7 amounts appropriated or expended for the purposes of administering section 135.095,
8 RSMo.

2 **196.1102.** Any moneys received by the state as a result of the tobacco settlement
3 agreement together with interest and earnings thereon shall not be classified as "total state
4 revenues" as defined in sections 17 and 18 of article X of the Missouri Constitution and the
5 expenditure of such moneys shall not be an "expense of state government" pursuant to
6 section 20 of article X of the Missouri Constitution.

2 **196.1105.** Any funds received by the state as a result of any legal settlement or
3 award which is not by constitution or statute dedicated to a specific fund or program shall
4 be subject to appropriation by the general assembly for programs related to health care
5 and education.

2 **Section 1.** Notwithstanding sections 135.403 and 135.405, RSMo, no more than one
3 million dollars of the total amount of Missouri small business tax credits available for
4 qualified investments in Missouri small businesses shall be used and made available for
5 qualified investments in Missouri small businesses, which are enterprises which consist of
6 one or more establishments assigned a SIC code of 8731 and the results of the activities of
7 which are designed to be used by establishments assigned a SIC code of 2834, engaged
8 solely in pharmaceutical research and development; but in the event this one million dollar
9 set aside is not used in its entirety by September first of any year, the balance of the credit
10 may be used by other entities qualifying for tax credits under the capital tax credit
11 program as defined in sections 135.400 to 135.430, RSMo. The limitations of subsection
12 2 of section 135.403, RSMo, and section 135.405, RSMo, upon the amounts of qualified
13 investments, the aggregate of tax credits authorized and the maximum tax credits which
14 may be evidenced by certificates of tax credit issued or owned by a single taxpayer shall
15 not apply to amounts allocated by this section. The director shall give preference in issuing
16 certificates of tax credit to applicants under this section.

2 **Section B.** Sections 196.1075, 196.1078, 196.1081, 196.1084, 196.1087, 196.1090,
3 196.1093, 196.1096, 196.1099, 196.1102 and 196.1105 of section A of this act is hereby
4 submitted to the qualified voters of this state for approval or rejection at a special election which
5 is hereby ordered and which shall be held and conducted on the Tuesday immediately following
6 the first Monday in November, 2001, pursuant to the laws and constitutional provisions of this
7 state applicable to general elections and the submission of referendum measures by initiative
8 petition, and it shall become effective on July 1, 2002, after approved by a majority of the votes
9 cast thereon at such election and not otherwise.

2 **Section C.** The official summary statement for the proposed referendum measure of this
3 act shall read as follows:

3 "Authorizes deposit of tobacco settlement moneys into funds for use in smoking
4 prevention, health care and prescription drug coverage for seniors, life sciences and medical
5 research, early childhood and youth development care and education, and an endowment fund
6 which would not be subject to the constitutional limit on state spending. Defeat of the
7 referendum measure would not create the funds and the moneys shall be credited to general
8 revenue for appropriation by the general assembly.