

Journal of the Senate

FIRST REGULAR SESSION

SEVENTY-THIRD DAY—THURSDAY, MAY 17, 2007

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“It takes daily courage to expose oneself to God’s word and to allow oneself to be judged by it...to stand in the presence of eternity and let it speak, to inquire from it about our condition, and to gaze deep into himself and far out, beyond and above...to know the eternal quiet which rest in God’s love.” (Dietrich Bonhoeffer)

Gracious God, we feel the pressure, we know we are tired and at times irritable so help us to take moments each hour to rest and be quiet in You and to let You judge our actions and guide us to do more good with our time here and to trust that You will sustain us. May we have the courage to be with You that You will lift us up to go on and do what You require of us. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal of the previous day was read and approved.

The following Senators were present during the day’s proceedings:

Present—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell

Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Days offered Senate Resolution No. 1394, regarding Tyler Kuehn, Bridgeton, which was adopted.

Senator Days offered Senate Resolution No. 1395, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Robert F. McAdams, Ferguson, which was adopted.

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of

Representatives to inform the Senate that the House has taken up and passed **HCS** for **SB 516**, entitled:

An Act to repeal sections 1.020, 28.160, 41.950, 49.292, 50.333, 66.010, 70.320, 105.711, 105.955, 191.227, 191.656, 195.202, 211.322, 302.341, 347.137, 347.179, 351.015, 351.047, 351.120, 351.125, 351.127, 351.145, 351.155, 351.459, 351.484, 351.592, 351.594, 351.598, 351.602, 351.690, 355.016, 355.021, 355.066, 355.071, 355.151, 355.176, 355.688, 355.706, 355.796, 355.806, 355.811, 355.821, 355.856, 356.211, 407.300, 417.011, 417.016, 417.046, 427.225, 429.010, 429.080, 429.603, 452.440, 452.445, 452.450, 452.455, 452.460, 452.465, 452.470, 452.475, 452.480, 452.485, 452.490, 452.495, 452.500, 452.505, 452.510, 452.515, 452.520, 452.525, 452.530, 452.535, 452.540, 452.545, 452.550, 455.010, 456.5-501, 477.005, 477.600, 478.463, 478.466, 478.513, 479.010, 479.011, 483.015, 483.260, 484.020, 486.215, 486.225, 486.230, 486.280, 486.385, 487.020, 488.014, 488.2253, 494.425, 494.430, 510.120, 516.140, 517.041, 527.270, 535.030, 535.040, 548.260, 559.600, and 568.045, RSMo, and to enact in lieu thereof one hundred forty-two new sections relating to judicial procedures and personnel, with penalty provisions.

With House Amendment Nos. 1, 2, 5, House Amendment No. 1 to House Amendment No. 8, House Amendment No. 8, as amended, House Amendment Nos. 9, 11 and 14.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 516, Page 111, Section 488.2253, Line 15, by inserting after all of said line the following:

“488.2300. 1. A “Family Services and Justice Fund” is hereby established in each county or circuit with a family court, for the purpose of aiding with the operation of the family court divisions and services provided by those divisions.

In **any** circuits or counties having a family court **other than St. Louis County and Jackson County**, the circuit clerk shall charge and collect a surcharge of thirty dollars in all proceedings falling within the jurisdiction of the family court. **The circuit clerk of St. Louis County and Jackson County shall charge and collect a surcharge as established by its circuit court not to exceed forty-five dollars in all proceedings falling within the jurisdiction of the family court.** The surcharge shall not be charged when no court costs are otherwise required, shall not be charged against the petitioner for actions filed pursuant to the provisions of chapter 455, RSMo, but may be charged to the respondent in such actions, shall not be charged to a government agency and shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality.

2. In juvenile proceedings under chapter 211, RSMo, a judgment [of up to thirty dollars] **in an amount authorized in subsection 1 of this section** may be assessed against the child, parent or custodian of the child, in addition to other amounts authorized by law, in informal adjustments made under the provisions of sections 211.081 and 211.083, RSMo, and in an order of disposition or treatment under the provisions of section 211.181, RSMo. The judgment may be ordered paid to the clerk of the circuit where the assessment is imposed.

3. All sums collected pursuant to this section and section 487.140, RSMo, shall be payable to the various county family services and justice funds.

4. Any moneys in the family services and justice fund not expended for salaries of commissioners, family court administrators and family court staff shall be used toward funding the enhanced services provided as a result of the establishment of a family court; however, it shall not replace or reduce the current and ongoing responsibilities of the counties to provide funding for the courts as required by law. Moneys collected

for the family services and justice fund shall be expended for the benefit of litigants and recipients of services in the family court, with priority given to services such as mediation, counseling, home studies, psychological evaluation and other forms of alternative dispute-resolution services. Expenditures shall be made at the discretion of the presiding judge or family court administrative judge, as designated by the circuit and associate circuit judges en banc, for the implementation of the family court system as set forth in this section. No moneys from the family services and justice fund may be used to pay for mediation in any cause of action in which domestic violence is alleged.

5. From the funds collected pursuant to this section and retained in the family services and justice fund, each circuit or county in which a family court commissioner in addition to those commissioners existing as juvenile court commissioners on August 28, 1993, have been appointed pursuant to sections 487.020 to 487.040, RSMo, shall pay to and reimburse the state for the actual costs of that portion of the salaries of family court commissioners appointed pursuant to the provisions of sections 487.020 to 487.040, RSMo.

6. No moneys deposited in the family services and justice fund may be expended for capital improvements.”; and

Further amend said title, enacting clause and intersectional references accordingly.

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Bill No. 516, Page 30, Section 195.202, Line 7, by inserting after the word “**violates**” the words “**subsection 2 of**”; and

Further amend House Committee Substitute for Senate Bill No. 516, Page 30, Section 195.202, Line 9, by inserting after all of said Line the following:

“210.854. 1. In the event of the entry of a judgment of paternity and support, a person against whom such a judgment has been entered may file a petition requesting a circuit court with jurisdiction over the subject child or children to set aside said judgment in the interests of justice and upon the grounds set forth in this section. Any such petition shall be served upon the biological mother and any other legal guardian or custodian.

2. The petition shall include an affidavit executed by the petitioner alleging that evidence exists which was not considered before entry of judgment and either:

(1) An allegation that genetic testing was conducted within ninety days prior to the filing of such petition using DNA methodology to determine the probability or improbability of paternity, and performed by an expert as defined in section 210.834. The affidavit shall also allege that the test results indicate a ninety-nine percent or greater probability that the person subject to the child support payment order is not the child's father; or

(2) A request to the court for an order of genetic paternity testing using DNA methodology.

3. The court, after a hearing wherein all interested parties have been given an opportunity to present evidence and be heard, may order the relevant parties to submit to genetic paternity testing upon a finding of probable cause to believe said testing may result in a determination of non-paternity. The genetic paternity testing costs shall be paid by the petitioner.

4. The court shall grant relief on the petition and enter judgment setting aside the previous judgment of paternity and support, or acknowledgment of paternity under section 210.823, extinguish any existing child support

arrearage, and order the department of health and senior services to modify the child's birth certificate accordingly upon a finding that the genetic test referred to herein was properly conducted, accurate and indicates a ninety-nine percent or greater probability that the person subject to the child support payment order is not the child's father.

5. The provisions of this section shall not apply to grant relief to the parent of any adopted child.

6. A finding under subsection 4 of this section shall constitute a material mistake of fact under section 210.823.

7. Notwithstanding any other provision of law to the contrary, an action under this section may be brought at any time.

8. The provisions of this section shall not be construed to create a cause of action to recover child support or state debt, under subdivision (2) of subsection 1 of section 454.465, RSMo, and subsection 10 of section 425.340, RSMo, that was previously paid pursuant to the order. The petitioner shall have no right for reimbursement for any moneys previously paid pursuant to said order.”; and

Further Amend said Bill, Page 66, Section 407.300, Line 29, by deleting from said line the word “**business.**” and inserting in lieu thereof the following:

“**business; or**

(4) Any transaction for which the type of metal subject to subsection 1 of this section is a minor part of a larger item, except for equipment used in the generation and transmission of electric power.”; and

Further Amend said Bill, Page 77, Section 429.010, Line 40, by deleting the word “**this**” and inserting after the word “**subsection**” the number “**2**”; and

Further Amend House Committee Substitute for Senate Bill No. 516, Page 100, Section 455.038, Line 10, by inserting after all of said Line the following:

“**The provisions of this section shall only apply to those circuit clerks able to access a statewide victim notification system designed to provide notification of service of orders of protection.**”; and

Further Amend House Committee Substitute for Senate Bill No. 516, Page 103, Section 478.463, Line 8, by inserting after the word “**twenty**” the word “**shall**”; and

Further Amend House Committee Substitute for Senate Bill No. 516, Page 107, Section 484.280, Line 6, by inserting after the word “**compensation**”, the following:

“**; however, no state court judge serving pursuant to article V, Constitution of Missouri, shall be permitted to engage in the practice of law during his or her term in office, except for such limited purpose as authorized by supreme court rule**”; and

Further Amend House Committee Substitute for Senate Bill No. 516, Page 110, Section 488.2253, Line 1, by deleting the phrase “**1.**”; and

Further Amend said Section, Page 111, Lines 6-15, by deleting all of said Lines; and

Further Amend House Committee Substitute for Senate Bill No. 516, Page 113, Section 510.120, Line 9, by inserting an open bracket “[“ immediately preceding the word “**more**”; and

Further Amend said Section, Page 113, Line 10, by inserting a closed bracket “**]**” after the word “**subsection**”; and

Further Amend House Committee Substitute for Senate Bill No. 516, Page 117, Section 548.260, Line 27, by inserting after all of said Line the following:

“556.036. 1. A prosecution for murder, forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

- (1) For any felony, three years;
- (2) For any misdemeanor, one year;
- (3) For any infraction, six months.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term “person who has a legal duty to represent an aggrieved party” shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; [and]

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend

the period of limitation by more than three years; and

(4) Any violation of sections 569.040 to 569.055, RSMo, within five years.

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced for a misdemeanor or infraction when the information is filed and for a felony when the complaint or indictment is filed.

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself from justice either within or without this state; or

(3) During any time when a prosecution against the accused for the offense is pending in this state; or

(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo.”; and

Further Amend said Bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Bill No. 516, Page 117, Section 548.260, Lines 1-27, by removing all of said Lines from the Bill; and

Further Amend said Bill by amending the title,

enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 8

Amend House Amendment No. 8 to House Committee Substitute for Senate Bill No. 516, Page 3, Line 14, by inserting after all of said Line the following:

“Further Amend said Bill, Page 121, Section 2, Line 65, by inserting after all of said Line the following:

“9. Any person may file a complaint alleging violations of this section with the chief disciplinary counsel appointed by the Missouri supreme court. The chief disciplinary counsel shall investigate all complaints filed under this section and assess penalties as provided in subsection 10 of this section;

10. Anyone who knowingly violates any provision of this section, in addition to any other penalty imposed by law, may be held liable for civil penalties in an amount not to exceed the total cost of the advertisement, or ten-thousand dollars, whichever is greater. Any person may file a civil suit to recover the penalties in this section. The penalties may also be determined by the chief disciplinary counsel, and such penalties shall be deposited in the tort victims' compensation fund. For purposes of this section, “total cost of the advertisement” shall include the cost of production of the advertisement, reproduction of the advertisement and the amount paid to broadcast the advertisement.”; and”

HOUSE AMENDMENT NO. 8

Amend House Committee Substitute for Senate Bill No. 516, Section 479.011, Page 105, Line 40 by inserting immediately after said Line the following:

“479.260. 1. Municipalities by ordinance may

provide for fees in an amount per case to be set pursuant to sections 488.010 to 488.020, RSMo, for each municipal ordinance violation case filed before a municipal judge, and in the event a defendant pleads guilty or is found guilty, the judge may assess costs against the defendant except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. **In the event the case is dismissed before the defendant pleads guilty or is found guilty, the municipal judge may assess municipal court costs as determined by section 488.012, RSMo, against the defendant if the defendant consents to paying the costs except in those cases where the defendant is found by the judge to be unable to pay the costs.** The fees authorized in this subsection are in addition to service charges, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court costs. The fees provided by this subsection shall be collected by the municipal division clerk in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as provided in subsection 1 of section 479.080. Any other court costs required in connection with such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo; provided that, each municipal court may establish a judicial education fund in an account under the control of the municipal court to retain one dollar of the fees collected on each case and to use the fund only to pay for:

(1) The continuing education and certification required of the municipal judges by law or supreme court rule; and

(2) Judicial education and training for the court administrator and clerks of the municipal court.

Provided further, that no municipal court shall

retain more than one thousand five hundred dollars in the fund for each judge, administrator or clerk of the municipal court. Any excess funds shall be transmitted quarterly to the general revenue fund of the county or municipal treasury.

2. In municipal ordinance violation cases which are filed in the associate circuit division of the circuit court, fees shall be assessed in each case in an amount to be set pursuant to sections 488.010 to 488.020, RSMo. In the event a defendant pleads guilty or is found guilty, the judge shall assess costs against the defendant except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. In the event a defendant is acquitted or the case is dismissed, the judge shall not assess costs against the municipality. The costs authorized in this subsection are in addition to service charges, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court costs. The costs provided by this subsection shall be collected by the municipal division clerk in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as provided in subsection 2 of section 479.080. Any other court costs required in connection with such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo.

3. A municipality, when filing cases before an associate circuit judge, shall not be required to pay fees.

4. No fees for a judge, city attorney or prosecutor shall be assessed as costs in a municipal ordinance violation case.

5. In municipal ordinance violation cases, when there is an application for a trial de novo, there shall be an additional fee in an amount to be set pursuant to sections 488.010 to 488.020,

RSMo, which shall be assessed in the same manner as provided in subsection 2 of this section.

6. Municipalities by ordinance may provide for a schedule of costs to be paid in connection with pleas of guilty which are processed in a traffic violations bureau. If a municipality files its municipal ordinance violation cases before a municipal judge, such costs shall not exceed the court costs authorized by subsection 1 of this section. If a municipality files its municipal ordinance violations cases in the associate circuit division of the circuit court, such costs shall not exceed the court costs authorized by subsection 2 of this section.”; and

Further amend said Substitute, Section 488.2253, Page 111, Line 15 by inserting immediately after said Line the following:

“488.5032. In the event a criminal case is dismissed in a circuit court in this state before the defendant pleads guilty or is found guilty, the circuit judge may assess costs as determined by section 488.012, RSMo, against any defendant if the defendant consents to paying the costs except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs.”; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 9

Amend House Committee Substitute for Senate Bill No. 516, Section 105.711, Page 15, Line 84, by inserting after the word, “school” the following words, “**or camp**”; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 11

Amend House Committee Substitute for

Senate Bill No. 516, Section 356.211, Page 65, Line 18 by inserting immediately after said Line the following:

“402.205. 1. [The families, friends and guardians of] Persons who have a disability [or] , **as defined in section 402.200, or persons who** are eligible for services provided by the department of mental health, or both, may participate in a trust which may supplement the care, support, and treatment of such persons pursuant to the provisions of sections 402.199 to 402.220. Neither the contribution to the trust for the benefit of a life beneficiary nor the use of trust income to provide benefits shall in any way reduce, impair or diminish the benefits to which such person is otherwise entitled by law; and the administration of the trust shall not be taken into consideration in appropriations for the department of mental health to render services required by law.

2. Unless otherwise prohibited by federal statutes or regulations, all state agencies shall disregard the trust as a resource when determining eligibility of Missouri residents for assistance under chapter 208, RSMo.

3. The assets of the board of trustees and assets held in trust pursuant to the provisions of sections 402.199 to 402.220 shall not be considered state money, assets of the state or revenue for any purposes of the state constitution or statutes. The property of the board of trustees and its income and operations shall be exempt from all taxation by the state or any of its political subdivisions.

402.210. 1. There is hereby created the “Missouri Family Trust Board of Trustees”, which shall be a body corporate and an instrumentality of the state. The board of trustees shall consist of nine persons appointed by the governor with the advice and consent of the senate. The members' terms of office shall be three years and until their successors are appointed and qualified. The

trustees shall be persons who are not prohibited from serving by sections 105.450 to 105.482, RSMo, and who are not otherwise employed by the department of mental health. The board of trustees shall be composed of the following:

(1) Three members of the immediate family of persons who have a disability [or are the recipients of services provided by the department in the treatment of mental illness] **of mental illness**. The advisory council for comprehensive psychiatric services, created pursuant to section 632.020, RSMo, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council for comprehensive psychiatric services shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(2) Three members of the immediate family of persons who [are recipients of services provided by the department in the habilitation of the mentally retarded or developmentally disabled] **have a developmental disability**. The Missouri advisory council on mental retardation and developmental disabilities, created pursuant to section 633.020, RSMo, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council on mental retardation and developmental disabilities shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(3) Three persons who are recognized for their expertise in general business matters and procedures. Of the three business people to be

appointed by the governor, one shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the governor shall appoint one business person as trustee for a term of three years.

2. The trustees shall receive no compensation for their services. The trust shall reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

3. As used in this section, the term "immediate family" includes spouse, parents, parents of spouse, children, spouses of children and siblings.

4. The board of trustees shall be subject to the provisions of sections 610.010 to 610.120, RSMo.

5. The board of trustees shall annually prepare or cause to be prepared an accounting of the trust funds and shall transmit a copy of the accounting to the governor, the president pro tempore of the senate and the speaker of the house of representatives.

6. The board of trustees shall establish policies, procedures and other rules and regulations necessary to implement the provisions of sections 402.199 to 402.220.

402.215. 1. The board of trustees is authorized and directed to establish and administer the Missouri family trust and to advise, consult with, and render services to departments and agencies of the state of Missouri and to other nonprofit organizations which qualify as organizations pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and which provide services to Missouri residents with a disability. The board shall be authorized to execute all documents necessary to establish and administer the trust including the formation of a not-for-profit corporation created pursuant to chapter 355, RSMo, and to qualify as an organization pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986,

as amended.

2. The trust documents shall include and be limited by the following provisions:

(1) The Missouri family trust shall be authorized to accept contributions from any source including trustees, personal representatives, personal custodians pursuant to chapter 404, RSMo, and other fiduciaries, and, subject to the provisions of subdivision [(11)] **(10)** of this subsection, from the life beneficiaries and their respective spouses, to be held, administered, managed, invested and distributed in order to facilitate the coordination and integration of private financing for individuals who have a disability or are eligible for services provided by the Missouri department of mental health, or both, while maintaining the eligibility of such individuals for government entitlement funding. All contributions, and the earnings thereon, shall be administered as one trust fund; however, separate accounts shall be established for each designated beneficiary. The income earned[, after deducting administrative expenses,] shall be credited to the accounts of the respective life beneficiaries in proportion to the principal balance in the account for each such life beneficiary, to the total principal balances in the accounts for all life beneficiaries;

(2) Every donor may designate a specific person as the life beneficiary of the contribution made by such donor. In addition, each donor may name a cotrustee, including the donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on behalf of the designated life beneficiary; provided, however, a life beneficiary shall not be eligible to be a cotrustee or a successor cotrustee[; provided, however, that] . Court approval of the specific [person] **persons** designated as life beneficiary and as cotrustee or successor trustee shall be required [in connection with] **at the time** any trust **is** created pursuant to section 473.657, RSMo, or section 475.093,

RSMo;

(3) The cotrustee, with the consent of the trust, shall from time to time [but not less frequently than annually] determine the amount of income or principal or income and principal to be used to provide noncash benefits and the nature and type of benefits to be provided for the life beneficiary. Any net income which is not used shall be added to principal annually. In the event that the trust and the cotrustee shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the trust or the cotrustee shall have the right to request that the matter be resolved by arbitration which shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The requesting party shall send a written request for arbitration to the responding party and shall in such request set forth the name, address and telephone number of such requesting party's arbitrator. The responding party shall, within ten days after receipt of the request for arbitration, set forth in writing to the requesting party the name, address and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the director of the department. If the two designated arbitrators shall be unable to agree upon a third arbitrator within ten days after the responding party shall have identified such party's arbitrator, then the director of the department shall designate the third arbitrator by written notice to the requesting and responding parties' arbitrators. The three arbitrators shall meet, conduct a hearing, and render a decision within thirty days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of such party's arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties. Judgment on the arbitrators' award may be entered

in any court of competent jurisdiction;

(4) Any donor, during his or her lifetime, except for a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, may revoke any gift made to the trust; provided, however, any donor may, at any time, voluntarily waive the right to revoke. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall not have received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall have received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent of the principal balance shall be returned to the donor. The balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust;

(5) Any acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, other than the original donor of a life beneficiary's account, shall have the right, for good and sufficient reason upon written notice to the trust and the department stating such reason, to withdraw all or a portion of the principal balance. In such event, the applicable portion, as set forth in subdivision (7) of this subsection, of the principal balance shall then be distributed to the successor trust and the balance of the principal balance together with any undistributed net income shall be distributed to the charitable trust;

(6) In the event that a life beneficiary for whose benefit a contribution or contributions shall have been made to the family trust shall cease to [be eligible for services provided by the department of mental health] **have a disability as defined in section 402.200** and neither the donor nor the then acting cotrustee, except a cotrustee of

a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, shall revoke or withdraw the applicable portion, as set for in subdivision (7) of this subsection, of the principal balance, then the board of trustees may, by written notice to such donor or acting cotrustee, terminate the trust as to such beneficiary and thereupon shall distribute the applicable portion, as set forth in subdivision (7) of this subsection, of the principal balance, to the trustee of the successor trust to be held, administered and distributed by such trustee in accordance with the provisions of the successor trust described in subdivision (12) of this subsection;

(7) If at the time of withdrawal or termination as provided in subdivision (6) of this subsection of a life beneficiary's account from the trust either the life beneficiary shall not have received any benefits provided by the use of the trust income or principal or the life beneficiary shall have received benefits provided by the use of trust income or principal for a period of not more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to ninety percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust; provided, however, if the life beneficiary at the time of such withdrawal by the cotrustee or termination as provided above shall have received any benefits provided by the use of trust income or principal for a period of more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to seventy-five percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust;

(8) Subject to the provisions of subdivision (9)

of this subsection, if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons as the donor shall have designated. Any undistributed net income shall be distributed to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, in such event, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons as the donor designated, and the balance of the principal balance, together with all undistributed net income, shall be distributed to the charitable trust;

(9) In the event the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. Any undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs at the time of either such distribution, the then-principal balance together with all undistributed income shall be distributed to the charitable trust;

(10) In the event the trust is created [as a result of the recovery of damages by reason of a

personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. If there are no heirs, the balance, if any, of the principal balance together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary should have been receiving benefits provided by the use of trust income or principal or income and principal then the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs, the balance of the principal balance, together with all undistributed income, shall be distributed to the charitable trust;

(11) In the event an account is established] **with the proceeds from the recovery of damages by reason of a personal injury to the life beneficiary** or with the assets of the beneficiary by the beneficiary, a family member, the beneficiary's guardian, or pursuant to a court order, all in accordance with Title 42 of the United States Code

Section 1396p(d)(4)(A) or Section 1396p(d)(4)(C), then upon the death of the life beneficiary the state of [Missouri] **residence of the beneficiary** shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code[, and then] **(“State Plan”); except that twenty-five percent of the principal balance shall first be distributed to the charitable trust.** To the extent there is any amount remaining in the life beneficiary's account, [an amount equal to seventy-five percent of] the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law [and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust]. If there are no heirs, the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. **In the event that two or more states are entitled to receive reimbursement for medical assistance paid on behalf of a beneficiary and the total of such medical assistance is in excess of the balance in the beneficiary account, then each such state shall be paid an amount equal to that portion of the beneficiary's account as is equal to the portion of the total medical assistance paid by each such state;**

[(12)] (11) Notwithstanding the provisions of subdivisions (4) to (8) of this subsection to the contrary, the donor may voluntarily agree to a smaller percentage of the principal balance in any account established by such donor than is provided in this subsection to be returned to the donor or distributed to the successor trust, as the case may be; and a corresponding larger percentage of the principal balance in such account to be distributed either to the charitable trust or to a designated restricted account within the charitable trust;

[(13)] (12) Upon receipt of a notice of

withdrawal from a designated cotrustee, other than the original donor, and a determination by the board of trustees that the reason for such withdrawal is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the designated trustee of the successor trust the applicable portion of the principal balance as set forth in subdivision (7) of this subsection; provided, however, that court approval of distribution to a successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo.

The designated trustee of the successor trust shall hold, administer and distribute the principal and income of the successor trust, in the discretion of such trustee, for the maintenance, support, health, education and general well-being of the beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled and to increase the quality of such beneficiary's life by providing the beneficiary with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents and hobbies of the beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary. The designated trustee, in his or her discretion, may make payments from time to

time for a person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any undistributed income shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including basic food, shelter and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled. After the death and burial of the beneficiary, the remaining balance of the successor trust shall be distributed to such person or persons as the donor shall have designated;

[(14)] **(13)** The charitable trust shall be administered as part of the family trust, but as a separate account. The income attributable to the charitable trust shall be used to provide benefits for individuals who have a disability [or who are eligible for services provided by or through the department and who either have no immediate family or whose immediate family, in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust sufficient to provide benefits for such individuals, while maintaining such individuals' eligibility for government entitlement funding] **and who have no income or very limited income other than benefits.** The trustees may from time to time determine to use part of the principal of the charitable trust to provide such benefits. [As used in this section, the term "immediate family" includes parents, children and siblings. The individuals to be beneficiaries of the charitable trust shall be recommended to the trustees by the department and others from time to time.] The trustees shall annually determine the amount of charitable trust income or principal to be used to provide benefits and the nature and type of benefits to be provided for each identified beneficiary of the charitable trust. Any income not used shall be

added to principal annually;

[(15)] **(14)** Any person, with the consent of the board of trustees, may establish a restricted account within the charitable trust and shall be permitted to determine, with the consent of the board of trustees, the beneficiaries of such restricted account provided such beneficiaries qualify as participants of the trust as set forth in subsection 1 of section 402.205.

402.217. 1. No beneficiary shall have any vested or property rights or interests in [the family] **any trust established for the benefit of such beneficiary**, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of the [family] trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by such beneficiary, nor shall the principal or income of the [family] trust be subject to seizure by any creditor or any beneficiary under any writ or proceeding in law or in equity.

2. Except for the right of a donor to revoke any gift made to the trust, pursuant to subdivision (4) of subsection 2 of section 402.215, and the right of any acting cotrustee, other than the original donor, to withdraw all or a portion of the principal balance, pursuant to subdivision (5) of subsection 2 of section 402.215, neither the donor nor any acting cotrustee shall have the right to sell, assign, convey, alienate or otherwise encumber, for consideration or otherwise, any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by the donor or any acting cotrustee, nor shall the principal or income of the family trust be subject to seizure by any creditor of any donor or any acting cotrustee under any writ or proceeding in law or in equity.”; and

Further amend said bill by amending the title,

enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 14

Amend House Committee Substitute for Senate Bill No. 516, Page 26, Section 191.227, Line 1, by inserting before all of said Line the following:

“191.225. 1. The department of health and senior services shall make payments to [hospitals and physicians] **appropriate medical providers**, out of appropriations made for that purpose, to cover the [cost] **charges** of the [medical] **forensic** examination [not covered by insurance, Medicare or Medicaid] of persons who may be a victim of [the crime of rape as defined in section 566.030, RSMo, or a victim of a crime as defined in chapter 566, RSMo, or sections 568.020, 568.050, 568.060, 568.080, 568.090, 568.110, and 568.175, RSMo,] **a sexual offense** if:

(1) The victim or the victim's guardian consents in writing to the examination;

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of health and senior services; and

(3) The report of the examination is filed [by the victim] with the prosecuting attorney of the county in which the alleged incident occurred.

The appropriate medical provider shall file the report of the examination within three business days of completion of the forensic exam.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The [hospital or physician] **appropriate medical provider** making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of health and senior services, shall develop the forms and procedures for gathering evidence **during the forensic examination** under the provisions of this section [and shall furnish every hospital and physician in this state with copies of such forms and procedures.

4. Reasonable hospital and physicians]. **The department of health and senior services shall develop a checklist for appropriate medical providers to refer to while providing medical treatment to victims of a sexual offense.**

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. **All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of health and senior services. No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the appropriate medical provider shall seek compensation under sections**

595.010 to 595.075, RSMo.

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

(1) **“Appropriate medical provider”, any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants; provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;**

(2) **“Evidentiary collection kit”, a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;**

(3) **“Forensic examination”, an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit;**

(4) **“Medical treatment”, the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.”; and**

Further Amend said Bill, Page 78, Section 429.603, Line 16, by inserting after all of said Line the following:

“431.056. A minor shall be qualified and competent to contract for housing, employment, purchase of an automobile, receipt of a student loan, admission to high school or postsecondary school, obtaining medical care, establishing a bank account [and], admission to a shelter for victims of domestic violence, as defined in section 455.200, RSMo, or a homeless shelter, **and receipt of services as a victim of domestic and sexual violence, including but not limited to counseling, court advocacy, financial assistance, and other advocacy services, if:**

(1) The minor is sixteen or seventeen years of age; and

(2) The minor is homeless, as defined in subsection 1 of section 167.020, RSMo, or a victim of domestic violence, as defined in section 455.200, RSMo, unless the child is under the supervision of the children's division or the jurisdiction of the juvenile court; and

(3) The minor is self-supporting, such that the minor is without the physical or financial support of a parent or legal guardian; and

(4) The minor's parent or legal guardian has consented to the minor living independent of the parents' or guardians' control. Consent may be expressed or implied, such that:

(a) Expressed consent is any verbal or written statement made by the parents or guardian of the minor displaying approval or agreement that the minor may live independently of the parent's or guardian's control;

(b) Implied consent is any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to:

a. Barring the minor from the home or otherwise indicating that the minor is not welcome to stay;

b. Refusing to provide any or all financial support for the minor; or

c. Abusing or neglecting the minor, as defined in section 210.110, RSMo.”; and

Further Amend said Bill, Page 98, Section 452.930, Line 3, by inserting after all of said Line the following:

“455.003. 1. A rape crisis center shall:

(1) Require persons employed by or volunteering services to the rape crisis center to

maintain confidentiality of any information that would identify individuals served by the center and any information or records that are directly related to the advocacy services provided to such individuals; and

(2) Prior to providing any advocacy services, inform individuals served by the rape crisis center of the nature and scope of the confidentiality requirements of subdivision (1) of this subsection.

2. Any person employed by or volunteering services to a rape crisis center for victims of sexual assault shall be incompetent to testify concerning any confidential information in subsection 1 of this section, unless the confidentiality requirements is waived in writing by the individual served by the center.

3. As used in this section, the term “rape crisis center” shall mean any public or private agency that offers assistance to victims of sexual assault, as the term “sexual assault” is defined in section 455.010, who are adults, as defined by section 455.010, or qualified minors, as defined by section 431.056, RSMo.”; and

Further Amend said Bill, Page 118, Section 559.600, Line 19, by inserting after all of said Line the following:

“565.072. 1. A person commits the crime of domestic assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo.

2. Domestic assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim **or has previously pleaded guilty to or been found guilty of committing this crime**, in which case it

is a class A felony.”; and

Further Amend said Bill, Page 118, Section 566.150, Line 11, by inserting after all of said Line the following:

“566.224. No prosecuting or circuit attorney, peace officer, governmental official, or employee of a law enforcement agency shall request or require a victim of sexual assault under section 566.040 or forcible rape under section 566.030 to submit to any polygraph test or psychological stress evaluator exam as a condition for proceeding with a criminal investigation of such crime.

566.226. 1. After August 28, 2007, any information contained in any court record, whether written or published on the Internet, that could be used to identify or locate any victim of sexual assault, domestic assault, stalking, or forcible rape shall be closed and redacted from such record prior to disclosure to the public. Identifying information shall include the name, home or temporary address, telephone number, social security number or physical characteristics.

2. If the court determines that a person or entity who is requesting identifying information of a victim has a legitimate interest in obtaining such information, the court may allow access to the information, but only if the court determines that disclosure to the person or entity would not compromise the welfare or safety of such victim.”; and

Further Amend said Bill, Page 119, Section 570.055, Line 3, by inserting after all of said Line the following:

“589.660. As used in sections 589.660 to 589.681, the following terms mean:

(1) “Address”, a residential street address, school address, or work address of a person, as specified on the person's application to be a

program participant;

(2) “Application assistant”, an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter, or other specialized service to victims of domestic violence, rape, sexual assault, or stalking, who has been designated by the respective agency or program, and who has been trained and registered by the secretary of state to assist individuals in the completion of program participation applications;

(3) “Designated address”, the address assigned to a program participant by the secretary;

(4) “Mailing address”, an address that is recognized for delivery by the United States Postal Service;

(5) “Program”, the address confidentiality program established in section 589.663;

(6) “Program participant”, a person certified by the secretary of state as eligible to participate in the address confidentiality program;

(7) “Secretary”, the secretary of state.

589.663. There is created in the office of the secretary of state a program to be known as the “Address Confidentiality Program” to protect victims of domestic violence, rape, sexual assault, or stalking by authorizing the use of designated addresses for such victims and their minor children. The program shall be administered by the secretary under the following application and certification procedures:

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the secretary to have a designated address assigned by the secretary to serve as the person's address or the address of the minor or

incapacitated person;

(2) The secretary may approve an application only if it is filed with the office of the secretary in the manner established by rule and on a form prescribed by the secretary. A completed application shall contain:

(a) The application preparation date, the applicant's signature, and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;

(b) A designation of the secretary as agent for purposes of service of process and for receipt of first-class mail, legal documents, and certified mail;

(c) A sworn statement by the applicant that the applicant has good reason to believe that he or she:

a. Is a victim of domestic violence, rape, sexual assault, or stalking; and

b. Fears further violent acts from his or her assailant;

(d) The mailing address where the applicant may be contacted by the secretary or a designee and the telephone number or numbers where the applicant may be called by the secretary or the secretary's designee; and

(e) One or more addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household;

(3) Upon receipt of a properly completed application, the secretary may certify the applicant as a program participant. A program participant is certified for four years following the date of initial certification unless the certification is withdrawn or cancelled before

that date. The secretary shall send notification of lapsing certification and a reapplication form to a program participant at least four weeks prior to the expiration of the program participant's certification;

(4) The secretary shall forward first-class mail, legal documents, and certified mail to the appropriate program participants.

589.666. Certification of a program participant may be cancelled by the secretary if one or more of the following conditions apply:

(1) If the program participant obtains a name change, unless the program participant provides the secretary with documentation of a legal name change within ten business days of the name change;

(2) If there is a change in the mailing address from the person listed on the application, unless the program participant provides the secretary with notice of the change in such manner as the secretary provides by rule; or

(3) The applicant or program participant violates subsection 2 of section 589.663.

589.669. Upon demonstration of a program participant's certification in the program, state and local agencies and the courts shall accept the designated address as a program participant's address when creating a new public record unless the secretary has determined that:

(1) The agency has a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that it is unable to fulfill its statutory duties and obligations without the address; and

(2) The program participant's address or mailing address shall be used only for those statutory and administrative purposes.

589.672. If the secretary deems it appropriate, the secretary may make a program participant's address or mailing address available for inspection or copying, under the following circumstances:

(1) If requested of the secretary by a law enforcement agency in the manner provided for by rule; or

(2) Upon request to the secretary by a director of a state agency or the director's designee in the manner provided for by rule and upon a showing of a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that the director or the director's designee is unable to fulfill statutory duties and obligations without the address or mailing address.

589.675. If the secretary deems it appropriate, the secretary shall make a program participant's address and mailing address available for inspection or copying under the following circumstances:

(1) To a person identified in a court order, upon the secretary's receipt of such court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure; or

(2) If the certification has been cancelled because the applicant or program participant violated subsection 2 of section 589.663.

589.678. A program participant's application and supporting materials are not a public record and shall be kept confidential by the secretary.

589.681. The secretary shall promulgate rules to establish and administer the address confidentiality program. Any rule or portion of a rule, as that term is defined in section 536.010,

RSMo, that is created under the authority delegated in sections 589.660 to 589.681 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

589.683. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) Any new program authorized under sections 589.660 to 589.681 shall automatically sunset six years after the effective date of sections 589.660 to 589.681 unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 589.660 to 589.681 shall automatically sunset twelve years after the effective date of the reauthorization of sections 589.660 to 589.681; and

(3) Sections 589.660 to 589.681 shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under sections 589.660 to 589.681 is sunset.

595.030. 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred:

(1) For medical care or other services, including psychiatric, psychological or counseling

expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars; or

(2) As a result of personal property being seized in an investigation by law enforcement. Compensation paid for an “out-of-pocket loss” under this subdivision shall be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

2. No compensation shall be paid unless the division of workers' compensation finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the division of workers' compensation finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the division of family services personnel; or by any other member of the victim's family. **In the case of a sexual offense, filing a report of the offense to the proper authorities may include, but not be limited to, the filing of the report of the forensic examination by the appropriate medical provider, as defined in section 191.225, RSMo, with the prosecuting attorney of the county in which the alleged incident occurred.**

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the service provider is a:

(1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine in the state in which the service is provided;

(2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice psychology in the state in which the service is provided;

(3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

(4) Professional counselor licensed pursuant to chapter 337, RSMo.

5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed two hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the division of workers' compensation among the claimants in proportion to their loss.

7. The method and timing of the payment of any compensation pursuant to sections 595.010 to 595.075 shall be determined by the division.

595.036. 1. **Any party aggrieved by a**

decision of the department on a claim under the provisions of sections 595.010 to 595.070 may, within thirty days following the date of notification of mailing of such decision, file a petition with the division of workers' compensation of the department of labor and industrial relations to have such decision heard de novo by an administrative law judge. The administrative law judge may affirm, reverse, or set aside the decision of the department of public safety on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the department of public safety with directions. The division of workers' compensation shall promptly notify the parties of its decision and the reasons therefor.

2. Any of the parties to a decision of an administrative law judge of the division of workers' compensation, as provided by subsection 1 of this section, on a claim heard under the provisions of sections 595.010 to 595.070 may, within thirty days following the date of notification or mailing of such decision, file a petition with the labor and industrial relations commission to have such decision reviewed by the commission. The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse, or set aside the decision of the division of workers' compensation on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the division of workers' compensation with directions. The commission shall promptly notify the parties of its decision and the reasons therefor.

[2.] 3. Any petition for review filed pursuant to subsection 1 of this section shall be deemed to be filed as of the date endorsed by the United States Postal Service on the envelope or container in which such petition is received.

[3.] 4. Any party who is aggrieved by a final

decision of the labor and industrial relations commission pursuant to the provisions of subsections [1 and] 2 and 3 of this section [may seek judicial review thereof, as provided in sections 536.100 to 536.140, RSMo] shall within thirty days from the date of the final decision, appeal the decision to the court of appeals. Such appeal may be taken by filing notice of appeal with commission, whereupon the commission shall, under its certificate, return to the court all documents and papers on file in the matter, together with a transcript of the evidence, the findings and award, which shall thereupon become the record of the cause. Upon appeal no additional evidence shall be heard and, in the absence of fraud, the findings of fact made by the commission within its powers shall be conclusive and binding. The court, on appeal, shall review only questions of law and may modify, reverse, remand for rehearing, or set aside the award upon any of the following grounds and no other:

(1) That the commission acted without or in excess of its powers;

(2) That the award was procured by fraud;

(3) That the facts found by the commission do not support the award;

(4) That there was not sufficient competent evidence in the record to warrant the making of the award.

595.209. 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023, RSMo, and victims of an attempt to commit one of the preceding crimes, as defined in section 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

(1) For victims, the right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult, even if the victim is called to testify or may be called to testify as a witness in the case;

(2) For victims, the right to information about the crime, as provided for in subdivision (5) of this subsection;

(3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final disposition of the case. Final disposition information shall be provided within five days;

(4) For victims, the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing and probation revocation hearings and the right to be heard at such hearings, including juvenile proceedings, unless in the determination of the court the interests of justice require otherwise;

(5) The right to be informed by local law enforcement agencies, the appropriate juvenile authorities or the custodial authority of the following:

(a) The status of any case concerning a crime against the victim, including juvenile offenses;

(b) The right to be informed by local law enforcement agencies or the appropriate juvenile authorities of the availability of victim compensation assistance, assistance in obtaining documentation of the victim's losses, including, but not limited to and subject to existing law concerning protected information or closed records, access to copies of complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon

request to the appropriate law enforcement agency by the victim or the victim's representative, and emergency crisis intervention services available in the community;

(c) Any release of such person on bond or for any other reason;

(d) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(6) For victims, the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape, **or a statement by counsel or a representative designated by the victim on behalf of the victim** in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings [and], the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape in lieu of a personal appearance, **and the right to have, upon written request of the victim, a partition set up in the probation or parole hearing room in such a way that the victim is shielded from the view of the probationer or parolee**, and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape, **or a statement by counsel or a representative designated by the victim** in lieu of personal appearance;

(7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552, RSMo, of the following:

(a) The projected date of such person's release from confinement;

(b) Any release of such person on bond;

(c) Any release of such person on furlough, work release, trial release, electronic monitoring program, or to a community correctional facility or program or release for any other reason, in advance of such release;

(d) Any scheduled parole or release hearings, including hearings under section 217.362, RSMo, regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

(e) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo, or by a circuit court presiding over releases under section 217.362, RSMo, to release such person or any decision by the governor to commute the sentence of such person or pardon such person;

(g) Notification within thirty days of the death

of such person;

(8) For witnesses who have been summoned by the prosecuting attorney and for victims, to be notified by the prosecuting attorney in a timely manner when a court proceeding will not go on as scheduled;

(9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(10) For victims and witnesses, on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability of victim compensation assistance and of financial assistance and emergency and crisis intervention services available within the community and information relative to applying for such assistance or services, and of any final decision by the prosecuting attorney not to file charges;

(11) For victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law;

(12) For victims and witnesses, to be informed by the court and the prosecuting attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(13) When a victim's property is no longer needed for evidentiary reasons or needs to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having possession of the property shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings, or provide written explanation of the reason why such

property shall not be returned;

(14) An employer may not discharge or discipline any witness, victim or member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding, **attending a criminal proceeding**, or for participating in the preparation of a criminal proceeding, **or require any witness, victim, or member of a victim's immediate family to use vacation time, personal time, or sick leave for honoring a subpoena to testify in a criminal proceeding, attending a criminal proceeding, or participating in the preparation of a criminal proceeding**;

(15) For victims, to be provided with creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

(16) For victims and witnesses, the right to speedy disposition of their cases, and for victims, the right to speedy appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare such defendant's defense. The attorney general shall provide victims, upon their written request, case status information throughout the appellate process of their cases. The provisions of this subdivision shall apply only to proceedings involving the particular case to which the person is a victim or witness;

(17) For victims and witnesses, to be provided by the court, a secure waiting area during court proceedings and to receive notification of the date, time and location of any hearing conducted by the court for reconsideration of any sentence imposed, modification of such sentence or recall and release of any defendant from incarceration.

2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency

has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

3. Those persons entitled to notice of events pursuant to the provisions of subsection 1 of this section shall provide the appropriate person or agency with their current addresses and telephone numbers or the addresses or telephone numbers at which they wish notification to be given.

4. Notification by the appropriate person or agency utilizing the statewide automated crime victim notification system as established in section 650.310, RSMo, shall constitute compliance with the victim notification requirement of this section. If notification utilizing the statewide automated crime victim notification system cannot be used, then written notification shall be sent by certified mail to the most current address provided by the victim.

5. Victims' rights as established in section 32 of article I of the Missouri Constitution or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant to exclude victims or prevent their full participation in each and every phase of parole hearings or probation revocation hearings. The rights of the victims granted in this section are absolute and the policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has an absolute right to be present at any hearing in which the defendant is present before a probation and parole hearing officer.”; and

Further Amend said Bill by amending the title, enacting clause, and intersectional references accordingly.

In which the concurrence of the Senate is respectfully requested.

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **SCS for SB 4** and **SS No. 6 for SCS for SB 389**, begs leave to report that it has examined the same and finds that the bills have been duly enrolled and that the printed copies furnished the Senators are correct.

Senator Goodman, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, submitted the following reports:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which were referred **SS for SCS for HCS for HB 583** and **SS for HCS for HB 364**, begs leave to report that it has considered the same and recommends that the bills do pass.

MESSAGES FROM THE GOVERNOR

The following messages were received from the Governor, reading of which was waived:

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
May 14, 2007

TO THE SENATE OF THE 94th GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

I hereby withdraw from your consideration the following appointment to office submitted to you on March 22, 2007, for your advice and consent:

Robert C. Kramer, Democrat, 9545 Dana Avenue, Saint Louis, Saint Louis County, Missouri 63123, as a member of the Environmental Improvement and Energy Resources Authority, for a term ending December 29, 2008, and until his successor is duly appointed and qualified; vice, William Worley, term expired.

Respectfully submitted,

MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
May 14, 2007

TO THE SENATE OF THE 94th GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

I hereby withdraw from your consideration the following appointment to office submitted to you on April 26, 2007 for your advice and consent:

Michael D. Geske, 4694 State Highway E, Matthews, New Madrid County, Missouri 63867, as a member of the Missouri Ethanol and Other Renewable Fuels Commission, for a term ending March 25, 2011, and until his successor is duly appointed and qualified; vice, reappointed to a full term.

Respectfully submitted,

MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
May 16, 2007

TO THE SENATE OF THE 94th GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

I hereby withdraw from your consideration the following appointment to office submitted to you on January 23, 2007, for your advice and consent:

Schuyler J. Mariea, 1826 Chelle Court, Jefferson City, Cole County, Missouri 65101, as a member of the Petroleum Storage Tank Insurance Fund Board of Trustees, for a term ending February 6, 2010, and until his successor is duly appointed and qualified; vice, Gary O'Neal, term expired.

Respectfully submitted,

MATT BLUNT

Also,

OFFICE OF THE GOVERNOR
State of Missouri
Jefferson City
65101
May 16, 2007

TO THE SENATE OF THE 94th GENERAL ASSEMBLY OF THE STATE OF MISSOURI:

I hereby withdraw from your consideration the following appointment to office submitted to you on February 19, 2007, for your advice and consent:

Daniel K. Carr, Republican, 1932 High Drive, Liberty, Clay, Missouri 64068, as a member of the Missouri State Penitentiary Redevelopment Commission, for a term ending March

3, 2008, and until his successor is duly appointed and qualified; vice, William Carr, resigned.

Respectfully submitted,
MATT BLUNT

President Pro Tem Gibbons requested unanimous consent to make one motion to return the above appointments to the Governor, which request was granted.

President Pro Tem Gibbons moved that the appointments of Robert C. Kramer, Michael D. Geske, Schuyler J. Mariea and Daniel K. Carr, be returned to the Governor per his request, which motion prevailed.

President Pro Tem Gibbons assumed the Chair.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **SCS for SB 4**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bill would be signed by the President Pro Tem to the end that it may become law. No objections being made, the bill was so read by the Secretary and signed by the President Pro Tem.

OBJECTIONS

Senator Graham submitted the following:

May 7, 2007

RE: SS/SCS/SB 389

Dear Madam Secretary:

Pursuant to Senate Rule 68, this letter is to notify you and others that I am filing a constitutional objection to the SS/SCS/SB 389. Please print this letter in the Senate Journal. I object to this legislation for the following reasons:

1. Article IX, Section 9(a) of the Missouri Constitution states that “The government of the state university shall be vested in a board of curators.”

2. The SS/SCS/SB 389 clearly violates this aforementioned provision with the inclusion of a provision that dictates the rate at which the State University may increase its tuition.

3. Article IX, Section 9(a) was constructed specifically to grant the University independence from such political meddling. It is both sad and ironic that the same legislature that has been slashing appropriations for the State University is now using threats of withholding such support to enforce its unconstitutional meddling.

4. In addition, Article IX, Section 9(b) of the Missouri Constitution states that “The general assembly shall adequately maintain the state university.”

5. The SS/SCS/SB 389 originally contained changes in law that would ultimately authorize an \$85 million health sciences center on the University of Missouri-Columbia campus. This life sciences building was removed from the bill, temporarily replaced with funding for a \$31 million cancer hospital on the campus.

6. Both the \$31 million cancer hospital and a \$15 million pharmacy and nursing building on the University of Missouri-Kansas City campus were punitively removed from the project list, followed by a motion to move the previous question, thereby stifling debate on this issue. The removal of said projects displays an unqualified lack of “adequate support” for the only constitutionally authorized State University in Missouri.

7. This slow motion disaster that is commonly referred to as “MOHELA” is not only bad public policy that will irrevocably damage the State University and the future economic development of this state, but it violates two constitutional provisions in order to accomplish this dubious end.

I ask that the aforementioned objections be attached to the bill.

Thank you,

Senator Chuck Graham.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **SS No. 6 for SCS for SB 389**, having passed both branches of the General Assembly, would be read at length by the Secretary, and signed by the President Pro Tem to the end that it may become law. The bill was so read by the Secretary and signed by the President Pro Tem.

President Kinder assumed the Chair.

HOUSE BILLS ON THIRD READING

HCS for HB 329, with **SCS**, entitled:

An Act to repeal sections 425.010 and 425.020, RSMo, and to enact in lieu thereof four new sections relating to debt adjusters, with a

penalty provision.

Was called from the Informal Calendar and taken up by Senator Scott.

Senator Rupp assumed the Chair.

Senator Gross assumed the Chair.

SCS for **HCS** for **HB 329**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 329

An Act to repeal sections 425.010 and 425.020, RSMo, and to enact in lieu thereof four new sections relating to debt adjusters, with a penalty provision.

Was taken up.

Senator Rupp assumed the Chair.

Senator Scott moved that **SCS** for **HCS** for **HB 329** be adopted, which motion prevailed.

Senator Shields announced that photographers from KRCG-TV were given permission to take pictures in the Senate Chamber today.

On motion of Senator Scott, **SCS** for **HCS** for **HB 329** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Callahan	Champion
Clemens	Crowell	Days	Engler
Gibbons	Goodman	Green	Griesheimer
Gross	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Stouffer	Vogel—28

NAYS—Senators

Bray	Coleman	Justus	Smith
Wilson—5			

Absent—Senator Graham—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Scott, title to the bill was agreed to.

Senator Scott moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Gibbons moved that **SS** for **SCS** for **HCS** for **HB 583**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

On motion of Senator Gibbons, **SS** for **SCS** for **HCS** for **HB 583**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Days
Engler	Gibbons	Goodman	Green
Griesheimer	Gross	Justus	Kennedy
Loudon	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel
Wilson—29			

NAYS—Senators

Crowell	Koster	Lager	Mayer—4
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Absent—Senator Graham—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Gibbons, title to the bill was agreed to.

Senator Gibbons moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

HB 69, with **SCS**, introduced by Representative Day, entitled:

An Act to repeal section 67.1000, as enacted by senate committee substitute for senate bill no. 820, eighty-ninth general assembly, second regular session, and section 67.1000, as enacted by house bill no. 1587, eighty-ninth general assembly, second regular session, and to enact in lieu thereof one new section relating to transient guest taxes.

Was called from the Informal Calendar and taken up by Senator Barnitz.

SCS for **HB 69**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 69

An Act to repeal sections 67.1360, 67.2500, 67.2510, 89.010, 89.400, 94.837, RSMo, section 67.1000, as enacted by senate committee substitute for senate bill no. 820, eighty-ninth general assembly, second regular session, section 67.1000, as enacted by house bill no. 1587, eighty-ninth general assembly, second regular session, section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505 as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, and to enact in lieu thereof eight new sections relating to political subdivisions.

Was taken up.

Senator Barnitz moved that **SCS** for **HB 69** be adopted.

Senator Barnitz offered **SS** for **SCS** for **HB 69**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 69

An Act to repeal sections 21.750, 41.655, 50.327, 50.333, 50.565, 50.1250, 52.290, 52.312, 52.315, 52.317, 57.113, 58.451, 58.500, 58.510, 58.720, 64.620, 64.890, 64.940, 65.677, 66.010, 67.320, 67.797, 67.1360, 67.1451, 67.1545, 67.2500, 67.2510, 70.220, 70.515, 70.545, 72.080, 79.050, 79.370, 84.120, 84.170, 86.590, 87.006, 89.010, 89.400, 94.660, 94.837, 99.805, 100.050, 100.059, 105.483, 108.170, 110.130, 110.140, 110.150, 141.150, 141.640, 144.030, 144.062, 144.757, 144.759, 162.431, 190.305, 210.861, 238.202, 238.207, 238.208, 238.225, 238.230, 238.275, 246.005, 304.015, 311.174, 313.055, 313.057, 320.200, 320.271, 320.310, 392.410, 393.705, 393.710, 393.715, 393.720, 393.829, 409.107, 432.070, 451.040, 473.743, 479.010, 479.011, 650.396, and 650.399, RSMo, section 67.1000 as enacted by senate committee substitute for senate bill no. 820, eighty-ninth general assembly, second regular session, section 67.1000 as enacted by house bill no. 1587, eighty-ninth general assembly, second regular session, section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505 as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, and sections 21.750, 99.812, and 144.054, as Truly Agreed To and Finally Passed by the first regular session of the ninety-fourth general assembly in Senate Committee Substitute for House Committee Substitute for House Bill No. 327, and to enact in lieu thereof one hundred thirty-nine new sections

relating to political subdivisions, with penalty provisions and emergency clauses for certain sections.

Senator Barnitz moved that **SS** for **SCS** for **HB 69** be adopted.

Senator Koster assumed the Chair.

Senator Barnitz offered **SA 1**, which was read:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 69, Page 190, Section 190.305, Lines 5-10 of said page, by striking said lines and inserting in lieu thereof the following: "to sections 190.327 and 190.328. **The board of any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants shall provide services to a city located in more than one county only after making an agreement or contracting with the city for such services, provided that any agreement or contract in effect, as of January 1, 2006, shall continue until such time as a successor agreement or contract is entered into by the board and city and such agreement or contract is to provide services for a period of three or more years.**"

Senator Barnitz moved that the above amendment be adopted, which motion prevailed.

Senator Rupp assumed the Chair.

Senator Shields announced that photographers from KMIZ-TV were given permission to take pictures in the Senate Chamber today.

Senator Barnitz moved that **SS** for **SCS** for **HB 69**, as amended, be adopted, which motion prevailed.

Senator Barnitz moved that **SS** for **SCS** for **HB 69**, as amended, be read the 3rd time and passed and was recognized to close.

Under the provisions of Senate Rule 91, Senator Wilson was excused from voting on the 3rd reading and emergency clause.

President Pro Tem Gibbons referred **SS** for **SCS** for **HB 69**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

HB 596, with **SCS**, introduced by Representative St. Onge, entitled:

An Act to amend chapter 227, RSMo, by adding thereto one new section relating to annual bid bonds for state highways and transportation commission construction and maintenance projects.

Was called from the Informal Calendar and taken up by Senator Stouffer.

SCS for **HB 596**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 596

An Act to repeal sections 227.107, 390.071, 390.136, and 622.095, RSMo, and to enact in lieu thereof five new sections relating to transportation, with penalty provisions.

Was taken up.

Senator Stouffer moved that **SCS** for **HB 596** be adopted.

Senator Stouffer offered **SS** for **SCS** for **HB 596**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 596

An Act to repeal sections 94.660, 226.527, 226.530, 226.580, 227.107, 238.202, 238.207, 238.208, 238.210, 238.225, 238.230, 238.275, 301.010, 301.030, 301.040, 301.131, 301.150, 301.301, 301.310, 301.420, 301.440, 301.640, 301.716, 302.010, 302.272, 302.275, 302.321, 302.545, 302.700, 302.720, 302.755, 302.775, 303.415, 304.015, 304.022, 304.070, 304.170, 304.180, 304.230, 304.281, 307.010, 307.015, 307.090, 307.100, 307.120, 307.125, 307.155, 307.172, 307.173, 307.179, 307.195, 307.198, 307.365, 307.375, 307.390, 307.400, 311.326, 390.030, 390.071, 390.136, 407.730, 407.732,

407.815, 556.021, 577.029, 577.039, and 622.095, RSMo, and to enact in lieu thereof ninety-one new sections relating to transportation, with penalty provisions, an effective date for certain sections, and an emergency clause for certain sections.

Senator Stouffer moved that **SS** for **SCS** for **HB 596** be adopted.

Senator Stouffer offered **SA 1**, which was read:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 596, Page 114, Section 304.230, Line 11 of said page, by striking the following: “If the”; and further amend lines 12-28 of said page, by striking all of said lines; and

Further amend said bill and section, page 115, lines 1-12 of said page, by striking all of said lines.

Senator Stouffer moved that the above amendment be adopted, which motion prevailed.

Senator Graham offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 596, Page 54, Section 301.040, Line 14, by inserting after all of said line, the following:

“301.130. 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided by this section. Each set of license plates shall bear the name or abbreviated name of this state, the words “SHOW-ME STATE”, the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also

contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the “DISABLED VETERAN” wording on the license plates in preference to the words “SHOW-ME STATE” and special plates for members of the national guard will have the “NATIONAL GUARD” wording in preference to the words “SHOW-ME STATE”.

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, or with the state highways and transportation commission as otherwise provided in this chapter, but only one license plate shall be issued for each such vehicle except as provided in this subsection. The applicant for registration of any property-carrying commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued the director of revenue may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.

4. The plates issued to manufacturers and dealers shall bear the letter “D” preceding the number, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

5. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue or the state highways and transportation commission and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. **Each such plate may be encased in a transparent cover so long as the plate is plainly visible and its reflective qualities are not impaired.** License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up or if two plates are issued for the vehicle pursuant to subsection 3 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

6. (1) The director of revenue shall issue annually or biennially a tab or set of tabs as provided by law as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates. Beginning January 1, 2010, the director may prescribe any additional information recorded on the tab or tabs to ensure that the tab or tabs positively correlate

with the license plate or plates issued by the department of revenue for such vehicle. Such tabs shall be produced in each license bureau office.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director of revenue when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as otherwise provided in this section, the director of revenue shall issue plates for a period of at least six years.

(5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the highways and transportation commission shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the highways and transportation commission upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the highways and transportation commission shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon

the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the highways and transportation commission and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

7. The director of revenue and the highways and transportation commission may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.

9. Commencing January 1, 2009, the director of revenue shall cause to be reissued new license plates of such design as directed by the director consistent with the terms, conditions, and provisions of this section and this chapter. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates that expire between January 1, 2009, and December 31,

2011, applicants for registration of trailers or semitrailers with license plates that expire between January 1, 2009, and December 31, 2011, and applicants for registration of vehicles that are to be issued new license plates shall pay an additional fee, based on the actual cost of the reissuance, to cover the cost of the newly reissued plates required by this subsection. The additional fee prescribed in this subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. Historic motor vehicle license plates registered pursuant to section 301.131 and specialized license plates are exempt from the provisions of this subsection.”; and

Further amend the title and enacting clause accordingly.

Senator Graham moved that the above amendment be adopted, which motion prevailed.

Senator Stouffer moved that **SS** for **SCS** for **HB 596**, as amended, be adopted, which motion prevailed.

Senator Stouffer moved that **SS** for **SCS** for **HB 596**, as amended, be read the 3rd time and passed and was recognized to close.

President Pro Tem Gibbons referred **SS** for **SCS** for **HB 596**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SS** for **SCS** for **HCS** for **HB 780**, as amended, and has taken up and passed **CCS** for **SS** for **SCS** for **HCS** for **HB 780**.

CONFERENCE COMMITTEE REPORTS

Senator Scott, on behalf of the conference

committee appointed to act with a like committee from the House on **SS** for **SCS** for **HCS** for **HB 780**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 780

The Conference Committee appointed on Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, with Senate Amendment No. 1, Senate Amendment No. 2, Senate Amendment No. 3, Senate Amendment No. 4, Senate Amendment No. 6, Senate Amendment No. 8, and Senate Amendment No. 9, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, as amended;

2. That the House recede from its position on House Committee Substitute for House Bill No. 780;

3. That the attached Conference Committee Substitute for Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, be Third Read and Finally Passed.

FOR THE HOUSE:

/s/ Jay Wasson

/s/ Carl Bearden

/s/ Michael L. Parson

/s/ Sam Page

/s/ Paul Quinn

FOR THE SENATE:

/s/ Delbert Scott

/s/ Gary Nodler

/s/ Kevin Engler

/s/ Timothy P. Green

/s/ Harry Kennedy

Senator Scott moved that the above

conference committee report be adopted.

At the request of Senator Scott, the above motion was withdrawn.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SCS** for **SB 320**, entitled:

An Act to repeal sections 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, and 340.347, RSMo, and to enact in lieu thereof seventeen new sections relating to large animal veterinary student loan assistance.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 320, Page 1, Section A, Line 5, by inserting immediately after said line the following:

“261.020. The state director of the department of agriculture is hereby constituted the official who has supervision of all the legalized departments of the state which are of a regulatory nature for the advancement of horticulture and agriculture, except after January 1, 1996, he **or she** shall not have direct supervision of the state fair. He **or she** shall cooperate with the college of agriculture of the University of Missouri in all ways beneficial to the horticultural and agricultural interests of the state, without duplicating research, extension or educational work conducted by said college, but nothing herein shall be construed as to subordinate the state department of agriculture to the said college of agriculture. The director has charge of the veterinary service of the state, the appointment of the state veterinarian, and, with the

advice of the veterinarian, of deputy veterinarians, and other assistants. The director has the power of reasonable quarantine in relation to the regulatory laws of the state department of agriculture, and the power of quarantine in relation to livestock diseases includes poultry. It is the duty of the director to gather and compile helpful statistics and information, singly or in cooperation with the federal government, relating to horticulture and agriculture, and he **or she** may publish bulletins not duplicating available educational bulletins of the college of agriculture and the United States Department of Agriculture. He **or she** may charge a reasonable amount for any publication distributed by the department of agriculture. Any funds received from the amounts so charged shall be deposited to the credit of the general revenue fund. The director shall make a biennial report to the governor and the general assembly, including the essential information relating to horticulture and agriculture, especially crops and livestock, also data concerning the agricultural organizations of the state, accompanied by recommendations relating to the state department of agriculture and the advancement of agricultural education.”; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SCS** for **SB 299** and **SS** for **SCS** for **SB 616**, entitled:

An Act to repeal sections 311.070, 311.178, 311.190, 311.240, 311.420, and 311.462, RSMo, and to enact in lieu thereof eleven new sections relating to liquor control, with penalty provisions.

With House Amendments Nos. 1, 2 and 3.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 299 and Senate Substitute for Senate Committee Substitute for Senate Bill No. 616, Section 311.178, Page 12, Line 56, by inserting the following after all of said line:

“311.180. 1. No person, partnership, association of persons or corporation shall manufacture, distill, blend, sell or offer for sale intoxicating liquor within this state at wholesale or retail, or solicit orders for the sale of intoxicating liquor within this state without procuring a license from the supervisor of [liquor] **alcohol and tobacco** control authorizing them so to do. For such license there shall be paid to and collected by the director of revenue annual charges as follows:

(1) For the privilege of manufacturing and brewing in this state malt liquor containing not in excess of five percent of alcohol by weight and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquors containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred fifty dollars;

(2) For the privilege of manufacturing in this state intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred dollars;

(3) For the privilege of manufacturing, distilling or blending intoxicating liquor of all kinds within this state and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of four hundred and fifty dollars;

(4) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of fifty dollars;

(5) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of one hundred dollars;

(6) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of two hundred and fifty dollars;

(7) For the privilege of selling intoxicating liquor containing not in excess of five percent of alcohol by weight by a wholesaler to a person duly licensed to sell such malt liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of one hundred dollars;

(8) For the privilege of selling intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred dollars;

(9) For the privilege of selling intoxicating liquor of all kinds by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of

intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of five hundred dollars, except that a license authorizing the holder to sell to duly licensed wholesalers and to solicit orders for sale of intoxicating liquor, to, by or through a duly licensed wholesaler, shall not entitle the holder thereof to sell within the state of Missouri, direct to retailers;

(10) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of vintage wine as defined in section 311.191, to, by, or through a duly licensed wholesaler within this state, the sum of five hundred dollars.

2. Solicitors, manufacturers and blenders of intoxicating liquor shall not be required to take out a merchant's license for the sale of their products at the place of manufacture or in quantities of not less than one gallon.

3. The provisions of this section relating to the privilege of selling malt liquor are subject to and limited by the provisions of sections 311.181 and 311.182.

4. The licenses prescribed in this section for the privilege of selling intoxicating liquor by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail shall allow such wholesaler to sell intoxicating liquor to licensees licensed by the gaming commission to sell beer or alcoholic beverages pursuant to section 313.840, RSMo.”; and

Further amend said Substitute, Section 311.240, Page 16, Line 28, by inserting the following after all of said line:

“311.275. 1. For purposes of tax revenue control, beginning January 1, 1980, no holder of a license to solicit orders for the sale of intoxicating liquor, as defined in this chapter, within this state, other than a wholesale-solicitor, shall solicit, accept, or fill any order for any intoxicating liquor from a holder of a wholesaler's license issued

under this chapter, unless the holder of such solicitor's license has registered with the division of [liquor] **alcohol and tobacco** control as the primary American source of supply for the brand of intoxicating liquor sold or sought to be sold. The supervisor of [liquor] **alcohol and tobacco** control shall provide forms for annual registration as the primary American source of supply, and shall prescribe the procedures for such registration.

2. Beginning January 1, 1980, no holder of a wholesaler's license issued under this chapter shall order, purchase or receive any intoxicating liquor from any solicitor, other than a wholesale-solicitor, unless the solicitor has registered with the division of [liquor] **alcohol and tobacco** control as the primary American source of supply for the brand of intoxicating liquor ordered, purchased or received.

3. The term "primary American source of supply" as used herein shall mean the distiller, producer, the owner of the commodity at the time it became a marketable product, the bottler, or the exclusive agent of any such distiller, producer, bottler or owner, the basic requirement being that the nonresident seller be the first source closest to the manufacturer in the channel of commerce from whom the product can be secured by American wholesalers.

4. **Any vintage wine solicitor licensed under section 311.180 may register as the primary American source of supply for vintage wine with the division of alcohol and tobacco control, provided that another solicitor is not registered as the primary American source of supply for the vintage wine and the vintage wine has been approved for sale by the federal Alcohol and Tobacco Tax and Trade Bureau.**"; and,

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for

Senate Committee Substitute for Senate Bill No. 299 and Senate Substitute for Senate Committee Substitute for Senate Bill No. 616, Section 311.071, Page 11, Line 15, by inserting the following after all of said line:

"311.174. 1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a city with a population of at least four thousand inhabitants which borders the Missouri River and also borders a city with a population of over three hundred thousand inhabitants located in at least three counties, in a city with a population of over three hundred thousand which is located in whole or in part within a first class county having a charter form of government or in a first class county having a charter form of government which contains all or part of a city with a population of over three hundred thousand inhabitants, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day; **except that, an entity exempt from federal income taxes under Section 501(c)(7) of the Internal Revenue Code of 1986, as amended, and located in a building designated as an National Historic Landmark by the United States Department of the Interior may apply for a license to remain open until 6:00 a.m. of the following day.** The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. When the premises of such an applicant is located in a city as defined in this section, then the premises must be located in an area which has been designated as a convention trade area by the governing body of the city. When the premises of such an applicant is located in a county as defined in this section, then the premises must be located in an area which has been designated as a

convention trade area by the governing body of the county.

2. An applicant granted a special permit under this section shall, in addition to all other fees required by this chapter pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

3. The provisions of this section allowing for extended hours of business shall not apply in any incorporated area wholly located in any first class county having a charter form of government which contains all or part of a city with a population of over three hundred thousand inhabitants until the governing body of such incorporated area shall have by ordinance or order adopted the extended hours authorized by this section.”; and,

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 299 and Senate Substitute for Senate Committee Substitute for Senate Bill No. 616, Page 19, Section 311.489, Line 60, by inserting immediately after said line the following:

“311.685. 1. Any retail licensee selling intoxicating liquor or nonintoxicating beer under this chapter or chapter 312, RSMo, and aggrieved by official action of the supervisor affecting the licensee, may bring a civil action against any person who is the proximate cause of such official action by the supervisor, if the violation occurred on or about the premises of the retail licensee. If a judgment is entered in favor of the licensee, the court shall award the retail licensee civil damages up to an amount of five thousand dollars and shall award reasonable court costs and attorney fees.

2. No civil action shall be brought under this section against any employee of the supervisor of alcohol and tobacco control or any

law enforcement officer.”; and

Further amend said Bill by amending the title, enacting clause, and intersectional references accordingly.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SS** for **SCS** for **SB 225**.

Bill ordered enrolled.

PRIVILEGED MOTIONS

Senator Goodman moved that the Senate refuse to concur in **HCS** for **SB 516**, as amended, and requests the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

On motion of Senator Shields, the Senate recessed until 2:30 p.m.

RECESS

The time of recess having expired, the Senate was called to order by Senator Rupp.

RESOLUTIONS

Senator Barnitz offered Senate Resolution No. 1396, regarding Eric Schrantz, Rolla, which was adopted.

Senator Graham offered Senate Resolution No. 1397, regarding the One Hundredth Anniversary of A.B. Chance Company, Centralia, which was adopted.

Senator Loudon offered Senate Resolution No. 1398, regarding Nicholas Michael May, Hazelwood, which was adopted.

Senators Lager and Ridgeway offered Senate Resolution No. 1399, regarding Mr. and Mrs. Michael Deggendorf, Liberty, which was adopted.

Senator Engler offered Senate Resolution No. 1400, regarding William Keith Alexander, III, Festus, which was adopted.

Senator Engler offered Senate Resolution No. 1401, regarding Judith A. Knell, Saint Louis, which was adopted.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SB 516**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SB 516**, as amended. Representatives: Pratt, Flook, Smith (150), Burnett and Johnson.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SCS** for **SB 86**, as amended. Representatives: Sutherland, Cooper (120), Stevenson, Chappelle-Nadal and Zweifel.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS No. 2** for **SS** for **SCS** for **SB 3**, entitled:

An Act to repeal sections 565.184, 630.005, 630.140, 630.165, 630.167, 630.725, and 630.755, RSMo, and to enact in lieu thereof nineteen new sections relating to mental health, with penalty

provisions.

With House Amendment Nos. 2 and 3.

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, Page 3, Section 565.214, Line 27, by inserting after all of said line the following:

“4. Nothing in this section shall be construed to mean that a vulnerable person is abused solely because such person chooses to rely on spiritual means through prayer, in lieu of medical care, for his or her health care, as evidenced by the vulnerable person’s explicit consent, advance directive for health care, or practice.”; and

Further amend said bill, Page 4, Section 565.218, Line 20, by inserting immediately following the period “.” the following

“Notwithstanding any other provision of this section, a duly ordained minister, clergy, religious worker, or Christian Science practitioner while functioning in his or her ministerial capacity shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.”; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, Page 1, Section A, Line 5, by inserting after all of said section the following:

“208.225. 1. To implement fully the provisions of section 208.152, the division of medical services shall calculate the Medicaid per diem reimbursement rates of each nursing home participating in the Medicaid program as a

provider of nursing home services based on its costs reported in the Title XIX cost report filed with the division of medical services for its fiscal year as provided in subsection 2 of this section.

2. The recalculation of Medicaid rates to all Missouri facilities will be performed as follows: effective July 1, 2004, the department of social services shall use the Medicaid cost report containing adjusted costs for the facility fiscal year ending in 2001 and redetermine the allowable per-patient day costs for each facility. The department shall recalculate the class ceilings in the patient care, one hundred twenty percent of the median; ancillary, one hundred twenty percent of the median; and administration, one hundred ten percent of the median cost centers. Each facility shall receive as a rate increase one-third of the amount that is unpaid based on the recalculated cost determination.

3. For a facility new to the Medicaid program that did not have a Medicaid cost report for the year ending 2001, its Medicaid per diem reimbursement rate shall be calculated from its fiscal year cost report which covers the second twelve-month fiscal year following the facility's initial date of Medicaid certification using the class ceilings of this section. This prospective rate shall be retroactive to the beginning of the first day of the facility's second full twelve-month fiscal year.”; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

In which the concurrence of the Senate is respectfully requested.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS for SB 516**, as amended: Senators Goodman, Bartle, Crowell,

Barnitz and Justus.

CONFERENCE COMMITTEE REPORTS

Senator Scott moved that the conference committee report on **SS for SCS for HCS for HB 780**, as amended, be again taken up for adoption, which motion prevailed.

Senator Scott moved the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Smith	Stouffer	Vogel	Wilson—32

NAYS—Senators—None

Absent—Senators

Griesheimer Shoemyer—2

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Scott, **CCS for SS for SCS for HCS for HB 780**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 780

An Act to repeal sections 41.950, 256.465, 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 324.520, 324.522, 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 331.010, 334.120, 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624, 337.627,

337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686, 337.689, 337.700, 337.715, 337.718, 338.220, 339.100, 339.513, 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, 620.010, and 621.045, RSMo, and to enact in lieu thereof one hundred sixteen new sections relating to the division of professional registration, with penalty provisions and an effective date for certain sections.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Smith	Stouffer	Vogel

Wilson—33

NAYS—Senators—None

Absent—Senator Shoemyer—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Scott, title to the bill was agreed to.

Senator Scott moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

REPORTS OF STANDING COMMITTEES

Senator Goodman, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, submitted the following reports:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which were referred **SS** for **SCS** for **HB 596** and **SS** for **SCS** for **HB 69**, begs leave to report that it has considered the same and recommends that the bills do pass.

PRIVILEGED MOTIONS

Senator Purgason moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 299** and **SS** for **SCS** for **SB 616**, as amended and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

HOUSE BILLS ON THIRD READING

Senator Stouffer moved that **SS** for **SCS** for **HB 596**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

On motion of Senator Stouffer, **SS** for **SCS** for **HB 596**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Stouffer, title to the bill was agreed to.

Senator Stouffer moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Barnitz moved that **SS** for **SCS** for **HB 69**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

On motion of Senator Barnitz, **SS** for **SCS** for **HB 69**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager

Loudon	Mayer	McKenna	Nodler
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel—32

NAYS—Senator Purgason—1

Absent—Senators—None

Absent with leave—Senators—None

Excused from voting—Senator Wilson—1

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel—32

NAYS—Senator Purgason—1

Absent—Senators—None

Absent with leave—Senators—None

Excused from voting—Senator Wilson—1

Vacancies—None

On motion of Senator Barnitz, title to the bill was agreed to.

Senator Barnitz moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

President Kinder assumed the Chair.

CONFERENCE COMMITTEE REPORTS

Senator Stouffer, on behalf of the conference committee appointed to act with a like committee from the House on **HB 574**, with **SA 1** and **SA 3** moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 574

The Conference Committee appointed on House Bill No. 574, with Senate Amendment No. 1 and Senate Amendment No. 3, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

- 1. That the Senate recede from its position on House Bill No. 574, as amended;
- 2. That the House recede from its position on House Bill No. 574;
- 3. That the attached Conference Committee Substitute for House Bill No. 574, be Third Read and Finally Passed.

FOR THE HOUSE:

/s/ Neal St. Onge
 /s/ Charles Schlottach
 /s/ Walter R. Bivins
 /s/ Michael Daus
 /s/ J. C. Kuessner

FOR THE SENATE:

/s/ Bill Stouffer
 /s/ Scott Rupp
 /s/ Matt Bartle
 /s/ Harry Kennedy
 /s/ Ryan McKenna

Senator Stouffer moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel

Wilson—33

NAYS—Senators—None

Absent—Senator Griesheimer—1

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Stouffer, **CCS** for **HB 574**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 574

An Act to repeal sections 84.120, 84.170, 577.029 and 577.051, RSMo, and to enact in lieu thereof four new sections relating to Missouri uniform law enforcement system records, with a penalty provision and an emergency clause for a certain section.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel

Wilson—33

NAYS—Senators—None

Absent—Senator Griesheimer—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the

following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Stouffer, title to the bill was agreed to.

Senator Stouffer moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

PRIVILEGED MOTIONS

Senator Clemens moved that **SS** for **SCS** for **SB 320**, with **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SS** for **SCS** for **SB 320**, as amended, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 320

An Act to repeal sections 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, and 340.347, RSMo, and to enact in lieu thereof seventeen new sections relating to large animal veterinary student

loan assistance.

Was taken up.

Senator Clemens moved that **HCS** for **SS** for **SCS** for **SB 320**, as amended, be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Stouffer	Vogel
Wilson—33			

NAYS—Senators—None

Absent—Senator Smith—1

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Clemens, **HCS** for **SS** for **SCS** for **SB 320**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Stouffer	Vogel
Wilson—33			

NAYS—Senators—None

Absent—Senator Smith—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Clemens, title to the bill was agreed to.

Senator Clemens moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Bill ordered enrolled.

Senator Gibbons moved that the Senate refuse to concur in **HCS No. 2** for **SS** for **SCS** for **SB 3**, as amended and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

HOUSE BILLS ON THIRD READING

HCS for **HBs 654** and **938**, entitled:

An Act to repeal section 313.835, RSMo, and to enact in lieu thereof two new sections relating to veterans, with penalty provisions.

Was called from the Informal Calendar and taken up by Senator Crowell.

Senator Ridgeway offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend House Committee Substitute for House Bills Nos. 654 and 938, Page 1, Section A, Line 2, by inserting after all of said line the following:

“137.100. The following subjects are exempt from taxation for state, county or local purposes:

(1) Lands and other property belonging to this state;

(2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments, and on public squares and lots kept open for health, use or ornament;

(3) Nonprofit cemeteries;

(4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state, including not-for-profit agribusiness associations;

(5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;

(6) Household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place;

(7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision or to any religious, educational, or charitable organization which has obtained an exemption from the payment of federal income taxes, provided the motor vehicles are used exclusively for religious, educational, or charitable purposes; [and]

(8) Real or personal property leased or otherwise transferred by an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, to another for which or whom such property is not exempt when immediately after the lease or transfer, the interstate compact agency enters into a leaseback or other agreement that directly or indirectly gives such interstate compact agency a right to use, control, and possess the property; provided, however, that in the event of a conveyance of such property, the interstate compact agency must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the interstate compact agency.

Property will no longer be exempt under this subdivision in the event of a conveyance as of the date, if any, when:

(a) The right of the interstate compact agency to use, control, and possess the property is terminated;

(b) The interstate compact agency no longer has an option to purchase or otherwise acquire the property; and

(c) There are no provisions for reverter of the property within the limitation period for reverters;

(9) All property, real and personal, belonging to veterans' organizations. As used in this section, "veterans' organization" means any organization of veterans with a congressional charter, that is incorporated in this state, and that is exempt from taxation under section 501(c)(19) of the Internal Revenue Code of 1986, as amended.

137.101. 1. The activities of nationally affiliated fraternal, benevolent, [veteran,] or service organizations which promote good citizenship, humanitarian activities, or improve the physical, mental, and moral condition of an indefinite number of people [or] are purposes purely charitable within the meaning of subsection 1 of section 6 of article X of the constitution and local assessing authorities may exempt such portion of the real and personal property of such organizations as the assessing authority may determine is utilized in purposes purely charitable from the assessment, levy, and collection of taxes.

2. If, at any time, an assessor finally determines, after any and all hearings or rightful appeals, that personal property, upon which an organization would otherwise owe taxes but for the provisions of subsection 1 of this section or subdivision (5) of section 137.100, is not used for purposes purely charitable, or for purposes described in subdivision (5) of section 137.100, then the assessor shall notify the department of revenue of such final determination within thirty

days."; and

Further amend the title and enacting clause accordingly.

Senator Ridgeway moved that the above amendment be adopted, which motion prevailed.

Senator Gross assumed the Chair.

On motion of Senator Crowell, **HCS** for **HBs 654** and **938**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Stouffer	Vogel

Wilson—33

NAYS—Senators—None

Absent—Senator Smith—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Crowell, title to the bill was agreed to.

Senator Crowell moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

HCS for **HBs 619** and **118**, with **SCS**, entitled:

An Act to amend chapter 41, RSMo, by adding thereto one new section relating to the civil air patrol.

Was called from the Informal Calendar and

taken up by Senator Griesheimer.

SCS for HCS for HBs 619 and 118, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 619 and 118**

An Act to amend chapter 41, RSMo, by adding thereto one new section relating to the civil air patrol.

Was taken up.

Senator Griesheimer moved that **SCS for HCS for HBs 619 and 118** be adopted.

Senator Griesheimer offered **SA 1**, which was read:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 619 and 118, Page 2, Section 41.970, Line 38, by inserting immediately after “supporting” the following: **“the department of public safety or”**.

Senator Griesheimer moved that the above amendment be adopted, which motion prevailed.

Senator Griesheimer moved that **SCS for HCS for HBs 619 and 118**, as amended, be adopted, which motion prevailed.

On motion of Senator Griesheimer, **SCS for HCS for HBs 619 and 118**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Griesheimer, title to the bill was agreed to.

Senator Griesheimer moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

CONFERENCE COMMITTEE REPORTS

Senator Champion, on behalf of the conference committee appointed to act with a like committee from the House on **HCS for SCS for SB 86**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

**CONFERENCE COMMITTEE REPORT ON
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 86**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 86, with House Amendment No. 1 to House Amendment No. 1 and House Amendment No. 1, as amended, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 86, as amended;
2. That the Senate recede from its position on Senate Committee Substitute for Senate Bill No. 86;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 86, be Third Read and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Norma Champion	/s/ Michael Sutherland
/s/ Brad Lager	/s/ Shannon Cooper
/s/ John E. Griesheimer	/s/ Bryan P. Stevenson
/s/ Joan Bray	/s/ Maria Chappelle-Nadal
/s/ Harry Kennedy	Charles Zweifel

Senator Champion moved that the above conference committee report be adopted.

At the request of Senator Champion, the above motion was withdrawn.

HOUSE BILLS ON THIRD READING

HCS for **HB 98**, entitled:

An Act to amend chapter 660, RSMo, by adding thereto one new section relating to transportation services for the elderly.

Was called from the Informal Calendar and taken up by Senator Scott.

On motion of Senator Scott, **HCS** for **HB 98** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Scott, title to the bill was agreed to.

Senator Scott moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

HB 125, with **SCS**, introduced by Representative Franz, entitled:

An Act to repeal sections 52.361, 52.370, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, 140.730, and 165.071, RSMo, and to enact in lieu thereof fifteen new sections relating to collection of taxes.

Was called from the Informal Calendar and taken up by Senator Shoemyer.

SCS for **HB 125**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 125

An Act to repeal sections 52.290, 52.312, 52.315, 52.317, 52.361, 52.370, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, 140.230, 140.250, 140.260, 140.290, 140.310, 140.340, 140.405, 140.420, 140.730, 141.150, 141.440, 141.500, 141.540, 141.640, and 165.071, RSMo, and to enact in lieu thereof thirty-two new sections relating to collection of taxes.

Was taken up.

Senator Shoemyer moved that **SCS** for **HB 125** be adopted.

Senator Shoemyer offered **SS** for **SCS** for **HB 125**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 125

An Act to repeal sections 50.327, 52.290, 52.312, 52.315, 52.317, 52.361, 52.370, 55.140, 55.190, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, 140.230, 140.250, 140.260, 140.290, 140.310, 140.340, 140.405, 140.420, 140.730, 141.150,

141.440, 141.500, 141.540, 141.640, 165.071, and 301.025, RSMo, and to enact in lieu thereof thirty-nine new sections relating to county collectors, with penalty provisions.

Senator Shoemyer moved that **SS** for **SCS** for **HB 125** be adopted.

Senator Shoemyer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 125, Pages 7-9, Section(s) 52.450, 52.455, 52.460, 52.465 and 52.470 by deleting all of said sections; and

Further amend said Bill, Page 21, Section 140.250, Lines 12-13 by deleting the following:

“Any surplus shall be paid to county treasury.”; and

Further amend the title and enacting clause accordingly.

Senator Shoemyer moved that the above amendment be adopted, which motion prevailed.

Senator Shoemyer offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 125, Page 2, Section 50.327, Line 6, by placing an opening bracket [in front of the “, unless”; and

Further amend said Bill, Page 2, Section 50.327, Line 8, by placing a closing bracket] after the “2005,” and

Further amend said Bill, Page 2, Section 50.327, Line 8, by deleting the last two words of the line “the salary” and insert in lieu thereof the following: “. Except when it is necessary to increase newly elected or reelected county officials’ salaries, in accordance with Section 13, Article VII, Constitution of Missouri, to comply with the requirements of this section, the salary”

Senator Shoemyer moved that the above amendment be adopted.

Senator Crowell offered **SSA 1** for **SA 2**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 125, Pages 1-2, Section 50-327, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Crowell moved that the above substitute amendment be adopted, which motion prevailed.

Senator Shoemyer offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 125, Page 2, Section 50.327, Line 26, by inserting after all of said line the following:

“52.240. **1.** The statement and receipt required by section 52.230 shall be mailed to the address of the taxpayer as shown by the county assessor on the current tax books, and postage for the mailing of the statements and receipts shall be furnished by the county commission. The failure of the taxpayer to receive the notice provided for in section 52.230 in no case relieves the taxpayer of any tax liability **and penalties and interest** imposed on him by law. **However, no penalty and interest, including that imposed under this chapter and chapters 139 and 140, RSMo, shall be charged on real property tax when there is clear and convincing evidence that an error or omission was made by the county in determining taxes owed by a taxpayer.**

2. The county commission shall have the authority to refund penalties, interest, and taxes if the county made an error or omission. If a taxpayer believes that an error or omission has occurred and discovers the error or omission after December thirty-first and the taxpayer has not paid current year taxes owing, the taxpayer

shall pay the taxes along with any penalties or interest due and owing. The taxpayer may then submit a request for a refund of penalties, interest, or taxes, in writing, to the county commission. If the county commission approves the refund of penalties, interest, or taxes, then such refunds approved by the county commission shall be handled under subsection 5 of section 139.031, RSMo.”; and

Further amend said title, enacting clause and intersectional references accordingly.

Senator Shoemyer moved that the above amendment be adopted, which motion prevailed.

Senator Ridgeway offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 125, Page 7, Section 52.370, Lines 8-11 of said page, by striking the following: “, except any county of the first classification with more than one hundred eight-four thousand but fewer than one hundred eighty-eight thousand inhabitants,”; and further line 15 of said page, by inserting at the end of said line the following: “**The collector shall provide a report to the county auditor each time electronic transfers are completed.**”.

Senator Ridgeway moved that the above amendment be adopted, which motion prevailed.

Senator Ridgeway offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 125, Page 9, Section 55.140, Lines 8-18 of said page, by striking all of said section from the bill; and

Further amend said bill, pages 9-10, section 55.190, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Ridgeway moved that the above amendment be adopted, which motion prevailed.

Senator Shoemyer moved that **SS** for **SCS** for **HB 125**, as amended, be adopted, which motion prevailed.

On motion of Senator Shoemyer, **SS** for **SCS** for **HB 125**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel
Wilson—33			

NAYS—Senators—None

Absent—Senator Engler—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Shoemyer, title to the bill was agreed to.

Senator Shoemyer moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

PRIVILEGED MOTIONS

Senator Stouffer moved that the conference committee on **SS** for **HB 744**, as amended, be dissolved, which motion prevailed.

HOUSE BILLS ON THIRD READING

HB 686, introduced by Representative Smith (150) and Tilley, entitled:

An Act to repeal section 344.070, RSMo, and to enact in lieu thereof one new section relating to

nursing home administrators.

Was called from the Informal Calendar and taken up by Senator Stouffer.

On motion of Senator Stouffer, **HB 686** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Stouffer, title to the bill was agreed to.

Senator Stouffer moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

CONCURRENT RESOLUTIONS

Senator Mayer moved that **HCR 24** be taken up for adoption, which motion prevailed.

On motion of Senator Mayer, **HCR 24** was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
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Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

HOUSE BILLS ON THIRD READING

HCS for HB 184, entitled:

An Act to amend chapter 67, RSMo, by adding thereto one new section relating to sales tax affecting certain taxing districts.

Was called from the Informal Calendar and taken up by Senator Rupp.

On motion of Senator Rupp, **HCS for HB 184** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Days	Engler	Gibbons	Goodman
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Rupp, title to the bill was agreed to.

Senator Rupp moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

PRIVILEGED MOTIONS

Senator Engler moved that the Senate refuse to adopt the **CCR** on **HCS** for **SCS** for **SB 156**, as amended, and request the House to grant further conference, which motion prevailed.

HOUSE BILLS ON THIRD READING

Senator Engler moved that **HJR 7**, with **SCS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SCS for **HJR 7** was again taken up.

Senator Engler moved that **SCS** for **HJR 7** be adopted.

At the request of Senator Engler, **HJR 7**, with **SCS** (pending), was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SCS** for **SB 299** and **SS** for **SCS** for **SB 616**, as amended, and grants the Senate a conference thereon. The Speaker has appointed the following

conference committee to act with a like committee from the Senate. Representatives: Cooper (120), Tilley, Pratt, Talbo and Villa.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS No. 2** for **SS** for **SCS** for **SB 3**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS No. 2** for **SS** for **SCS** for **SB 3**, as amended. Representatives: Stevenson, Icet, Portwood, Walsh and Corcoran.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS**, as amended, for **SCS** for **HCS** for **HB 952** and **674** and has taken up and passed **SS** for **SCS** for **HCS** for **HB 952** and **674**, as amended.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS No. 2** for **SS** for **SCS** for **SB 3**, as amended: Senators Gibbons, Shields, Purgason, Justus and Green.

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS** for **SCS** for **SB 299** and **SS** for **SCS** for **SB 616**, as amended: Senators Purgason, Griesheimer, Engler, McKenna and Wilson.

REPORTS OF STANDING COMMITTEES

Senator Vogel, Chairman of the Committee on Ways and Means, submitted the following report:

Mr. President: Your Committee on Ways and Means, to which was referred **HCS** for **HB 891**, begs leave to report that it has considered the same and recommends that the bill do pass.

RESOLUTIONS

Senator Mayer offered Senate Resolution No. 1402, regarding the Fraternal Order of Eagles, Aerie #4062, Dexter, which was adopted.

Senator Mayer offered Senate Resolution No. 1403, regarding Dottie Phelps, which was adopted.

Senator Mayer offered Senate Resolution No. 1404, regarding Connie Hampton, which was adopted.

On motion of Senator Nodler, the Senate recessed until 8:00 p.m.

RECESS

The time of recess having expired, the Senate was called to order by Senator Rupp.

RESOLUTIONS

Senator Gibbons offered Senate Resolution No. 1405, regarding Master Sergeant Kenneth Wayne Graham, San Antonio, Texas, which was adopted.

Senator Gibbons offered Senate Resolution No. 1406, regarding the One Hundredth Anniversary of Manor Grove Long-Term Care, Kirkwood, which was adopted.

Senator Green offered Senate Resolution No. 1407, regarding Kenneth G. Wehmeyer, which was adopted.

PRIVILEGED MOTIONS

Senator Champion moved that the Senate refuse to adopt the **CCR** on **HCS** for **SCS** for **SB 86**, as amended and request the House to grant a further conference, which motion prevailed.

CONFERENCE COMMITTEE REPORTS

Senator Crowell, on behalf of the conference

committee appointed to act with a like committee from the House on **HCS** for **SCS** for **SB 308**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT NO. 2 ON HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 308

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 308, with House Amendment Nos. 1, 2, 3, 5, 6, 7, and 8, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 308, as amended;
2. That the Senate recede from its position on Senate Committee Substitute for Senate Bill No. 308;
3. That the attached Conference Committee Substitute No. 2 for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 308, be Third Read and Finally Passed.

FOR THE SENATE: FOR THE HOUSE:

/s/ Jason Crowell	/s/ Jay Wasson
Luann Ridgeway	/s/ Michael L. Parson
/s/ Charlie Shields	/s/ Steven Tilley
/s/ Harry Kennedy	/s/ Sam Page
/s/ Yvonne S. Wilson	/s/ Rebecca Payne McClanahan

Senator Crowell moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Justus
Kennedy	Koster	Lager	Loudon

Mayer McKenna Nodler Purgason
 Rupp Scott Shields Shoemyer
 Smith Stouffer Vogel Wilson—32

NAYS—Senator Ridgeway—1

Absent—Senators—None

Absent with leave—Senator Days—1

Vacancies—None

On motion of Senator Crowell, **CCS No. 2** for **HCS** for **SCS** for **SB 308**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE NO. 2
 FOR HOUSE COMMITTEE SUBSTITUTE FOR
 SENATE COMMITTEE SUBSTITUTE FOR
 SENATE BILL NO. 308

An Act to repeal sections 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 331.010, 334.120, 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624, 337.627, 337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686, 337.689, 337.700, 337.715, 337.718, 339.100, 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, and 621.045, RSMo, and to enact in lieu thereof ninety-nine new sections relating to the practice of certain licensed professionals, with penalty provisions and an effective date for certain sections.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz Bartle Bray Callahan
 Champion Clemens Coleman Crowell
 Engler Gibbons Goodman Graham

Green Griesheimer Gross Justus
 Kennedy Koster Lager Loudon
 Mayer McKenna Nodler Purgason
 Ridgeway Rupp Scott Shields
 Shoemyer Smith Stouffer Vogel
 Wilson—33

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Days—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Crowell, title to the bill was agreed to.

Senator Crowell moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Gibbons, on behalf of the conference committee appointed to act with a like committee from the House on **HCS No. 2** for **SS** for **SCS** for **SB 3**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON
 HOUSE COMMITTEE SUBSTITUTE NO. 2
 FOR SENATE SUBSTITUTE FOR
 SENATE COMMITTEE SUBSTITUTE FOR
 SENATE BILL NO. 3

The Conference Committee appointed on House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, with House Amendment Nos. 2 and 3, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on

House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 3, as amended;

2. The Senate recede from its position on Senate Substitute for Senate Committee Substitute for Senate Bill No. 3;

3. That the attached Conference Committee Substitute for House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 3 be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Michael R. Gibbons
/s/ Charlie Shields
/s/ Chuck Purgason
/s/ Jolie Justus
/s/ Timothy P. Green

FOR THE HOUSE:

/s/ Bryan P. Stevenson
/s/ Charles R. Portwood
/s/ Allen Icet
/s/ Regina Walsh
/s/ Michael G. Corcoran

Senator Gibbons moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel
Wilson—33			

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Days—1

Vacancies—None

On motion of Senator Gibbons, **CCS** for

HCS No. 2 for **SS** for **SCS** for **SB 3**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE COMMITTEE SUBSTITUTE NO. 2
FOR SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 3

An Act to repeal sections 565.184, 630.005, 630.140, 630.165, 630.167, 630.725, and 630.755, RSMo, and to enact in lieu thereof nineteen new sections relating to mental health, with penalty provisions.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel
Wilson—33			

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Days—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Gibbons, title to the bill was agreed to.

Senator Gibbons moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Griesheimer, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SS** for **SCS** for **SB 22**, as amended, moved that the following

conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT NO. 2
ON HOUSE COMMITTEE SUBSTITUTE
FOR SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 22

The Conference Committee appointed on House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 22, with HA 1 to HA 1, HA 1 as amended, HA 1 to HA 2, HA 2 as amended, HA 2 to HA 3, HA 3 as amended, HA 1 to HA 4, HA 4 as amended, HA 5, HSA 1 for HA 6, HA 1 to HSA 1 for HA 6, HSA 1 for HA 6 as amended, HA Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, HA 1 to HA 23, HA 23 as amended, HA Nos. 25, 26, 27, 28, HA 1 to HA 30, HA 30 as amended, HA 1 to HA 31, HA 31 as amended, HA Nos. 33 and 35, HA 1 to HA 36, HA 36 as amended, HA Nos. 37, 38, 40, 41, 42, HA 1 to HA 43, HA 43 as amended, HA Nos. 44 and 45, HA 1 to HA 46, HA 2 to HA 46, HA 46 as amended, HA Nos. 47, 48, 49 and 50, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 22, as amended;

2. The Senate recede from its position on Senate Substitute for Senate Committee Substitute for Senate Bill No. 22;

3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 22, as amended by Conference Committee Amendment No. 1, be Third Read and Finally Passed.

FOR THE SENATE: FOR THE HOUSE:
/s/ John E. Griesheimer /s/ Vicki Schneider
/s/ Kevin Engler /s/ Charlie Dennison

Jack Goodman /s/ Bryan Pratt
/s/ Victor E. Callahan /s/ Thomas Villa
/s/ Ryan McKenna /s/ Terry Young

CONFERENCE COMMITTEE AMENDMENT NO. 1

Amend Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 22, Pages 7-8, Section 50.327, by striking all of said section from the bill; and

Further amend said bill, pages 8-9, section 50.332, by striking all of said section from the bill; and

Further amend said bill, pages 155-157, section 105.452, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Griesheimer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 22, Page 274, Section 226.527, Line 20, of said page, by inserting after all of said line the following:

“228.110. 1. Any twelve residents of the township or townships through which a road runs may make application for the vacation of any such road or part of the same as useless, and the repairing of the same an unreasonable burden upon the district or districts. The petition shall be publicly read on the first day of the term at which it is presented, and the matter continued without further proceedings until the next term.

2. Notice of the filing of such petition and of the road sought to be vacated shall be posted up in not less than three public places in such township or townships, at least twenty days before the first day of the next term of the commission, and a copy of the same shall be personally served on all the persons residing in the district whose lands are

crossed or touched by the road proposed to be vacated in the same manner as other notices are required to be served by law; and at the next regular term the same shall again be publicly read on the first day thereof.

3. If no remonstrance is made thereto in writing, signed by at least twelve residents of the township, the commission may proceed to vacate such road, or any part thereof, at the cost of the petitioners; but if a remonstrance thereto in writing, signed by at least twelve residents of such township or townships, is filed, and the commission after considering the same shall decide that it is just to vacate such road, or any part thereof, against the vacation of which the remonstrance was filed, the costs shall be paid by the parties remonstrating, and the original costs, and damages for opening such vacated road shall be paid by the petitioners to those who paid the same, except that if five years have elapsed since the original opening of the same no such reimbursement shall be made.

4. Notwithstanding any other provision of this section to the contrary, in any county with a charter form of government, any twenty-five residents of the county through which a road subject to this section runs and who reside on any portion of such road or on another road that intersects such road and within one mile of the right-of-way to be vacated, may apply for the vacation of such road or part of such road as no longer serving the public health, safety, and welfare. The county may, by order or ordinance, provide for notice and hearing of such petitions and for filing and hearing remonstrances against them.”; and

Further amend the title and enacting clause accordingly.

Senator Griesheimer moved that the above amendment be adopted, which motion prevailed.

Senator Griesheimer moved that the above conference committee report no. 2 be adopted,

which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Callahan	Champion	Clemens
Coleman	Crowell	Engler	Gibbons
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel
Wilson—29			

NAYS—Senators

Bartle	Bray	Goodman	Purgason—4
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Absent—Senators—None

Absent with leave—Senator Days—1

Vacancies—None

On motion of Senator Griesheimer, **CCS** for **HCS** for **SS** for **SCS** for **SB 22**, as amended by **CCA 1** and **SA 1**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 22

An Act to repeal sections 41.655, 50.327, 50.332, 50.565, 50.660, 50.1250, 52.290, 52.312, 52.315, 52.317, 58.500, 58.510, 64.940, 66.010, 67.110, 67.320, 67.457, 67.463, 67.797, 67.1003, 67.1360, 67.1401, 67.1451, 67.1545, 67.1561, 67.2500, 67.2510, 67.2555, 70.220, 70.515, 70.545, 71.011, 71.012, 72.080, 77.020, 78.610, 79.050, 79.495, 87.006, 89.010, 89.400, 94.660, 94.875, 99.847, 100.050, 100.059, 105.452, 105.971, 108.170, 110.130, 110.140, 110.150, 137.055, 137.115, 139.055, 141.150, 141.640, 144.030, 144.062, 144.757, 144.759, 162.431, 163.011, 182.015, 190.052, 190.305, 206.090, 221.040, 226.527, 228.190, 235.210, 238.202, 238.207, 238.208, 238.220, 238.225, 238.230, 238.275, 246.005, 247.060, 260.830, 260.831, 302.010, 320.106, 320.146, 320.200, 320.271,

320.310, 321.130, 392.410, 393.705, 393.710, 393.715, 393.720, 393.740, 393.825, 393.847, 393.900, 393.933, 409.107, 432.070, 451.040, 473.743, 479.010, 479.011, 650.340, RSMo, section 67.1000, as enacted by senate committee substitute for senate bill no. 820, eighty-ninth general assembly, second regular session, and section 67.1000, as enacted by house bill no. 1587, eighty-ninth general assembly, second regular session, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, and section 94.875 as Truly Agreed To and Finally Passed by the first regular session of the ninety-fourth general assembly in Senate Substitute for House Bill No. 205, and to enact in lieu thereof one hundred sixty-six new sections relating to political subdivisions, with penalty provisions and emergency clauses for certain sections.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Callahan	Champion	Clemens
Coleman	Crowell	Engler	Gibbons
Graham	Green	Griesheimer	Gross
Justus	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel
Wilson—29			

NAYS—Senators

Bartle	Bray	Goodman	Purgason—4
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Absent—Senators—None

Absent with leave—Senator Days—1

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Callahan	Champion	Clemens
Crowell	Engler	Gibbons	Graham
Green	Griesheimer	Gross	Kennedy
Koster	Lager	Loudon	Mayer
McKenna	Nodler	Ridgeway	Rupp
Scott	Shields	Shoemyer	Smith
Stouffer	Vogel	Wilson—27	

NAYS—Senators

Bartle	Bray	Coleman	Goodman
Justus	Purgason—6		

Absent—Senators—None

Absent with leave—Senator Days—1

Vacancies—None

On motion of Senator Griesheimer, title to the bill was agreed to.

Senator Griesheimer moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS No. 2** for **SCS** for **SB 313**, as amended. Representatives: Burnett and Zimmerman.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HCS** for **HB 298** and has taken up and passed **SCS** for **HCS** for **HB 298**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS** for **HB 134** and has taken up and passed **SS** for **HB 134**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report No. 3 on **HCS** for **SCS** for **SB 64**, as amended, and has taken up and passed **CCS No. 3** for **HCS** for **SCS** for **SB 64**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HCS** for **SB 416** and has taken up and passed **CCS** for **HCS** for **SB 416**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 801** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon and the conferees be bound to Section 407.1095.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS** for **HB 579** and has taken up and passed **SS** for **HB 579**.

Emergency clause adopted.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HCR 20**.

Senator Scott assumed the Chair.

PRIVILEGED MOTIONS

Senator Engler moved that the Senate recede from its position on **SCS** for **HB 801**, which motion prevailed.

On motion of Senator Engler, **HB 801**, entitled:

An Act to repeal section 392.410, RSMo, and to enact in lieu thereof one new section relating to telecommunications.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Clemens	Coleman	Crowell
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Justus
Kennedy	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason
Ridgeway	Rupp	Scott	Shields
Shoemyer	Smith	Stouffer	Vogel
Wilson—33			

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Days—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Engler, title to the bill was agreed to.

Senator Engler moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

CONFERENCE COMMITTEE REPORTS

Senator Shoemyer, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SB 582**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 582

The Conference Committee appointed on House Committee Substitute for Senate Bill No. 582, with House Amendment Nos. 1, 2 and 3, House Amendment No. 1 to House Amendment No. 4, House Amendment No. 4, as amended, House Amendment No. 5, House Amendment No. 1 to House Amendment No. 6, House Amendment No. 6, as amended, House Amendment Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Bill No. 582, as amended;
2. The Senate recede from its position on Senate Bill No. 582;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Bill No. 582, as amended, be Third Read and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Wes Shoemyer	/s/ Michael Sutherland
/s/ John E. Griesheimer	/s/ Bryan Stevenson
/s/ Gary Nodler	/s/ Shannon Cooper
/s/ Carl M. Vogel	/s/ Rachel Storch
/s/ Victor E. Callahan	/s/ Charles Zweifel

Senator Shoemyer moved that the above conference committee report be adopted.

At the request of Senator Shoemyer, the above

motion was withdrawn.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has granted the Senate further conference on **HCS** for **SCS** for **SB 86** as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SCS** for **SB 86**, as amended. Representatives: Sutherland, Cooper (120), Stevenson, Chapelle-Nadal and Zweifel.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons reappointed the following conference committee to act with a like committee from the House on **HCS** for **SCS** for **SB 86**, as amended: Senators Champion, Lager, Griesheimer, Bray and Kennedy.

CONFERENCE COMMITTEE REPORTS

Senator Shoemyer moved that **CCR** on **HCS** for **SB 582**, as amended, be again taken up for adoption, which motion prevailed.

Senator Shoemyer moved that the above conference committee report be adopted.

At the request of Senator Shoemyer, the above motion was withdrawn.

Senator Shoemyer moved that the Senate refuse to adopt the **CCR** on **HCS** for **SB 582**, as amended, and request the House to grant a further conference, which motion prevailed.

HOUSE BILLS ON THIRD READING

HCS for **HB 741**, entitled:

An Act to amend chapter 99, RSMo, by adding thereto twenty-six new sections relating to the Missouri economic development code.

Was called from the Informal Calendar and taken up by Senator Koster.

Senator Koster offered **SS** for **HCS** for **HB 741**, entitled:

SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 741

An Act to repeal sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 142.031, RSMo, and to enact in lieu thereof thirty-five new sections relating to programs administered by the department of economic development, with penalty provisions.

Senator Koster moved that **SS** for **HCS** for **HB 741** be adopted.

Senator Justus offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Committee Substitute for House Bill No. 741, Page 61, Section 142.031, Line 7, by inserting immediately after said line the following:

“208.046. 1. The children's division shall promulgate rules to become effective no later than July 1, 2008, to modify the income eligibility criteria for any person receiving state-funded child care assistance under this chapter, either through vouchers or direct reimbursement to child care providers, as follows:

(1) For incomes of less than one hundred thirty percent of the federal poverty level for the applicable family size, such persons receiving state-funded child care assistance under this chapter shall be eligible, subject to appropriations, to receive child care subsidy benefits, less a sliding fee established by the children's division based on family size and income;

(2) A person receiving state-funded child care assistance under this chapter and whose income surpasses one hundred thirty percent of the federal poverty level for the applicable family size may continue to receive reduced subsidy benefits on a scale established by the children's division until such person's income reaches one hundred sixty percent of the federal poverty level for the applicable family size, at which time such person will have assumed the full cost of the maximum base child care subsidy rate established by the children's division and shall be no longer eligible for child care subsidy benefits;

(3) If appropriations in a given fiscal year are insufficient to provide the subsidy established under this chapter for all eligible recipients, the children's division shall establish a waiting list and promulgate rules for the prioritization of eligible recipients on the waiting list.

2. The sliding scale fee established in this section for child care subsidy recipients may be waived for children with special needs as established by the children's division.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Justus moved that the above

amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Callahan, Coleman, Graham and McKenna.

SA 1 failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Coleman
Graham	Green	Justus	Kennedy
Koster	McKenna	Ridgeway	Shoemyer
Smith	Wilson—14		

NAYS—Senators

Bartle	Crowell	Engler	Gibbons
Goodman	Griesheimer	Gross	Lager
Loudon	Mayer	Nodler	Purgason
Rupp	Scott	Shields	Stouffer
Vogel—17			

Absent—Senators

Champion Clemens—2

Absent with leave—Senator Days—1

Vacancies—None

Senator Gross offered **SA 2**, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Committee Substitute for House Bill No. 741, Pages 19-51, Section 99.1100, 99.1102, 99.1104, 99.1106, 99.1108, 99.1110, 99.1112, 99.1114, 99.1116, 99.1118, 99.1120, 99.1122, 99.1124, 99.1126, 9.1128 and 99.1130, by striking all of said sections from the bill and inserting in lieu thereof the following:

“99.1100. 1. The joint committee on tax policy shall conduct a study of the feasibility of creating a program to allow municipalities within the state to engage in tax increment finance-like projects with optional tax abatement in any area of such municipality regardless of the existence of blight. The committee shall report its findings to the general assembly no later than December 31,

2007.

2. The provisions of this section shall expire on January 1, 2008.”; and

Further amend the title and enacting clause accordingly.

Senator Gross moved that the above amendment be adopted, which motion prevailed.

Senator Green offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for House Committee Substitute for House Bill No. 741, Page 1, In the Title, Line 3, by inserting after “RSMo,” the following: “and sections 99.820 and 99.825 as truly agreed to and finally passed in senate substitute for senate committee substitute for house committee substitute for house bill no. 327, ninety-fourth general assembly, first regular session,”; and

Further amend said bill, Page 1, Section A, Line 2, by inserting after “RSMo,” the following: “and sections 99.820 and 99.825 as truly agreed to and finally passed in senate substitute for senate committee substitute for house committee substitute for house bill no. 327, ninety-fourth general assembly, first regular session,”; and further amend Line 4, by inserting immediately after “30.765,” the following: “99.820, 99.825,”; and

Further amend said bill, Page 19, Section 30.765, Line 9 of said page, by inserting after all of said line the following:

“99.820. 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been

designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of

the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment

project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

3. The commission, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. The

commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.

99.825. 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if

such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. Effective January 1, 2008, if, after concluding the hearing required under this section, the commission makes a recommendation under section 99.820 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, a municipality desiring to approve such project, plan, designation, or amendments shall do so only upon a two-thirds majority vote of the governing body of such municipality.

3. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.”; and

Further amend said bill, Page 92, Section

265.525, Line 21, by inserting after all of said line the following:

“99.820. 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the

municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public

facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property

included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a

redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine

hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) In a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for a first class county with a charter form of government having a population of more than nine hundred thousand, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, three such members appointed either by the

county executive or county commissioner, and six such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) When any city, town, or village under the authority of the East-West Gateway Council of Governments desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located;

(9) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to

appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

3. The commission, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. The commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to

redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.]

[99.825. 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or

substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. If, after concluding the hearing required under this section, the commission makes a recommendation under section 99.820 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, a municipality desiring to approve such project, plan, designation, or amendments shall do so only upon a two-thirds majority vote of the governing body of such municipality.

3. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing,

sidewalks and any other similar public improvements, but in no case shall it include buildings.]”; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted, which motion prevailed.

Senator Kennedy offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for House Committee Substitute for House Bill No. 741, Page 51, Section 99.1130, Line 25, by inserting after all of said line the following:

“135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, including Internet, web hosting, and other information technology, wireless or wired or other telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic

development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall assign appropriate North American Industry Classification System numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall also be eligible to receive a tax credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a

maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community.

4. A corporation, partnership or sole partnership, which has no more than one hundred employees for whom payroll taxes are paid, which is already located in a distressed community and which expends funds for such equipment pursuant to subsection 3 of this section in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the funds expended for such additional equipment per such entity. Tax credits allowed pursuant to this subsection or subsection 1 of this section may be carried back to any of the three prior tax years and carried forward to any of the five tax years.

5. An existing corporation, partnership or sole proprietorship that is located within a distressed community and that relocates employees from another facility outside of the distressed community to its facility within the distressed community, and an existing business located within a distressed community that hires new employees for that facility may both be eligible for the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits, such a business, during one of its tax years, shall employ within a distressed community at least twice as many employees as were employed at the beginning of that tax year. A business hiring employees shall have no more than one hundred employees before the addition of the new employees. This subsection shall only apply to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming or telecommunications business, or a professional firm.

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. **To the extent there are available tax credits remaining under the ten million dollar cap provided in this section, up to one hundred thousand dollars in the remaining credits shall first be used for tax credits authorized under section 135.562.** The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

8. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits

otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period.

135.562. 1. If any taxpayer with a federal adjusted gross income of thirty thousand dollars or less incurs costs for the purpose of making all or any portion of such taxpayer's principal dwelling accessible to an individual with a disability who permanently resides with the taxpayer, such taxpayer shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of one hundred percent of such costs or two thousand five hundred dollars per taxpayer, per tax year.

2. Any taxpayer with a federal adjusted gross income greater than thirty thousand dollars but less than sixty thousand dollars who incurs costs for the purpose of making all or any portion of such taxpayer's principal dwelling accessible to an individual with a disability who permanently resides with the taxpayer, shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of fifty percent of such costs or two thousand five hundred dollars per taxpayer, per tax year. No taxpayer shall be eligible to receive tax credits under this section in any tax year immediately following a tax year in which such taxpayer received tax credits under the provisions of this section.

3. Tax credits issued pursuant to this section may be refundable in an amount not to exceed two thousand five hundred dollars per tax year.

4. Eligible costs for which the credit may be claimed include:

- (1) Constructing entrance or exit ramps;**
- (2) Widening exterior or interior doorways;**
- (3) Widening hallways;**
- (4) Installing handrails or grab bars;**

(5) Moving electrical outlets and switches;

(6) Installing stairway lifts;

(7) Installing or modifying fire alarms, smoke detectors, and other alerting systems;

(8) Modifying hardware of doors; or

(9) Modifying bathrooms.

5. The tax credits allowed, including the maximum amount that may be claimed, pursuant to this section shall be reduced by an amount sufficient to offset any amount of such costs a taxpayer has already deducted from such taxpayer's federal adjusted gross income or to the extent such taxpayer has applied any other state or federal income tax credit to such costs.

6. A taxpayer shall claim a credit allowed by this section in the same taxable year as the credit is issued, and at the time such taxpayer files his or her Missouri income tax return; provided that, such return is timely filed.

7. The department may, in consultation with the department of social services, promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The provisions of this section shall apply to all tax years beginning on or after January 1, 2008.

9. The provisions of this section shall expire December 31, 2013.

10. In no event shall the aggregate amount of all tax credits allowed pursuant to this section exceed one hundred thousand dollars in any given fiscal year. The tax credits issued pursuant to this section shall be on a first-come, first-served filing basis.”; and

Further amend the title and enacting clause accordingly.

Senator Kennedy moved that the above amendment be adopted, which motion prevailed.

Senator Loudon offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for House Committee Substitute for House Bill No. 741, Page 92, Section 265.525, Line 21, of said page, by inserting immediately after said line the following:

“379.1300. As used in sections 379.1300 to 379.1350, the following terms shall mean:

(1) “Affiliated company”, any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management;

(2) “Alien captive insurance company”, any insurance company formed to write insurance business for its parents and affiliates and licensed under the laws of an alien jurisdiction that imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction;

(3) “Annuity”, a contract issued for a valuable consideration under which the obligations are assumed with respect to periodic payments for a specified term or terms or where the making or continuance of all or of some of such payments, or the amount of any such payments, is dependent upon the continuance of human life;

(4) “Association”, any legal association of individuals, corporations, limited liability companies, partnerships, associations, or other entities that has been in continuous existence for at least one year, the member organizations of which or which does itself, whether or not in conjunction with some or all of the member organizations:

(a) Own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or

(b) Have complete voting control over an association captive insurance company incorporated as a mutual insurer;

(5) “Association captive insurance company”, any company that insures risks of the member organizations of the association and their affiliated companies;

(6) “Branch business”, any insurance business transacted by a branch captive insurance company in this state;

(7) “Branch captive insurance company”, any alien captive insurance company licensed by the director to transact the business of insurance in this state through a business unit with a principal place of business in this state;

(8) “Branch operations”, any business operations of a branch captive insurance company in this state;

(9) “Captive insurance company”, any pure captive insurance company, association captive insurance company, or industrial insured captive insurance company formed or licensed under sections 379.1300 to 379.1350. For purposes of sections 379.1300 to 379.1350, a branch captive insurance company shall be a pure captive insurance company with respect to operations in this state, unless otherwise permitted by the director;

(10) “Controlled unaffiliated business”, any company;

(a) That is not in the corporate system of a parent and affiliated companies;

(b) That has an existing contractual relationship with a parent or affiliated company; and

(c) Whose risks are managed by a pure captive insurance company in accordance with section 379.1338;

(11) "Director", the director of the department of insurance, financial and professional regulation;

(12) "Excess workers' compensation insurance", in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance in excess of a specified per-incident or aggregate limit established by the director;

(13) "Industrial insured", an insured:

(a) Who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer;

(b) Whose aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and

(c) Who has at least twenty-five full-time employees;

(14) "Industrial insured captive insurance company", any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(15) "Industrial insured group", any group of industrial insureds that collectively:

(a) Own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer; or

(b) Have complete voting control over an industrial insured captive insurance company

incorporated as a mutual insurer;

(16) "Member organization", any individual, corporation, limited liability company, partnership, association, or other entity that belongs to an association;

(17) "Mutual corporation", a corporation organized without stockholders and includes a nonprofit corporation with members;

(18) "Parent", a corporation, limited liability company, partnership, other entity, or individual, that directly or indirectly owns, controls, or holds with power to vote more than fifty percent of the outstanding voting:

(a) Securities of a pure captive insurance company organized as a stock corporation; or

(b) Membership interests of a pure captive insurance company organized as a nonprofit corporation;

(19) "Pure captive insurance company", any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.

379.1302. 1. Any captive insurance company, when permitted by its articles of association, charter, or other organizational document, may apply to the director for a license to do any and all insurance and annuity contracts comprised in section 376.010, RSMo, and subsection 1 of section 379.010, other than workers' compensation and employers' liability; provided, however, that:

(1) No pure captive insurance company shall insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business;

(2) No association captive insurance company shall insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) No industrial insured captive insurance company shall insure any risks other than those of the industrial insureds that comprise the

industrial insured group and their affiliated companies;

(4) No captive insurance company shall provide personal motor vehicle or homeowner's insurance coverage or any component thereof;

(5) No captive insurance company shall accept or cede reinsurance except as provided in section 379.1320;

(6) Any captive insurance company may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the federal law or laws of the state having jurisdiction over the transaction. Any captive insurance company, unless prohibited by federal law, may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies, provided that sections 379.1300 to 379.1350 shall not divest the division of workers' compensation of any jurisdiction, as authorized by law, over workers' compensation self-insured plans;

(7) Any captive insurance company which insures life and accident and health risks described in section 376.010, RSMo, and subdivision (4) of subsection 1 of section 379.010, shall comply with all applicable state and federal laws; and

(8) No captive insurance company shall transact business as a risk retention group under sections 375.1080 to 375.1105, RSMo.

2. No captive insurance company shall do any insurance business in this state unless:

(1) It first obtains from the director a license authorizing it to do insurance business in this state;

(2) Its board of directors or committee of managers holds at least one meeting each year in this state;

(3) It maintains its principal place of business in this state;

(4) It appoints a registered agent to accept

service of process and to otherwise act on its behalf in this state; provided that, whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the secretary of state shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served; and

(5) It holds at least thirty-five percent of its assets either directly in this state or through a financial institution located in this state and approved by the director.

3. (1) Before receiving a license, a captive insurance company shall:

(a) File with the director a certified copy of its organizational documents, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the director; and

(b) Submit to the director for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the director may reasonably require. In the event of any subsequent material change in any item in such description, the captive insurance company shall submit to the director for approval an appropriate revision and shall not offer any additional kinds of insurance until a revision of such description is approved by the director. The captive insurance company shall inform the director of any material change in rates within thirty days of the adoption of such change.

(2) Each applicant captive insurance company shall also file with the director evidence of the following:

(a) The amount and liquidity of its assets relative to the risks to be assumed;

(b) The adequacy of the expertise, experience, and character of the person or persons who will manage it;

(c) The overall soundness of its plan of operation;

(d) The adequacy of the loss prevention programs of its insureds; and

(e) Such other factors deemed relevant by the director in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted under this subsection shall be and remain confidential, and shall not be made public by the director or an employee or agent of the director without the written consent of the company; except that:

(a) Such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

a. The information sought is relevant to and necessary for the furtherance of such action or case;

b. The information sought is unavailable from other nonconfidential sources; and

c. A subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the director; and

(b) The director may, in the director's discretion, disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that:

a. Such public official shall agree in writing to maintain the confidentiality of such information;

b. The laws of the state in which such public official serves require such information to be and to remain confidential; and

(c) The director may disclose information to the director of the division of workers' compensation regarding any captive insurance company issuing excess workers' compensation insurance provided that the director for the division of workers' compensation agrees in writing to maintain the confidentiality of such

information provided by the director.

(4) Each captive insurance company shall pay to the director a nonrefundable license fee of seven thousand five hundred dollars for examining, investigating, and processing its application for license, and the director is authorized to retain legal, financial, and examination services from outside the department, the reasonable cost of which may be charged against the applicant. The provisions of sections 374.160 to 374.162 and sections 374.202 to 374.207, RSMo, shall apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each captive insurance company shall pay a renewal fee for each year thereafter of seven thousand five hundred dollars. Each captive insurance company may deduct the license and renewal fee paid from the premium taxes payable under section 397.1326, RSMo.

(5) If the director is satisfied that the documents and statements that such captive insurance company has filed comply with the provisions of sections 379.1300 to 379.1350, the director may grant a license authorizing it to do insurance business in this state until April first, which license may be renewed.

379.1304. No captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in the state of Missouri.

379.1306. 1. No captive insurance company shall be issued a license unless it shall possess and thereafter maintain unimpaired paid-in capital and surplus of:

(1) In the case of a pure captive insurance company, not less than two hundred fifty thousand dollars;

(2) In the case of an association captive insurance company, not less than seven hundred fifty thousand dollars; and

(3) In the case of an industrial insured

captive insurance company, not less than five hundred thousand dollars.

2. The director may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

3. Capital and surplus may be in the form of cash or an irrevocable letter of credit issued by a bank chartered by the state of Missouri or a member bank of the Federal Reserve System, and approved by the director.

379.1308. No captive insurance company shall pay a dividend out of, or other distribution with respect to, capital or surplus without the prior approval of the director. Approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by or determined in accordance with formulas approved by the director. Notwithstanding the provisions of section 355.661, RSMo, a captive insurance company organized under chapter 355, RSMo, may make such distributions as are in conformity with its purposes and approved by the director.

379.1310. 1. A pure captive insurance company may be incorporated as a stock insurer with its capital divided into shares and held by the stockholders, as a nonprofit corporation with one or more members, or as a manager-managed limited liability company.

2. An association captive insurance company or an industrial insured captive insurance company may be:

(1) Incorporated as a stock insurer with its capital divided into shares and held by the stockholders;

(2) Incorporated as a mutual insurer without capital stock, the governing body of which is elected by its insureds; or

(3) Organized as a manager-managed limited liability company.

3. A captive insurance company incorporated or organized in this state shall have not less than three incorporators or three organizers of whom not less than one shall be a resident of this state.

4. In the case of a captive insurance company:

(1) Formed as a corporation, before the articles of incorporation are transmitted to the secretary of state, the incorporators shall petition the director to issue a certificate setting forth the director's finding that the establishment and maintenance of the proposed corporation will promote the general good of the state. In arriving at such a finding the director shall consider:

(a) The character, reputation, financial standing and purposes of the incorporators;

(b) The character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors; and

(c) Such other aspects as the director shall deem advisable.

The articles of incorporation, such certificate, and the organization fee shall be transmitted to the secretary of state, who shall thereupon record both the articles of incorporation and the certificate;

(2) Formed as a limited liability company, before the articles of organization are transmitted to the secretary of state, the organizers shall petition the director to issue a certificate setting forth the director's finding that the establishment and maintenance of the proposed company will promote the general good of the state. In arriving at such a finding, the director shall consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this subsection.

5. The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

6. In the case of a captive insurance company:

(1) Formed as a corporation, at least one of the members of the board of directors shall be a resident of this state;

(2) Formed as a limited liability company, at least one of the managers shall be a resident of this state.

7. Other than captive insurance companies formed as limited liability companies under chapter 347, RSMo, or as nonprofit corporations under chapter 355, RSMo, captive insurance companies formed as corporations under sections 379.1300 to 379.1350 shall have the privileges and be subject to chapter 351, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1308. In the event of conflict between the provisions of such general corporation law and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control.

8. Captive insurance companies formed under sections 379.1300 to 379.1350:

(1) As limited liability companies shall have the privileges and be subject to the provisions of chapter 347, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1350. In the event of a conflict between chapter 347, RSMo, and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control; or

(2) As nonprofit corporations shall have the privileges and be subject to the provisions of chapter 355, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1350. In the event of conflict between chapter 355, RSMo, and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control.

9. The provisions of section 375.355, RSMo, sections 379.980 to 379.988, and chapter 382, RSMo, pertaining to mergers, consolidations, conversions, mutualizations, redomestications,

and mutual holding companies shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein; except that:

(1) The director may waive or modify the requirements for public notice and hearing in accordance with rules which the director may adopt addressing categories of transactions. If a notice of public hearing is required, but no one requests a hearing, then the director may cancel the hearing;

(2) An alien insurer may be a party to a merger authorized under this subsection, if approved by the director.

10. The articles of incorporation or bylaws of a captive insurance company formed as a corporation may authorize a quorum of its board of directors to consist of no fewer than one-third of the full board of directors determined, provided that a quorum shall not consist of fewer than two directors.

379.1312. 1. Captive insurance companies shall not be required to make any annual report except as provided in sections 379.1300 to 379.1350.

2. Prior to March first of each year, each captive insurance company shall submit to the director a report of its financial condition, verified by oath of two of its executive officers. Each captive insurance company shall report using generally accepted accounting principles, unless the director approves the use of statutory accounting principles, with any appropriate or necessary modifications or adaptations thereof required or approved or accepted by the director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the director. Except as otherwise provided, each association captive insurance company shall file its report in the form required by section 375.041, RSMo. The director shall by rule propose the forms in

which pure captive insurance companies and industrial insured captive insurance companies shall report. Subdivision (3) of subsection 2 of section 379.1302 shall apply to each report filed under this section.

3. Any pure captive insurance company or an industrial insured captive insurance company may make written application for filing the required report on a fiscal year end. If an alternative reporting date is granted:

(1) The annual report is due sixty days after the fiscal year end; and

(2) In order to provide sufficient detail to support the premium tax return, the pure captive insurance company or industrial insured captive insurance company shall file prior to March first of each year for each calendar year end, its balance sheet, income statement and statement of cash flows, verified by oath of two of its executive officers.

379.1314. 1. At least once every three years and whenever the director determines it to be prudent, the director shall personally, or by some competent person appointed by the director, visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with the provisions of sections 379.1300 to 379.1350. The director may enlarge such three-year period to five years, provided the captive insurance company is subject to a comprehensive annual audit during such period of a scope satisfactory to the director by independent auditors approved by the director. The expenses and charges of the examination shall be paid to the state by the company or companies examined and the director shall issue his or her warrants for the proper charges incurred in all examinations, as provided in sections 374.160 and 374.162, RSMo.

2. The provisions of sections 374.202 to 374.207, RSMo, shall apply to examinations conducted under this section.

3. All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the director or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and shall not be made public by the director or an employee or agent of the director without the written consent of the company, except to the extent provided in this subsection. Nothing in this subsection shall prevent the director from using such information in furtherance of the director's regulatory authority under this title. The director may, in the director's discretion, grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of this state or any other state or agency of the federal government at any time, so long as such officers receiving the information agree in writing to hold it in a manner consistent with this section.

379.1316. 1. The license of a captive insurance company may be suspended or revoked by the director for any of the following reasons:

(1) Insolvency or impairment of capital or surplus;

(2) Failure to meet the requirements of section 379.1306;

(3) Refusal or failure to submit an annual report, as required by sections 379.1300 to 379.1350, or any other report or statement required by law or by lawful order of the director;

(4) Failure to comply with the provisions of its own charter, bylaws, or other organizational document;

(5) Failure to submit to or pay the cost of examination or any legal obligation relative thereto, as required by sections 379.1300 to 379.1350;

(6) Use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders; or

(7) Failure otherwise to comply with the laws of this state.

2. Notwithstanding any other provision of sections 379.1300 to 379.1350, if the director finds upon examination, hearing, or other evidence that any captive insurance company has violated any provision of subsection 1 of this section, the director may suspend or revoke such company's license if the director deems it in the best interest of the public and the policyholders of such captive insurance company.

379.1318. 1. Association captive insurance companies shall comply with the investment requirements contained in chapter 375, RSMo, and sections 379.080 and 379.082, as applicable. Investments of association captive insurance companies shall be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners for insurance companies, except to the extent it is inconsistent with accounting standards in use by the company and approved by the director. Notwithstanding any other provision of sections 379.1300 to 379.1350, the director may approve the use of alternative reliable methods of valuation and rating.

2. No pure captive insurance company or industrial insured captive insurance company shall be subject to any restrictions on allowable investments whatever, including those limitations contained in sections 379.080 and 379.082; provided, however, that the director may prohibit or limit any investment that threatens the solvency or liquidity of any such company.

3. No pure captive insurance company shall make a loan to or an investment in its parent company or affiliates without prior written

approval of the director, and any such loan or investment shall be evidenced by documentation approved by the director.

379.1320. 1. Any captive insurance company may provide reinsurance, comprised in section 376.010, RSMo, and subsection 1 of section 379.010, on risks ceded by any other insurer.

2. Any captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to reinsurers complying with the provisions of section 375.246, RSMo. Prior approval of the director shall be required for ceding or taking credit for the reinsurance of risks or portions of risks ceded to reinsurers or under reinsurance agreements not complying with section 375.246, RSMo, except for business written by an alien captive insurance company outside the United States.

3. For all purposes of sections 379.1300 to 379.1350, insurance by a captive insurance company of any workers' compensation qualified self-insured plan of its parent and affiliates shall be deemed to be reinsurance.

4. In addition to reinsurers authorized under the provisions of section 375.246, RSMo, a captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to a pool, exchange, or association acting as a reinsurer which has been authorized by the director. The director may require any other documents, financial information, or other evidence that such a pool, exchange, or association will be able to provide adequate security for its financial obligations. The director may deny authorization or impose any limitations on the activities of a reinsurance pool, exchange, or association that, in the director's judgment, are necessary and proper to provide adequate security for the ceding captive insurance company and for the protection and consequent benefit of the public at large.

379.1322. No captive insurance company

shall be required to join a rating organization.

379.1324. No captive insurance company shall be permitted to join or contribute financially to any plan, pool, association, or guaranty, or insolvency fund in this state, nor shall any such captive insurance company or any insured or affiliate thereof receive any benefit from any such plan, pool, association, or guaranty, or insolvency fund for claims arising out of the operations of such captive insurance company.

379.1326. 1. Each captive insurance company shall pay to the director of revenue, on or before May first of each year, a premium tax at the rate of thirty-eight-hundredths of one percent on the first twenty million dollars and two hundred eighty-five-thousandths of one percent on the next twenty million dollars and nineteen-hundredths of one percent on the next twenty million dollars and seventy-two-thousandths of one percent on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December thirty-first next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders; provided, however, that no tax shall be due or payable as to considerations received for annuity contracts.

2. Each captive insurance company shall pay to the director of revenue on or before May first of each year a premium tax at the rate of two hundred fourteen-thousandths of one percent on the first twenty million dollars of assumed reinsurance premium, and one hundred forty-three-thousandths of one percent on the next twenty million dollars and forty-eight-thousandths of one percent on the next twenty million dollars and twenty-four-thousandths of one percent of each dollar thereafter. However, no reinsurance premium

tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis under subsection 1 of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company.

3. The annual minimum aggregate tax to be paid by a captive insurance company calculated under subsections 1 and 2 of this section shall be seven thousand five hundred dollars, and the annual maximum aggregate tax shall be two hundred thousand dollars.

4. Every captive insurance company shall, on or before February first each year, make a return on a form provided by the director, verified by the affidavit of the company's president and secretary or other authorized officers, to the director stating the amount of all direct premiums received and assumed reinsurance premiums received, whether in cash or in notes, during the year ending on December thirty-first next preceding. Upon receipt of such returns, the director of the department of insurance shall verify the same and certify the amount of tax due from the various companies on the basis and at the rate provided in subsections 1 to 3 of this section, and shall certify the same to the director of revenue, on or before March thirty-first of each year. The director of revenue shall immediately thereafter notify and assess each company the amount of tax due.

5. A captive insurance company failing to make returns as required by subsection 4 of this section or failing to pay within the time required all taxes assessed by this section, shall be subject to the provisions of sections 148.375 and 148.410, RSMo.

6. Two or more captive insurance companies under common ownership and control shall be taxed, as though they were a single captive insurance company.

7. For the purposes of this section, "common ownership and control" shall mean:

(1) In the case of stock corporations, the direct or indirect ownership of eighty percent or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(2) In the case of mutual or nonprofit corporations, the direct or indirect ownership of eighty percent or more of the surplus and the voting power of two or more corporations by the same member or members.

8. The tax provided for in this section shall constitute all taxes collectible under the laws of this state from any captive insurance company, and no other occupation tax or other taxes shall be levied or collected from any captive insurance company by the state or any county, city, or municipality within this state, except ad valorem taxes on real and personal property used in the production of income.

9. The state treasurer shall annually transfer the premium tax revenues collected under this section to the general revenue fund, except as provided in section 379.1332.

10. The tax provided for in this section shall be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multi-year basis. In the case of multi-year policies or contracts, the premium shall be prorated for purposes of determining the tax under this section.

11. A captive insurance company may deduct from premium taxes payable to this state, in addition to all other credits allowed by law, license fees and renewal fees payable under section 379.1302. A deduction for fees which exceeds a captive insurance company's

premium tax liability for the same tax year shall not be refundable, but may be carried forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed.

379.1328. The director may promulgate rules under section 374.045, RSMo, and from time to time amend such rules relating to captive insurance companies as are necessary to enable the director to carry out the provisions of sections 379.1300 to 379.1350.

379.1330. No provisions of the insurance laws of this state, other than those contained in sections 379.1300 to 379.1350 or contained in specific references contained therein, shall apply to captive insurance companies.

379.1332. 1. (1) The insurance dedicated fund under section 374.150, RSMo, shall be adequately funded through the collection of fees and taxes for the purpose of providing the financial means for the director of insurance to administer sections 379.1300 to 379.1350 and for reasonable expenses incurred in promoting the captive insurance industry in Missouri. All fees and assessments received by the department for the administration of sections 379.1300 to 379.1350 shall be paid into the fund. In addition, the transfer of twenty percent of the premium tax under section 375.1014, RSMo, shall be made to the insurance dedicated fund until two hundred thousand dollars has been transferred. Thereafter, up to ten percent of the premium tax under section 379.1326 may be transferred to the insurance dedicated fund for the administration of sections 379.1300 to 379.1350, and up to two percent of the premium tax under section 379.1326 may be transferred to the department of economic development, with approval of the commissioner of administration, for promotional expenses. All fees received by the department from reinsurers who assume risk solely from captive insurance companies and are subject to the provisions of section 375.246, RSMo, shall be deposited into the insurance dedicated fund.

(2) All payments from the insurance dedicated fund for the maintenance of staff and expenses associated with the administration of sections 379.1300 to 379.1350, including contractual services as necessary, shall be disbursed from the state treasury only upon warrants issued by the director, after receipt of proper documentation regarding services rendered and expenses incurred.

2. The director may anticipate receipts to the insurance dedicated fund through the administration of sections 379.1300 to 379.1350 and issue warrants based thereon.

379.1336. Except as otherwise provided in sections 379.1300 to 379.1350, the terms and conditions set forth in sections 375.1150 to 375.1246, RSMo, pertaining to insurance reorganizations, receiverships and injunctions shall apply in full to captive insurance companies formed or licensed under sections 379.1300 to 379.1350.

379.1338. The director may promulgate rules under section 374.045, RSMo, establishing standards to ensure that a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by the pure captive insurance company; provided, however, that, until such time as rules under this section are adopted, the director may approve the coverage of such risks by a pure captive insurance company.

379.1340. 1. A branch captive may be established in this state in accordance with the provisions of sections 379.1300 to 379.1350. In addition to the general provisions of sections 379.1300 to 379.1350, the provisions of sections 379.1340 to 379.1350 shall apply to branch captive insurance companies.

2. No branch captive insurance company shall do any insurance business in this state unless it maintains the principal place of business for its branch operations in this state.

379.1342. In the case of a branch captive insurance company, as security for the payment of liabilities attributable to the branch operations, the director shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed by the branch captive insurance company through its branch operations. The amount of such security shall be no less than the amount set forth in subdivision (1) of subsection 1 of section 379.1306 and the reserves on such insurance policies or such reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums with regard to business written through the branch operations; provided, however, the director may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer. If the form of security selected is a letter of credit, the letter of credit shall be established by or issued or confirmed by a bank chartered in this state or a member bank of the Federal Reserve System.

379.1344. In the case of a captive insurance company licensed as a branch captive, the alien captive insurance company shall petition the director to issue a certificate setting forth the director's finding that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, the licensing and maintenance of the branch operations will promote the general good of the state. The alien captive insurance company may register to do business in this state after the director's

certificate is issued.

379.1346. Prior to March first of each year, or with the approval of the director within sixty days after its fiscal year end, a branch captive insurance company shall file with the director a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath of two of its executive officers. If the director is satisfied that the annual report filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company, the director may waive the requirement for completion of the captive annual statement for business written in the alien jurisdiction.

379.1348. 1. The examination of a branch captive insurance company under section 379.1314 shall be of branch business and branch operations only, so long as the branch captive insurance company provides annually to the director a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurance company is formed, and demonstrates to the director's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of such jurisdiction.

2. As a condition of licensure, the alien captive insurance company shall grant authority to the director for examination of the affairs of the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed.

379.1350. In the case of a branch captive insurance company, the tax provided for in section 379.1326 shall apply only to the branch business of such company.

379.1353. As used in sections 379.1353 to 379.1421, the following terms shall mean:

(1) "Affiliate", a company that controls, is controlled by or under common control with the special purpose life reinsurance captive "SPLRC" as defined in this section;

(2) "Affiliated agreements", written agreements, including an SPLRC contract, between an SPLRC and its affiliate;

(3) "Ceded reinsurance agreements", reinsurance agreements entered into by the SPLRC with affiliates or unaffiliated parties for the purpose of obtaining reinsurance for all or some portion of the risks assumed by the SPLRC under SPLRC contracts;

(4) "Ceding company", the insurer ceding business to the SPLRC under the SPLRC contract;

(5) "Department", the Missouri department of insurance, financial and professional regulation;

(6) "Director", the director of the Missouri department of insurance, financial and professional regulation or its successor agency or his or her designee;

(7) "Financial guarantee policy", a financial guarantee policy issued by an insurer licensed to issue financial guarantee insurance policies by the director;

(8) "Letters of credit", clean, irrevocable, evergreen letters of credit issued meeting the requirements of subdivision (2) of section 375.246, RSMo, and regulations issued thereunder that are issued or confirmed by a qualified United States financial institution or guaranteed by a financial guarantee insurance company authorized to issue financial guarantee insurance policies in the state of Missouri;

(9) "Organizational documents", means the SPLRC's articles of organization, bylaws, operating agreement or other foundational document that establishes the SPLRC as a legal entity or prescribes its existence;

(10) “Permitted investments”, investments as authorized by sections 376.291 to 376.307, RSMo, or as specifically authorized by the director by order;

(11) “Rule”, a rule promulgated by the director in accordance with the authority granted by section 379.1421;

(12) “SPLRC” or “special purpose life insurance captive”, a captive insurance company that has received a license from the director for the limited purposes provided for in sections 379.1353 to 379.1421;

(13) “SPLRC contract”, a written contract between the SPLRC and the ceding company under which the SPLRC agrees to provide reinsurance protection to the ceding company for risks associated with the ceding company's written or assumed annuity, life insurance or accident and health insurance business;

(14) “State”, the state of Missouri;

(15) “Surety bond”, a surety bond issued by an insurer licensed to issue surety bonds by the director;

(16) “Surplus note”, an unsecured subordinated debt obligation, including any contingent obligation for the repayment of a sum of money upon a written agreement that the loan or advance with interest shall be repaid only out of funds as specified in the approved plan of operation, or any approved amendment thereto;

(17) “Swap agreements”, an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance or value of one or more underlying interests.

379.1356. No provision of the Missouri insurance laws, other than those specifically referenced in sections 379.1353 to 379.1421 apply to a SPLRC, its operations, assets, investments and SPLRC contracts. In the event of a conflict between a provision of the Missouri insurance laws and sections 379.1353 to

379.1421, the provisions of sections 379.1353 to 379.1421 shall control as to the SPLRC and its operations, assets, dividends, SPLRC contracts, and surplus notes and investments. The director may exempt all, or any one, SPLRC by rule or order from the provisions of sections 379.1353 to 379.1421 that he or she determines to be inappropriate, but may not expand the application of the Missouri insurance laws, except as specifically provided for in sections 379.1353 to 379.1421.

379.1359. 1. A SPLRC, when permitted by its organizational documents, may apply to the director for a license to conduct reinsurance in this state as authorized by sections 379.1353 to 379.1421.

2. A SPLRC may only reinsure the risks of its ceding company. A SPLRC may reinsure risks of more than one ceding company, provided all ceding companies from which a SPLRC assumes risks shall be affiliated with one another.

3. A SPLRC may cede all or a portion of its assumed risks under ceded reinsurance agreements.

4. A SPLRC may mitigate its risks by purchasing or participating in hedges such as credit default swaps and total return swaps.

5. To transact business in this state, a SPLRC shall:

(1) Obtain from the director a license authorizing it to conduct reinsurance business in this state;

(2) Hold at least one meeting of its board of directors each year within the state of Missouri;

(3) Maintain its principal place of business in Missouri;

(4) Appoint a resident registered agent to accept service of process and to otherwise act on its behalf in this state;

(5) Maintain a minimum surplus in this state, in cash, in the amount of two-hundred

and fifty-thousand dollars;

(6) Pay all applicable fees as required by sections 379.1353 to 379.1421.

6. To obtain a license to transact business as a SPLRC in this state, the SPLRC shall:

(1) File an application which must include the following:

(a) Certified copies of its organizational documents;

(b) A statement under oath from any of the applicant's officers as to the financial condition of the applicant as of the time the application is filed;

(c) Evidence of the applicant's assets as of the time of the application;

(d) Complete biographical sketches for each officer and director on forms created by the National Association of Insurance Commissioners;

(e) A plan of operation as described in section 379.1361;

(f) An affidavit signed by the applicant that the SPLRC will operate only in accordance with the provisions of sections 379.1353 to 379.1421 and its plan of operation;

(g) A description of the investment strategy the SPLRC will follow;

(h) A description of the source and form of the initial minimum capital proposed in the plan of operation;

(2) Demonstrate that the minimum surplus described in subdivision (5) of subsection 5 of this section is established and held in this state;

(3) Provide copies of any filings made by the ceding company with the ceding company's domiciliary insurance regulator to obtain approval for the ceding company to enter into the SPLRC contract and copies of any filings made by any affiliate of the SPLRC to obtain regulatory approval to contribute capital to the SPLRC or to acquire direct or indirect

ownership of the SPLRC;

(4) Provide copies of any letters of approval or non-disapproval received from the insurance regulator responding to any filings for which copies were provided as described in subdivision (3) of this subsection.

7. No other requirements shall be imposed upon the SPLRC to transact business, except the director may require the SPLRC to revise its plan of operation under section 379.1361 and meet all requirements imposed by a revised plan of operation as approved by the director thereunder.

8. The department shall act upon a complete application within sixty days of its filing, provided the requirements identified in subdivisions (2), (3) and (4) of subsection 6 of this section are met five days prior to the end of the sixty day period. For purposes of this subsection, an application shall be considered complete when the items listed in subdivision (1) of subsection 6 of this section are filed with the department. In the event the ceding company is not required to make filings with its domiciliary insurance regulator as described in subdivision (3) of subsection 6 of this section, no such filing shall be required under subdivision (3) of subsection 6 of this section in this state, provided the applicant provides the director with a certification signed by one of its officers attesting that no such filing is required with the ceding company's domiciliary regulator.

9. Once granted, a license under sections 379.1353 to 379.1421 shall continue until March first of each year, at this time it may be renewed at the discretion of the director.

10. A SPLRC shall pay to the director a non-refundable application fee of ten thousand dollars for processing its application for a license under sections 379.1353 to 379.1421. Such fee shall be paid at the time the application is filed with the director. Each SPLRC may take a credit for the application fee against the taxes payable under section

379.1412, notwithstanding the imposition of an annual aggregate minimum tax by section 379.1412.

11. The director may retain legal, financial, actuarial, and examination services from outside the department to review the application. The reasonable cost of such services shall be billed to and paid by the applicant.

379.1361. A SPLRC must file, as part of its application, a plan of operation to consist of a description of the contemplated financing transaction or transactions and a detailed description of transaction documents to which the SPLRC will be a party, including, but not limited to, the SPLRC contract and related transactions to which the SPLRC will be a party which must include:

(1) Draft documentation or, at the director's discretion, a written summary of all material agreements to which the SPLRC is to be a party that are to be entered into to effectuate the SPLRC contract and the financing transaction;

(2) The purpose of the transaction;

(3) Maximum amounts;

(4) Interrelationships of the various transactions, to which the SPLRC will be a party, required to effectuate the financing;

(5) Investment strategy for the SPLRC;

(6) Description of the underwriting, reporting and claims payment methods by which losses covered by the SPLRC contract will be reported, accounted for and settled;

(7) Initial minimum capital to be held by the SPLRC;

(8) Pro-forma balance sheet and income statements illustrating the performance of the SPLRC, the SPLRC contract, and any ceded reinsurance agreements under scenarios reasonably requested by the director or specified by rule; and

(9) The pro-forma balance sheets and income statements filed under this section must be updated by the SPLRC and filed with the director in the event of a material deviation from the original or most recently filed plan of operation. The plan of operation must specify which deviations are to be considered material.

379.1364. Each SPLRC shall pay to the director a license fee for the year of registration of seven thousand five hundred dollars for processing its license. The provisions of sections 374.160 to 374.162, RSMo, and sections 374.202 to 374.207, RSMo, shall apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each SPLRC shall pay a renewal fee for each year thereafter of seven thousand five hundred dollars. Each SPLRC may take a credit for the license and renewal fees paid against the taxes payable under section 379.1412, notwithstanding the imposition of an annual aggregate minimum tax by section 379.1412.

379.1367. 1. In order to approve an application and issue a license to a SPLRC under sections 379.1353 to 379.1421, the director must find that:

(1) The proposed plan of operation provides a reasonable and expected successful operation;

(2) The terms of the transactions proposed in the plan of operation to which the SPLRC is a party comply with sections 379.1353 to 379.1421; and

(3) The commissioner of the state of domicile of each ceding company has notified the director in writing or the applicant has otherwise provided assurance satisfactory to the director that such regulator has either approved or granted a nondisapproval of the SPLRC contract.

2. In evaluating the expectation of a successful operation, the director shall consider whether the proposed SPLRC and its

management are of known good character and reasonably believed not to be affiliated, directly or indirectly, with a person known to have been involved with the improper manipulation of assets, accounts or reinsurance. In the event the commissioner of the state of domicile of any ceding company is not required to review the SPLRC contract, then the approval described in subdivision (3) of subsection 1 of this section shall not be required for licensing of the SPLRC hereunder.

379.1370. A SPLRC may be established as either a stock corporation, a Missouri statutory close corporation, a limited liability company or other form of organization approved by the director.

379.1373. 1. Activities of a SPLRC must be limited to those necessary to accomplish its purpose as outlined in its plan of operation.

2. The name must not be deceptively similar to or likely to be confused with another existing business name registered in the state.

3. The SPLRC must have at least three incorporators or organizers of whom not fewer than two must be residents of the state.

4. The capital stock of a SPLRC incorporated as a stock company must be issued at not less than par value.

379.1376. A SPLRC may enter into a SPLRC contract with a ceding company, provided:

(1) The SPLRC has been granted a license to transact business as an SPLRC under sections 379.1353 to 379.1421; and

(2) The SPLRC provides the director with evidence of an approval or non-disapproval from the insurance regulatory official of the ceding company's state or country of domicile to enter into the SPLRC contract. If the ceding company's domiciliary insurance regulatory official does not customarily provide evidence of such approval or non-disapproval, the director shall approve the SPLRC's execution of such

SPLRC contract if such SPLRC contract would be acceptable if an assuming insurer domiciled in this state were to propose execution of the same with its ceding company for the purpose of assuming such reinsurance and an officer of the SPLRC provides the director with a certification that terms of the SPLRC contract meet the requirements for the ceding company to obtain credit in its state of domicile for reinsurance ceded under the SPLRC contract.

379.1379. The SPLRC may enter into swap agreements for any purpose for which a Missouri domestic life insurer could enter into such a transaction under section 375.345, RSMo, or when the underlying interests are permitted investments if held directly by the SPLRC.

379.1382. 1. A SPLRC may issue securities, subject to and in accordance with applicable law, its approved plan of operation and its organizational documents. A SPLRC may enter into and perform all its obligations under any required contract to facilitate the issuance of these securities.

2. Subject to the approval of the director, a SPLRC may:

(1) Account for the proceeds of surplus notes as surplus and not debt for purposes of statutory accounting; and

(2) Submit for prior approval of the director periodic written requests for payments of interest on and repayments of principal of surplus notes.

3. The director may approve formulas for the ongoing payment of interest payments or principal repayments, or both.

4. The obligation to repay principal or interest, or both, on the securities issued by the SPLRC must reflect the risk associated with the reinsurance obligations assumed by the SPLRC.

5. The approval given for the ongoing payment of interest or the repayment of principal related to any securities or surplus

notes, as outlined in the plan of operations, may only be revoked or otherwise modified by the director in the event the performance of the insurance business assumed by the SPLRC under the SPLRC contract is demonstrated by the director to be following a scenario as to mortality, morbidity, investment, or lapse experience that will cause the SPLRC to fail to meet its obligations under the SPLRC contract.

379.1385. A SPLRC's assets must be managed in accordance with an investment management agreement filed with and approved by order of the director.

379.1388. 1. A SPLRC may recognize as an admitted asset on its financial statements filed with the director:

- (1) Permitted investments;
- (2) Letters of credit issued without recourse to the SPLRC;
- (3) Financial guarantee policies issued for the sole benefit of the ceding company without recourse to the SPLRC by an insurer having a rating of no less than AAA by Standard and Poor's or less than AAA by Moody's Investor Service; and
- (4) Surety bonds issued for the sole benefit of the ceding company without recourse to the SPLRC by an insurer having a rating of no less than AAA by Standard and Poor's or no less than AAA by Moody's Investors Service.

2. The assets of a SPLRC shall be valued in the same manner as the assets of a Missouri domestic life insurer. Notwithstanding the preceding, the director may by order authorize a SPLRC to value one or more of its assets through an alternative method. Letters of credit shall be valued at the amount available for drawings by the SPLRC or its ceding company as of the time of valuation. A financial guarantee policy shall be valued at the amount available to pay aggregate claims as of the time of valuation. A surety bond shall be valued at the amount available to pay aggregate claims as

of the time of valuation.

379.1391. A SPLRC shall not:

(1) Enter into a SPLRC contract with a person that is not licensed or otherwise authorized to transact the business of insurance or reinsurance in at least its state or country of domicile;

(2) Lend or otherwise invest or place in custody, trust or under management any of its assets with, or to borrow money or receive a loan from, other than according to the plan of operation filed with and approved by the director.

379.1394. 1. A SPLRC may not declare or pay dividends in any form to its owners other than in accordance with the transaction agreements.

2. Dividends may not decrease the capital of the SPLRC below the minimum initial capital requirement.

3. After giving effect to the dividends the assets of the SPLRC, including assets held in trust and letters of credit issued for the exclusive benefit of the SPLRC, must be sufficient to satisfy the director that it can meet its obligations.

4. Approval of the director for ongoing dividends of other distributions must be conditioned upon the retention at the time of each payment, of capital or surplus equal to or in excess of amounts specified by, or determined in accordance with formulas approved for the SPLRC by the director.

5. Dividends may be declared by the management of the SPLRC provided that the dividend amount or form does not violate the provisions of sections 379.1353 to 379.1421 or jeopardize the fulfillment of the obligations of the SPLRC.

379.1397. Any material changes to a SPLRC's plan of operation shall require the prior written approval of the director. However,

if initially approved in the plan of operation, the subsequent issuance of securities, additional financing, substitution of a party to a swap transaction with a party of similar rating or the inclusion of additional business under a SPLRC contract, shall not be considered a material change.

379.1400. Copies of all completed affiliated agreements to which the SPLRC is a party, including but not limited to the SPLRC contract or contracts and any ceded reinsurance agreements to which the SPLRC is a party must be filed with the director within thirty days of their execution.

379.1403. 1. No later than five months after the fiscal year end of the SPLRC, the SPLRC shall file with the director an audited financial report by an independent certified public accountant of the financial statements of the SPLRC and any trust accounts established for the benefit of the ceding company to secure reserve credits for the ceding company.

2. The SPLRC shall file by March first of each year financial information using statutory accounting principles with useful or necessary modifications or adaptations required or approved by the director, as supplemented by additional information as required by the director. Financial information must include:

- (1) Income statement;
- (2) Balance sheet, and if required;
- (3) A detailed listing of invested assets.

The filing may also include RBC calculations and other adjusted capital calculations to assist the director. The statements must be prepared on forms required by the director. In addition, the director may require the filing of performance assessments of the SPLRC contract.

379.1406. An SPLRC must be examined by the director at least once every five years and no more frequently than once every three years. In addition, the director may also examine an

SPLRC in the event of an event of insolvency. The SPLRC shall pay to the director the expenses and costs of the examination as outlined in section 374.160, RSMo. Neither reports, copies of documents obtained nor preliminary work and working papers may be disclosed without the prior written consent of the SPLRC. Such materials shall remain confidential and are not subject to subpoena. Nothing in this section shall prevent the director from using materials created during the examination or obtained during the examination in furtherance of the director's regulatory authority granted under sections 379.1353 to 379.1421. The director may grant access to materials obtained or created during examinations conducted under this section to public officers having jurisdiction over the regulation of insurance in another state, the federal government or another country, including a securities regulatory authority, if the officers receiving the information agree in writing to hold such information in confidence and in a manner consistent with this section.

379.1409. The SPLRC shall maintain its books and records in the state and make the same available at any time for examination by the director. Notwithstanding the preceding, original books and records may be kept outside of the state, if a plan is adopted by the SPLRC and approved by the director whereby copies are maintained in the state with originals kept at another specified location. Records must be maintained for examination purposes until authorization to destroy is received from the director.

379.1412. 1. Each SPLRC shall pay to the director of revenue on or before May first of each year a premium tax at the rate of two hundred fourteen thousandths of one percent on the first twenty million dollars of assumed reinsurance premium, and one hundred forty-three thousandths of one percent on the next twenty million dollars and forty-eight thousandths of one percent on the next twenty

million dollars and twenty-four thousandths of one percent of each dollar thereafter. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company.

2. The premium tax imposed by subsection 1 of this section shall constitute all taxes collectible under the laws of this state from any SPLRC, and no other occupation tax or other taxes shall be levied or collected from any captive insurance company by the state or any county, city, or municipality within this state, except ad valorem taxes on real and personal property used in the production of income.

3. The annual minimum aggregate tax to be paid by a SPLRC calculated under subsection 1 of this section shall be seven thousand five hundred dollars, and the annual maximum aggregate tax shall be two hundred thousand dollars.

4. A SPLRC may deduct from premium taxes payable to this state, in addition to all other credits allowed by law, application fees payable under section 379.1359 and license fees and renewal fees payable under section 379.1364. A deduction for fees which exceeds a SPLRC's premium tax liability for the same tax year shall not be refundable, but may be carried forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed.

5. Every SPLRC shall, on or before February first each year, make a return on a form provided by the director, verified by the affidavit of the company's president and secretary or other authorized officers, to the director stating the amount of all direct

premiums received and assumed reinsurance premiums received, whether in cash or in notes, during the year ending on December thirty-first next preceding. Upon receipt of such returns, the director shall verify the same and certify the amount of tax due from the various companies on the basis and at the rate provided in this section, and shall certify the same to the director of revenue, on or before March thirty-first of each year. The director of revenue shall immediately thereafter notify and assess each company the amount of tax due.

6. A SPLRC failing to make returns as required by subsection 5 of this section, or failing to pay within the time required all taxes assessed by this section, shall be subject to the provisions of sections 148.375 and 148.410, RSMo.

379.1415. Information filed with the director is confidential and may not be disclosed without the prior written consent of the SPLRC, except:

(1) Information is discoverable in civil litigation provided:

(a) The SPLRC is found by the court to be a necessary party;

(b) The party seeking the information demonstrates by a clear and convincing standard that the information sought is relevant and necessary; and

(c) Where it is unavailable from other nonconfidential sources.

(2) The director may disclose the information to insurance regulators if:

(a) The regulator agrees in writing to maintain the confidentiality of the information; and

(b) The laws of the state in which the regulator serves preserve confidentiality of the information.

(3) In addition, the director may also disclose information to the Securities Exchange

Commission if:

(a) The SEC agrees in writing to maintain the confidentiality of the information; and

(b) The SEC is authorized under securities law to request the information or the director is obligated to disclose the information.

379.1418. 1. The director may apply by petition to the circuit court for an order authorizing the director to conserve, rehabilitate or liquidate a SPLRC domiciled in this state on one or more of the following grounds:

(1) There has been embezzlement, wrongful sequestration, dissipation, or diversion of the assets of the SPLRC;

(2) The SPLRC is insolvent and the holders of a majority in outstanding principal amount of each class of SPLRC securities or surplus notes request or consent to conservation, rehabilitation or liquidation under the provisions of this section.

2. The court may not grant relief provided by subdivision (1) of subsection 1 of this section unless, after notice and a hearing, the director, who must have the burden of proof, establishes by clear and convincing evidence that relief must be granted.

3. Notwithstanding another provision in sections 379.1353 to 379.1421, rules promulgated under sections 379.1353 to 379.1421, or another applicable provision of law or rule, upon any order of conservation, rehabilitation, or liquidation of a SPLRC, the receiver shall manage the assets and liabilities of the SPLRC under the provisions of sections 379.1353 to 379.1421.

4. With respect to amounts recoverable under a SPLRC contract, the amount recoverable by the receiver must not be reduced or diminished as a result of the entry of an order of conservation, rehabilitation, or liquidation with respect to the ceding company, notwithstanding another provision in the

SPLRC contract or other documentation governing the SPLRC's transactions.

5. Notwithstanding the provisions of sections 379.1353 to 379.1421, an application or petition, or a temporary restraining order or injunction issued under the provisions of the insurance laws of a state, with respect to a ceding company, does not prohibit the transaction of a business by a SPLRC, including any payment by a SPLRC made under the SPLRC contract, the SPLRC's securities or surplus notes, or any action or proceeding against a SPLRC or its assets.

6. Notwithstanding the provisions of any Missouri insurance law to the contrary, the commencement of a summary proceeding or other interim proceeding commenced before a formal delinquency proceeding with respect to a SPLRC, and any order issued by the court does not prohibit the payment by a SPLRC made under securities issued by an SPLRC or an SPLRC contract or the SPLRC from taking any action required to make the payment.

7. Notwithstanding the provisions of the Missouri insurance laws:

(1) A receiver of a ceding company shall not void a nonfraudulent transfer by a ceding company of money or other property paid or paid pursuant to a SPLRC contract; and

(2) A receiver of a SPLRC shall not void a nonfraudulent transfer by the SPLRC of money or other property made to a ceding company pursuant to a SPLRC contract or made to or for the benefit of any holder of a SPLRC security on account of the SPLRC security.

8. With the exception of the fulfillment of the obligations under a SPLRC contract, and notwithstanding another provision of sections 379.1353 to 379.1421 or other laws of this state, the assets of a SPLRC, including assets held in trust, letters of credit, financial guarantee policies or surety bonds, shall not be consolidated with or included in the estate of a ceding company in any delinquency proceeding

against the ceding company under the provisions of sections 379.1353 to 379.1421 for any purpose including, without limitation, distribution to creditors of the ceding company.

9. Other than as set forth in this section, delinquency proceedings of a SPLRC shall be conducted under sections 375.1150 to 375.1246, RSMo.

379.1421. The director may promulgate all rules and regulations necessary to effectuate the purposes of sections 379.1353 to 379.1421. No regulations promulgated under this authority shall affect SPLRC Contracts or other transactions approved prior to the effective date of such rules. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Loudon moved that the above amendment be adopted.

Senator Mayer raised the point of order that **SA 5** is out of order as it goes beyond the scope of the legislation.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Loudon offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for House

Committee Substitute for House Bill No. 741, Page 92, Section 265.525, Line 21, by inserting immediately after said line, the following:

“290.505. 1. No employer shall employ any of his employees for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

2. Employees of an amusement or recreation business that meets the criteria set out in 29 U.S.C. § 213(a) (3) must be paid one and one-half times their regular compensation for any hours worked in excess of fifty-two hours in any one-week period.

3. With the exception of employees described in subsection (2), the overtime requirements of subsection (1) shall not apply to employees who are exempt from federal minimum wage or overtime requirements [pursuant to 29 U.S.C. §§ 213(a)-(b)] **including, but not limited to, the exemptions or hour calculation formulas specified in 29 U.S.C. Sections 207 and 213, and any regulations promulgated thereunder.**

4. Except as may be otherwise provided under sections 290.500 to 290.530, this section shall be interpreted in accordance with the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq., as amended, and the Portal to Portal Act, 29 U.S.C. Section 251, et seq., as amended, and any regulations promulgated thereunder.

Section B. Because of the need to preserve federal standards relating to overtime payments to employees, section 290.505 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 290.505 of this act shall be in full force and effect upon its passage and approval.”; and

Further amend the title and enacting clause accordingly.

Senator Loudon moved that the above amendment be adopted.

Senator Mayer raised the point of order that **SA 6** is out of order as it goes beyond the scope of the underlying bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Loudon offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for House Committee Substitute for House Bill No. 741, Page 92, Section 265.525, Line 21, by inserting immediately after said line, the following:

“287.020. 1. The word “employee” as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations. **Except as otherwise provided in section 287.200**, any reference to any employee who has been injured shall, when the employee is dead, also include his dependents, and other persons to whom compensation may be payable. The word “employee” shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes under, in connection with, or arising out of this chapter. The word “employee” shall not include an individual who is the owner, as defined in subsection 43 of section 301.010, RSMo, and operator of a motor vehicle which is leased or contracted with a driver to a for-hire motor carrier operating within a commercial zone as defined in section 390.020 or 390.041, RSMo, or operating under a certificate issued by the Missouri department of transportation or by the United States Department of Transportation, or any of its subagencies.

2. The word “accident” as used in this chapter shall mean an unexpected traumatic event or unusual strain identifiable by time and place of occurrence and producing at the time objective symptoms of an injury caused by a specific event

during a single work shift. An injury is not compensable because work was a triggering or precipitating factor.

3. (1) In this chapter the term “injury” is hereby defined to be an injury which has arisen out of and in the course of employment. An injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability. “The prevailing factor” is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability.

(2) An injury shall be deemed to arise out of and in the course of the employment only if:

(a) It is reasonably apparent, upon consideration of all the circumstances, that the accident is the prevailing factor in causing the injury; and

(b) It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life.

(3) An injury resulting directly or indirectly from idiopathic causes is not compensable.

(4) A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or myocardial infarction suffered by a worker is an injury only if the accident is the prevailing factor in causing the resulting medical condition.

(5) The terms “injury” and “personal injuries” shall mean violence to the physical structure of the body and to the personal property which is used to make up the physical structure of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are placed in or on the body to replace the physical structure and such disease or infection as naturally results therefrom. These terms shall in no case except as specifically provided in this chapter be construed to include occupational disease in any form, nor shall they be construed to include any contagious or infectious disease contracted during the course

of the employment, nor shall they include death due to natural causes occurring while the worker is at work.

4. “Death” when mentioned as a basis for the right to compensation means only death resulting from such violence and its resultant effects occurring within three hundred weeks after the accident; except that in cases of occupational disease, the limitation of three hundred weeks shall not be applicable.

5. Injuries sustained in company-owned or subsidized automobiles in accidents that occur while traveling from the employee's home to the employer's principal place of business or from the employer's principal place of business to the employee's home are not compensable. The extension of premises doctrine is abrogated to the extent it extends liability for accidents that occur on property not owned or controlled by the employer even if the accident occurs on customary, approved, permitted, usual or accepted routes used by the employee to get to and from their place of employment.

6. The term “total disability” as used in this chapter shall mean inability to return to any employment and not merely mean inability to return to the employment in which the employee was engaged at the time of the accident.

7. As used in this chapter and all acts amendatory thereof, the term “commission” shall hereafter be construed as meaning and referring exclusively to the labor and industrial relations commission of Missouri, and the term “director” shall hereafter be construed as meaning the director of the department of insurance of the state of Missouri or such agency of government as shall exercise the powers and duties now conferred and imposed upon the department of insurance of the state of Missouri.

8. The term “division” as used in this chapter means the division of workers' compensation of the department of labor and industrial relations of the state of Missouri.

9. For the purposes of this chapter, the term “minor” means a person who has not attained the age of eighteen years; except that, for the purpose of computing the compensation provided for in this chapter, the provisions of section 287.250 shall control.

10. In applying the provisions of this chapter, it is the intent of the legislature to reject and abrogate earlier case law interpretations on the meaning of or definition of “accident”, “occupational disease”, “arising out of”, and “in the course of the employment” to include, but not be limited to, holdings in: *Bennett v. Columbia Health Care and Rehabilitation*, 80 S.W.3d 524 (Mo.App. W.D. 2002); *Kasl v. Bristol Care, Inc.*, 984 S.W.2d 852 (Mo.banc 1999); and *Drewes v. TWA*, 984 S.W.2d 512 (Mo.banc 1999) and all cases citing, interpreting, applying, or following those cases.

287.200. 1. Compensation for permanent total disability shall be paid during the continuance of such disability for the lifetime of the employee at the weekly rate of compensation in effect under this subsection on the date of the injury for which compensation is being made. **The word “employee” as used in this section shall not include the injured worker's dependents, estate, or other persons to whom compensation may be payable as provided in subsection 1 of section 287.020.** The amount of such compensation shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before September 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(2) For all injuries occurring on or after September 28, 1986, but before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy-five percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred percent of the state average weekly wage;

(4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred five percent of the state average weekly wage;

(5) For all injuries occurring on or after September 28, 1981, the weekly compensation shall in no event be less than forty dollars per week.

2. Permanent total disability benefits that have accrued through the date of the injured employee's death are the only permanent total disability benefits that are to be paid in accordance with section 287.230. The right to unaccrued compensation for permanent total disability of an injured employee terminates on the date of the injured employee's death in accordance with section 287.230, and does not

survive to the injured worker's dependents, estate, or other persons to whom compensation might otherwise be payable.

3. All claims for permanent total disability shall be determined in accordance with the facts. When an injured employee receives an award for permanent total disability but by the use of glasses, prosthetic appliances, or physical rehabilitation the employee is restored to his regular work or its equivalent, the life payment mentioned in subsection 1 of this section shall be suspended during the time in which the employee is restored to his regular work or its equivalent. The employer and the division shall keep the file open in the case during the lifetime of any injured employee who has received an award of permanent total disability. In any case where the life payment is suspended under this subsection, the commission may at reasonable times review the case and either the employee or the employer may request an informal conference with the commission relative to the resumption of the employee's weekly life payment in the case.

287.220. 1. All cases of permanent disability where there has been previous disability shall be compensated as herein provided. Compensation shall be computed on the basis of the average earnings at the time of the last injury. If any employee who has a preexisting permanent partial disability whether from compensable injury or otherwise, of such seriousness as to constitute a hindrance or obstacle to employment or to obtaining reemployment if the employee becomes unemployed, and the preexisting permanent partial disability, if a body as a whole injury, equals a minimum of fifty weeks of compensation or, if a major extremity injury only, equals a minimum of fifteen percent permanent partial disability, according to the medical standards that are used in determining such compensation, receives a subsequent compensable injury resulting in additional permanent partial disability so that the degree or percentage of disability, in an amount equal to a minimum of fifty weeks compensation, if a body as a whole injury or, if a major extremity

injury only, equals a minimum of fifteen percent permanent partial disability, caused by the combined disabilities is substantially greater than that which would have resulted from the last injury, considered alone and of itself, and if the employee is entitled to receive compensation on the basis of the combined disabilities, the employer at the time of the last injury shall be liable only for the degree or percentage of disability which would have resulted from the last injury had there been no preexisting disability. After the compensation liability of the employer for the last injury, considered alone, has been determined by an administrative law judge or the commission, the degree or percentage of employee's disability that is attributable to all injuries or conditions existing at the time the last injury was sustained shall then be determined by that administrative law judge or by the commission and the degree or percentage of disability which existed prior to the last injury plus the disability resulting from the last injury, if any, considered alone, shall be deducted from the combined disability, and compensation for the balance, if any, shall be paid out of a special fund known as the second injury fund, hereinafter provided for. If the previous disability or disabilities, whether from compensable injury or otherwise, and the last injury together result in total and permanent disability, the minimum standards under this subsection for a body as a whole injury or a major extremity injury shall not apply and the employer at the time of the last injury shall be liable only for the disability resulting from the last injury considered alone and of itself; except that if the compensation for which the employer at the time of the last injury is liable is less than the compensation provided in this chapter for permanent total disability, then in addition to the compensation for which the employer is liable and after the completion of payment of the compensation by the employer, the employee shall be paid the remainder of the compensation that would be due for permanent total disability under section 287.200 out of a special fund known as the "Second Injury Fund" hereby created exclusively for the purposes as in

this section provided and for special weekly benefits in rehabilitation cases as provided in section 287.141. Maintenance of the second injury fund shall be as provided by section 287.710. The state treasurer shall be the custodian of the second injury fund which shall be deposited the same as are state funds and any interest accruing thereon shall be added thereto. The fund shall be subject to audit the same as state funds and accounts and shall be protected by the general bond given by the state treasurer. Upon the requisition of the director of the division of workers' compensation, warrants on the state treasurer for the payment of all amounts payable for compensation and benefits out of the second injury fund shall be issued.

2. In all cases in which a recovery against the second injury fund is sought for permanent partial disability, permanent total disability, or death, the state treasurer as custodian thereof shall be named as a party, and shall be entitled to defend against the claim. The state treasurer, with the advice and consent of the attorney general of Missouri, may enter into compromise settlements as contemplated by section 287.390, or agreed statements of fact that would affect the second injury fund. All awards for permanent partial disability, permanent total disability, or death affecting the second injury fund shall be subject to the provisions of this chapter governing review and appeal. For all claims filed against the second injury fund on or after July 1, 1994, the attorney general shall use assistant attorneys general except in circumstances where an actual or potential conflict of interest exists, to provide legal services as may be required in all claims made for recovery against the fund. Any legal expenses incurred by the attorney general's office in the handling of such claims, including, but not limited to, medical examination fees, expert witness fees, court reporter expenses, travel costs, and related legal expenses shall be paid by the fund. Effective July 1, 1993, the payment of such legal expenses shall be contingent upon annual appropriations made by the general assembly, from the fund, to the attorney general's office for this specific purpose.

3. If more than one injury in the same employment causes concurrent temporary disabilities, compensation shall be payable only for the longest and largest paying disability.

4. If more than one injury in the same employment causes concurrent and consecutive permanent partial disability, compensation payments for each subsequent disability shall not begin until the end of the compensation period of the prior disability.

5. If an employer fails to insure or self-insure as required in section 287.280, funds from the second injury fund may be withdrawn to cover the fair, reasonable, and necessary expenses to cure and relieve the effects of the injury or disability of an injured employee in the employ of an uninsured employer, or in the case of death of an employee in the employ of an uninsured employer, funds from the second injury fund may be withdrawn to cover fair, reasonable, and necessary expenses in the manner required in sections 287.240 and 287.241. In defense of claims arising under this subsection, the treasurer of the state of Missouri, as custodian of the second injury fund, shall have the same defenses to such claims as would the uninsured employer. Any funds received by the employee or the employee's dependents, through civil or other action, must go towards reimbursement of the second injury fund, for all payments made to the employee, the employee's dependents, or paid on the employee's behalf, from the second injury fund pursuant to this subsection. The office of the attorney general of the state of Missouri shall bring suit in the circuit court of the county in which the accident occurred against any employer not covered by this chapter as required in section 287.280.

6. [Every three years] **Annually**, the second injury fund shall have an actuarial study made to determine the solvency of the fund, appropriate funding level of the fund, and forecasted expenditures from the fund. The first actuarial study shall be completed prior to July 1, 1988. The expenses of such actuarial studies shall be paid out of the fund for the support of the division of

workers' compensation.

7. The director of the division of workers' compensation shall maintain the financial data and records concerning the fund for the support of the division of workers' compensation and the second injury fund. The division shall also compile and report data on claims made pursuant to subsection 9 of this section. The attorney general shall provide all necessary information to the division for this purpose.

8. All claims for fees and expenses filed against the second injury fund and all records pertaining thereto shall be open to the public.

9. Any employee who at the time a compensable work-related injury is sustained is employed by more than one employer, the employer for whom the employee was working when the injury was sustained shall be responsible for wage loss benefits applicable only to the earnings in that employer's employment and the injured employee shall be entitled to file a claim against the second injury fund for any additional wage loss benefits attributed to loss of earnings from the employment or employments where the injury did not occur, up to the maximum weekly benefit less those benefits paid by the employer in whose employment the employee sustained the injury. The employee shall be entitled to a total benefit based on the total average weekly wage of such employee computed according to subsection 8 of section 287.250. The employee shall not be entitled to a greater rate of compensation than allowed by law on the date of the injury. The employer for whom the employee was working where the injury was sustained shall be responsible for all medical costs incurred in regard to that injury.

287.225. 1. There is hereby created a "Joint Committee on the Second Injury Fund". The committee shall consist of ten members, five of which shall be members of the senate appointed by the president pro tem of the senate, with at least two members from the minority party; and five members shall be members of the

house of representatives appointed by the speaker of the house of representatives, with at least two members from the minority party.

2. The committee shall examine the second injury fund, including the legal defense of the fund, including all expenditures for that defense, benefit expenditures, the functionality of the statutory scheme, and all aspects of the fund's solvency.

3. The committee shall issue a report to the general assembly no later than December 1, 2007.

4. The provisions of this section shall expire on January 1, 2008.

287.230. 1. The death of the injured employee shall not affect the liability of the employer to furnish compensation as in this chapter provided, so far as the liability has accrued and become payable at the time of the death, and any accrued and unpaid compensation due the employee shall be paid to his dependents without administration, or if there are no dependents, to his personal representative or other persons entitled thereto, but the death shall be deemed to be the termination of the disability.

2. Where an employee is entitled to compensation under this chapter, **exclusive of compensation as provided for in section 287.200**, for an injury received and death ensues for any cause not resulting from the injury for which [he] **the employee** was entitled to compensation, [payments of the unpaid accrued compensation shall be paid, but] payments of the unpaid unaccrued [balance] **compensation under section 287.190 and no other compensation** for the injury shall [cease and all liability therefor shall terminate unless there are] **be paid to the surviving dependents at the time of death.**

3. In applying the provisions of this chapter, it is the intent of the legislature to reject and abrogate Schoemehl v. Treasurer of the State of Missouri, S.W.3d (2007), WL 58370 (Mo. 2007), and all cases citing, interpreting,

applying, or following this case.

Section B. Because of the need to clarify workers' compensation laws and preserve the solvency of the workers' compensation system, sections 287.020, 287.200, 287.220, 287.225, and 287.230 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 287.020, 287.200, 287.220, 287.225, and 287.230 of this act shall be in full force and effect upon its passage and approval.”; and

Further amend the title and enacting clause accordingly.

Senator Loudon moved that the above amendment be adopted.

Senator Mayer raised the point of order that **SA 7** is out of order as it goes beyond the scope of the underlying bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Lager offered **SA 8**, which was read:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for House Committee Substitute for House Bill No. 741, Pages 51-55, Section 135.1200, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Lager moved that the above amendment be adopted, which motion prevailed.

Senator Koster offered **SA 9**, which was read:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for House Committee Substitute for House Bill No. 741, Page 62, Section 251.603, Lines 23-28, by striking all of said lines; and

Further amend said bill and section, page 63, lines 1-3, by striking all of said lines; and

Further renumber the remaining subdivisions accordingly.

Senator Koster moved that the above amendment be adopted, which motion prevailed.

Senator Crowell assumed the Chair.

Senator Koster moved that **SS** for **HCS** for **HB 741**, as amended, be adopted, which motion prevailed.

On motion of Senator Koster, **SS** for **HCS** for **HB 741**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Callahan	Champion
Coleman	Crowell	Engler	Gibbons
Goodman	Graham	Griesheimer	Gross
Kennedy	Koster	Lager	Loudon
Mayer	Nodler	Purgason	Ridgeway
Rupp	Scott	Shields	Shoemyer
Smith	Stouffer	Vogel	Wilson—28

NAYS—Senator Bray—1

Absent—Senators

Clemens	Green	Justus	McKenna—4
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Absent with leave—Senator Days—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Koster, title to the bill was agreed to.

Senator Koster moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Purgason moved that **SS** for **HCS** for **HB 364** be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

On motion of Senator Purgason, **SS** for **HCS** for **HB 364** was read the 3rd time and passed by

the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Coleman	Crowell	Engler
Gibbons	Goodman	Graham	Griesheimer
Gross	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—30		

NAYS—Senators—None

Absent—Senators

Clemens	Green	Justus—3
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Absent with leave—Senator Days—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Purgason, title to the bill was agreed to.

Senator Purgason moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

CONFERENCE COMMITTEE REPORTS

Senator Champion, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SCS** for **SB 86**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

**CONFERENCE COMMITTEE REPORT NO. 2
ON HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 86**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 86, with House Amendment No. 1 to House Amendment No. 1 and House Amendment No. 1, as amended, begs leave

to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 86, as amended;

2. That the Senate recede from its position on Senate Committee Substitute for Senate Bill No. 86;

3. That the attached Conference Committee Substitute No. 2 for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 86, be Third Read and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Norma Champion	/s/ Michael Sutherland
/s/ Brad Lager	/s/ Shannon Cooper
/s/ John E. Griesheimer	/s/ Bryan P. Stevenson
/s/ Joan Bray	/s/ Maria Chappelle-Nadal
/s/ Harry Kennedy	/s/ Charles Zweifel

Senator Champion moved that the above conference committee report no. 2 be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Coleman	Crowell	Engler
Gibbons	Goodman	Graham	Griesheimer
Gross	Kennedy	Koster	Lager
Loudon	Mayer	McKenna	Nodler
Purgason	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—30		

NAYS—Senators—None

Absent—Senators
 Clemens Green Justus—3

Absent with leave—Senator Days—1

Vacancies—None

On motion of Senator Champion, CCS No. 2

for **HCS** for **SCS** for **SB 86**, entitled:

**CONFERENCE COMMITTEE SUBSTITUTE NO. 2
 FOR HOUSE COMMITTEE SUBSTITUTE FOR
 SENATE COMMITTEE SUBSTITUTE FOR
 SENATE BILL NO. 86**

An Act to repeal sections 135.327 and 135.1150, RSMo, and to enact in lieu thereof two new sections relating to tax credits, with an emergency clause for a certain section.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Coleman	Crowell	Engler
Gibbons	Goodman	Graham	Green
Griesheimer	Gross	Kennedy	Koster
Lager	Loudon	Mayer	McKenna
Nodler	Purgason	Ridgeway	Rupp
Scott	Shields	Shoemyer	Smith
Vogel	Wilson—30		

NAYS—Senators—None

Absent—Senators
 Clemens Justus Stouffer—3

Absent with leave—Senator Days—1

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan
Champion	Coleman	Crowell	Engler
Gibbons	Goodman	Graham	Green
Griesheimer	Gross	Kennedy	Koster
Lager	Loudon	Mayer	McKenna
Nodler	Purgason	Ridgeway	Rupp
Scott	Shields	Shoemyer	Smith
Stouffer	Vogel	Wilson—31	

NAYS—Senators—None

Absent—Senators

Clemens Justus—2

Absent with leave—Senator Days—1

Vacancies—None

On motion of Senator Champion, title to the bill was agreed to.

Senator Champion moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

Senator Purgason, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SCS** for **SB 299** and **SS** for **SCS** for **SB 616**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 299 and
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 616

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 299 and Senate Substitute for Senate Committee Substitute for Senate Bill No. 616, with House Amendments Nos. 1, 2, & 3, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 299 and Senate Substitute for Senate Committee Substitute for Senate Bill No. 616, as amended;

2. The Senate recede from its position on Senate Committee Substitute for Senate Bill No. 299 and Senate Substitute for Senate Committee Substitute for Senate Bill No. 616;

3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 299 and Senate Substitute for Senate Committee Substitute for Senate Bill No. 616, be Third Read and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Chuck Purgason	/s/ Steven Tilley
/s/ John E. Griesheimer	/s/ Bryan Pratt
/s/ Kevin Engler	/s/ Shannon Cooper
/s/ Ryan McKenna	/s/ Thomas A. Villa
/s/ Yvonne S. Wilson	/s/ Mike Talbo

Senator Purgason moved that the above conference committee report be adopted, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Champion
Clemens	Coleman	Crowell	Engler
Gibbons	Goodman	Graham	Green
Griesheimer	Kennedy	Koster	Lager
Mayer	McKenna	Nodler	Ridgeway
Rupp	Shields	Shoemyer	Smith
Stouffer	Vogel	Wilson—27	

NAYS—Senators

Bartle	Gross	Loudon	Purgason
Scott—5			

Absent—Senator Justus—1

Absent with leave—Senator Days—1

Vacancies—None

On motion of Senator Purgason, **CCS** for **HCS** for **SCS** for **SB 299** and **SS** for **SCS** for **SB 616**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 299 and
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 616

An Act to repeal sections 311.070, 311.174,

311.178, 311.180, 311.190, 311.240, 311.275, 311.420, and 311.462, RSMo, and to enact in lieu thereof fourteen new sections relating to liquor control, with penalty provisions.

Was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Clemens
Coleman	Crowell	Engler	Gibbons
Goodman	Graham	Green	Griesheimer
Kennedy	Koster	Lager	Mayer
McKenna	Nodler	Ridgeway	Rupp
Shields	Shoemyer	Smith	Stouffer
Vogel	Wilson—26		

NAYS—Senators

Bartle	Champion	Gross	Loudon
Purgason	Scott—6		

Absent—Senator Justus—1

Absent with leave—Senator Days—1

Vacancies—None

The President declared the bill passed.

On motion of Senator Purgason, title to the bill was agreed to.

Senator Purgason moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

MESSAGES FROM THE HOUSE

The following messages were received from

the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has granted the Senate further conference on **HCS** for **SB 582** as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SB 582**, as amended. Representatives: Sutherland, Stevenson, Cooper (120), Storch and Zweifel.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons reappointed the following conference committee to act with a like committee from the House on **HCS** for **SB 582**, as amended: Senators Shoemyer, Griesheimer, Nodler, Vogel and Callahan.

INTRODUCTIONS OF GUESTS

Senator Justus introduced to the Senate, the Physician of the Day, Dr. James E. Miller, M.D., Kansas City.

Senator Rupp introduced to the Senate, fourth grade students from Daniel Boone Elementary School, St. Charles County.

Senator Coleman introduced to the Senate, Mary and Kristine Murphy, St. Louis.

On motion of Senator Shields, the Senate adjourned until 9:00 a.m., Friday, May 18, 2007.

SENATE CALENDAR

SEVENTY-FOURTH DAY—FRIDAY, MAY 18, 2007

FORMAL CALENDAR

SENATE BILLS FOR PERFECTION

1. SB 571-Mayer, with SCS

2. SB 652-Coleman and Gibbons, with SCS

3. SB 699-Lager, with SCS
4. SB 11-Coleman, with SCS
5. SB 536-Lager, with SCS
6. SB 552-Bartle
7. SB 484-Stouffer, with SCS

8. SBs 348, 626 & 461-Koster, et al, with SCS
9. SJR 15-Green
10. SB 629-Smith, with SCS
11. SB 122-Bray and Days, with SCS
12. SB 491-Ridgeway

HOUSE BILLS ON THIRD READING

HCS for HB 891 (Kennedy)

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SS for SB 303-Loudon
SS#4 for SCS for SB 430-Shields

SS for SB 570-Clemens

SENATE BILLS FOR PERFECTION

SB 2-Gibbons, with SCS
SB 17-Shields, with SCS
SB 20-Griesheimer, with SCS
SB 27-Bartle and Koster
SB 53-Koster and Engler, with SCS
SB 101-Mayer
SB 131-Rupp
SB 153-Engler, et al, with SCS
SB 155-Engler, with SCS & SS for SCS
(pending)
SB 160-Rupp, with SCS
SB 168-Mayer and Crowell, with SCS, SS
for SCS & SA 1 (pending)
SB 169-Rupp, with SCS, SS for SCS & SA 3
(pending)
SB 205-Stouffer and Gibbons, with SCS
SB 212-Goodman
SB 213-McKenna
SB 242-Nodler, with SCS
SB 250-Ridgeway and Vogel
SB 252-Ridgeway and McKenna
SB 254-Nodler, et al, with SCS
SBs 260 & 71-Koster, et al, with SCS
SB 274-Shields

SB 282-Griesheimer, with SCS & SS for
SCS (pending)
SB 287-Crowell and Vogel, with SS (pending)
SB 292-Mayer
SB 297-Loudon, with SCS
SB 300-Bartle
SB 341-Goodman, with SCS
SB 363-Bartle
SB 364-Koster, with SCS, SS for SCS,
SA 1 & SSA 1 for SA 1 (pending)
SBs 370, 375 & 432-Scott and Koster,
with SCS & SA 5 (pending)
SBs 372 & 366-Justus and Koster, with SCS
SB 385-Gibbons, with SCS
SB 388-Mayer, with SCS
SB 400-Crowell, et al
SB 444-Goodman
SB 453-Scott, with SCS
SB 458-Gibbons
SB 476-Crowell
SB 480-Ridgeway, et al, with SCS
SB 492-Crowell
SB 499-Engler and Clemens, with SCS
SB 511-Scott, with SCS

SB 521-Lager, et al, with SCS	SB 586-Crowell, with SCS
SB 523-Scott, with SCS	SB 592-Scott, with SCS
SB 531-Gibbons, with SCS	SB 599-Engler, with SCS
SB 534-Nodler	SB 627-Ridgeway
SB 537-Lager	SB 635-Loudon, with SCS
SB 542-Scott, with SCS	SB 644-Griesheimer
SBs 555 & 38-Gibbons, with SCS	SBs 660, 553, 557, 167, 258, 114 &
SB 563-Lager, with SCS & SS for SCS	378-Mayer, with SCS
(pending)	SB 698-Ridgeway, et al, with SCS
SB 572-Vogel	

HOUSE BILLS ON THIRD READING

HCS for HB 39, with SCS (Koster)	HB 482-Walton, et al (Goodman)
HB 42-Portwood, with SCS (Koster)	HB 489-Baker (123), et al, with SCS (Shields)
HB 46-Viebrock and Stevenson (Stouffer)	HB 526-Pratt (Loudon)
HB 70-Day, et al (Rupp)	HB 527-Cooper (120) (Scott)
HCS for HB 74 (Scott)	HCS for HB 551, with SCS & SS for SCS
HCS for HB 135, with SCS (Koster)	(pending) (Koster)
HB 155-Dusenberg, et al (Ridgeway)	HCS for HB 620, with SCS (Ridgeway)
HCS for HB 165, with SCS (Griesheimer)	HB 647-Young, et al (Clemens)
HB 213-Cunningham (86), et al, with SCS	HCS for HB 774 (Crowell)
(Rupp)	HCS for HB 827, with SCS (Justus)
HCS for HB 227 (Mayer)	HCS for HB 845 (Crowell)
HCS for HB 245 (Stouffer)	HB 875-Franz, with SCS (Crowell)
SS for HB 265-Cunningham (86) (Rupp)	HCS for HB 894, with SCS & SS for SCS
HB 267-Jones (117) and Cunningham (86),	(pending) (Days)
with SA 5 (pending) (Rupp)	HCS for HB 914 (Scott), with SS & SA 5
HB 269-Nolte, et al (Ridgeway)	(pending)
HCS for HB 338, with SCS (Engler)	HB 1014-Wright, et al, with SCS (Mayer)
HCS for HB 346 (Clemens)	HCS for HB 1055, with SCA 1 (Scott)
HB 454-Jetton, et al (Mayer)	HCS for HJR 1, with SCS (Rupp)
HCS for HB 457, with SCS (Griesheimer)	HJR 7-Nieves, et al, with SCS (pending)
HB 462-Munzlinger, et al (Purgason)	(Engler)
HCS for HB 469, with SCS (Crowell)	HJR 19-Bearden, et al (Ridgeway)

CONSENT CALENDAR

Senate Bills

Reported 2/8

SB 211-Goodman

Reported 2/15

SB 8-Kennedy

Reported 3/8

SB 185-Green

SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 384-Coleman and Gibbons, with
HCS, as amended

SB 666-Scott, with HCS, as amended

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

SS for SCS for SB 3-Gibbons, with HCS#2,
as amended

(Senate adopted CCR and passed CCS)

SS for SCS for SB 22-Griesheimer, with
HCS, as amended

(Senate adopted CCR#2 and passed CCS, as
amended)

SCS for SB 86-Champion, with HCS, as
amended

(Senate adopted CCR#2 and passed CCS#2)

SCS for SB 156-Engler, with HCS,
as amended

(Senate requests House grant further
conference)

SCS for SB 299 & SS for SCS for SB
616-Purgason, with HCS, as amended

(Senate adopted CCR and passed CCS)

SCS for SB 308-Crowell, et al, with HCS,
as amended

(Senate adopted CCR#2 and passed CCS#2)

SCS for SB 313-Scott, with HCS#2,
as amended

SB 406-Crowell, with HCS#2, as amended

(Senate adopted CCR#2 and passed CCS#2)

SS for SCS for SB 429-Gibbons, with HCS,
as amended

SB 516-Goodman, with HCS, as amended

SS for SCS for SB 577-Shields, with HCS,
as amended

SB 582-Shoemyer, with HCS, as amended

(Further conference granted)

HCS for HB 159, with SCS (Engler)

HB 255-Bruns, with SS for SCS, as
amended (Vogel)

HB 488-Wasson, with SA 1 (Stouffer)

(House adopted CCR and passed CCS)

HB 665-Ervin, et al, with SS, as amended
(Ridgeway)

RESOLUTIONS

Reported from Committee

HCR 15-Threlkeld, et al, with SCS (Shields)

SCR 10-Koster and Shields

HCR 25-Yates, et al (Bartle)
HCR 8-Loehner, et al (Barnitz)
SCR 9-Crowell

SCR 20-Crowell
HCR 17-Fisher, et al (Scott)
SR 1360-Justus

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