

Journal of the Senate

SECOND REGULAR SESSION

SIXTY-NINTH DAY—THURSDAY, MAY 15, 2008

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“The true contemplative is one who has discovered the art of finding leisure even in the midst of his work, by working with such a spirit of detachment and recollection that even his work is a prayer.” (Thomas Merton)

Almighty God, as we face these final two days there is much to do and many bills we are not familiar with and long hours to sit and listen and debates to enter in and decisions to be made. May we discover the art of finding leisure in the midst of it that our souls may be at rest, our bodies calm and our heart at peace as we seek to be at peace with those we serve with here. May our faith have confidence that we will please You as we follow the path You lead 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	Dempsey	Engler	Gibbons	Goodman	Graham	Green	Griesheimer
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 Gibbons offered Senate Resolution No. 2748, regarding Emily Kiddoo and Emily Wright, which was adopted.

Senator Lager offered Senate Resolution No. 2749, regarding Caleb Spire, Ravenwood, which was adopted.

Senator Shields offered Senate Resolution No. 2750, regarding Tom Brandt, Overland Park, Kansas, which was adopted.

Senator Shields offered Senate Resolution No. 2751, regarding Natalie Bailey, Sedalia, which was adopted.

Senator Bartle offered Senate Resolution No. 2752, regarding Marissa Walsh, which was adopted.

Senator Barnitz offered Senate Resolution No. 2753, regarding Omar “Lee” Herndon, Linn, which was adopted.

Senator Barnitz offered Senate Resolution No. 2754, regarding the Eightieth Birthday of Margaret Viessman, Vienna, which was adopted.

Senator Barnitz offered Senate Resolution No. 2755, regarding the Ninety-fifth Birthday of Dr. John B. Morgan, Rolla, which was adopted.

Senator Barnitz offered Senate Resolution No. 2756, regarding Army Specialist Thomas James Herrera, Saint Robert, which was adopted.

Senators Shoemyer and Coleman offered Senate Resolution No. 2757, regarding Colleen Coble, which was adopted.

Senator Scott offered Senate Resolution No. 2758, regarding Jay R. Hahn, which was adopted.

On motion of Senator Shields, the Senate recessed until 11:20 a.m.

RECESS

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

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 was referred **SS** for **HCS** for **HBs 1549, 1771, 1395** and **2366**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **HCS** for **HJR 70**, begs leave to report that it has considered the same and recommends that the joint resolution do pass.

Senator Shields requested unanimous consent of the Senate to allow members of the State Water Patrol to enter the Chamber with side arms, which request was granted.

HOUSE BILLS ON THIRD READING

Senator Rupp moved that **SS** for **HCS** for **HBs 1549, 1771, 1395** and **2366**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SS for **HCS** for **HBs 1549, 1771, 1395** and **2366**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Callahan	Champion	Clemens	Crowell	Dempsey	Engler
Gibbons	Goodman	Graham	Green	Griesheimer	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason	Ridgeway	Rupp	Scott	Shields
Shoemyer	Stouffer	Vogel—27					

NAYS—Senators

Bray	Coleman	Days	Justus	Kennedy	Smith	Wilson—7
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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	Callahan	Champion	Clemens	Crowell	Dempsey	Engler
Gibbons	Goodman	Graham	Green	Griesheimer	Koster	Lager	Loudon
Mayer	McKenna	Nodler	Purgason	Ridgeway	Rupp	Scott	Shields
Shoemyer	Stouffer	Vogel—27					

NAYS—Senators

Bray	Coleman	Days	Justus	Kennedy	Smith	Wilson—7
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Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

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.

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 **SCS** for **SB 765**, entitled:

An Act to repeal sections 72.080 and 311.060, RSMo, and to enact in lieu thereof twelve new sections relating to political subdivisions, with penalty provisions and an emergency clause for a certain section.

With Part 1 and Part 3 of **HCS** adopted.

Emergency clause adopted.

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 **SB 999**.

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 passed **HCS** for **SCS** for **SB 1008**, entitled:

An Act to repeal sections 354.536, 376.426, 376.450, 376.453, 376.776, 376.960, 376.966, 379.118, 379.930, 379.940, and 379.952, RSMo, and to enact in lieu thereof thirteen new sections relating to health insurance.

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 **SCS** for **SB 1009**.

Emergency clause adopted.

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 passed **SB 1190**.

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 passed **SB 1016**.

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 passed **HCS** for **SCS** for **SB 1033**, entitled:

An Act to repeal section 49.292, RSMo, and to enact in lieu thereof one new section relating to

transfers of real property to counties.

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 **SB 1002**, entitled:

An Act to repeal section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, and to enact in lieu thereof one new section relating to zoning violation remedies, with penalty provisions.

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 **SCS** for **SB 1044**.

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 passed **SB 1061**.

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 passed **SB 1073**.

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 passed **HCS** for **SCS** for **SB 1131**, entitled:

An Act to repeal sections 94.577, 94.600, and 94.605, RSMo, and to enact in lieu thereof three new sections relating to transportation sales taxes.

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 **SCS** for **SB 1150**.

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 passed **HCS** for **SCS** for **SBs 1153, 1154, 1155** and **1156**, entitled:

An Act to repeal sections 57.967, 57.980, 70.695, 70.710, 70.720, 70.730, 169.020, 169.040, 169.056, 169.070, 169.090, 169.130, 169.630, 169.650, 169.655, 169.670, and 169.690, RSMo, and to enact in lieu thereof eighteen new sections relating to retirement.

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 **SB 1177**.

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 passed **SB 1187**.

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 passed **HCS** for **SB 1135**, entitled:

An Act to repeal section 88.917, RSMo, and to enact in lieu thereof one new section relating to street grading in cities.

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 **SCS** for **SB 1235**.

Bill ordered enrolled.

PRIVILEGED MOTIONS

Senator Goodman moved that **SCS** for **SB 765**, with **HCS** (Part I and Part III), be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SCS** for **SB 765** (Part I and Part III), entitled:

HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 765

An Act to repeal sections 72.080 and 311.060, RSMo, and to enact in lieu thereof twelve new sections relating to political subdivisions, with penalty provisions and an emergency clause for a certain section.

Was taken up.

Senator Goodman moved that **HCS** for **SCS** for **SB 765** (Part I and Part III) be adopted.

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

Senator Goodman moved that the Senate refuse to concur in Part I and Part III of **HCS** for **SCS** for **SB 765** 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 **HB 1722**, with **SCS**, entitled:

An Act to repeal sections 160.261, 160.660, 161.650, 167.020, 167.022, 167.023, 167.029, 167.115, 167.161, 167.164, 167.621, 167.624, 167.627, 167.630, 168.133, and 210.102, and to enact in lieu thereof seventeen new sections relating to school protection measures.

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

SCS for **HCS** for **HB 1722**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1722

An Act to repeal sections 105.711, 160.261, 160.545, 160.660, 160.730, 160.775, 161.650, 162.675, 162.730, 162.740, 162.755, 162.780, 162.785, 162.810, 162.961, 162.963, 163.011, 167.020, 167.022, 167.023, 167.029, 167.115, 167.161, 167.164, 167.621, 167.624, 167.627, 167.630, 168.133, 168.520, 169.010, 170.011, 173.256, 173.258, and 210.102, and to enact in lieu thereof forty-seven new sections relating to elementary and secondary education, with penalty provisions and an emergency clause for certain sections.

Was taken up.

Senator Mayer moved that **SCS** for **HCS** for **HB 1722** be adopted.

Senator Mayer offered **SS** for **SCS** for **HCS** for **HB 1722**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1722

An Act to repeal sections 160.261, 160.545, 160.660, 160.730, 160.775, 161.650, 162.675, 162.720, 162.730, 162.740, 162.755, 162.780, 162.785, 162.810, 162.961, 162.963, 163.011, 167.020, 167.022, 167.023, 167.029, 167.115, 167.161, 167.164, 167.621, 167.624, 167.627, 167.630, 168.133, 168.520, 169.010, 170.011, 171.031, 173.256, 173.258, 177.088, and 210.102, RSMo, and to enact in lieu thereof forty-eight new sections relating to elementary and secondary education, with penalty provisions and an emergency clause for certain sections.

Senator Mayer moved that **SS** for **SCS** for **HCS** for **HB 1722** be adopted.

At the request of Senator Mayer, **HCS** for **HB 1722**, with **SCS** and **SS** for **SCS** (pending), was placed on the Informal Calendar.

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 No. 2** for **SB 976**, entitled:

An Act to repeal sections 1.020, 28.160, 41.950, 49.292, 57.280, 58.451, 58.720, 137.122, 167.031, 168.133, 191.225, 194.119, 195.017, 211.021, 211.031, 211.033, 211.034, 211.041, 211.061, 211.071, 211.091, 211.321, 217.450, 217.827, 217.831, 226.095, 287.067, 290.505, 302.341, 347.179, 351.047, 351.120, 351.125, 351.127, 351.145, 351.155, 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, 359.681, 362.550, 386.266, 417.011, 417.016, 417.018, 417.026, 417.031, 417.046, 417.210, 427.225, 429.015, 452.305, 452.310, 452.343, 452.377, 452.380, 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, 454.850, 454.855, 454.857, 454.860, 454.867, 454.869, 454.871, 454.874, 454.877, 454.880, 454.885, 454.887, 454.890, 454.892, 454.895, 454.897, 454.902, 454.905, 454.907, 454.912, 454.917, 454.920, 454.927, 454.930, 454.932, 454.934, 454.936, 454.943, 454.946, 454.951, 454.956, 454.958, 454.963, 454.971, 454.973, 454.976, 454.983, 454.989, 454.991, 454.993, 455.005, 455.513, 456.5-505, 456.8-802, 456.8-816, 476.083, 477.600, 478.387, 478.437, 478.463, 478.466, 478.513, 478.750, 479.260, 488.012, 488.429, 488.435, 488.5025, 494.430, 514.040, 517.041, 536.024, 536.037, 537.528, 537.675, 559.115, 565.084, 566.226, 575.070, 595.045, 610.010, 621.250, 640.013, and 650.350, RSMo, sections 317.006, 317.011 and 317.015 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780 merged with conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, and section 454.516 as enacted by senate substitute for senate committee substitute for house bill no. 2008, ninety-first general assembly, second regular session and section 454.516 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 895, ninety-first general assembly, second regular session, and to enact in lieu thereof two hundred forty-five new sections relating to judicial procedure and personnel, with penalty provisions and an emergency clause for certain sections.

With House Amendment No. 1 to House Amendment No. 1, House Amendment No. 1, as amended, House Amendment No. 1 to House Amendment No. 2, House Amendment No. 2, as amended, House Amendment Nos. 3, 4, 5 and 6, House Amendment No. 1 to House Substitute Amendment No. 1 for House Amendment No. 7, House Substitute Amendment No. 1 for House Amendment No. 7, as amended, House Amendment Nos. 8 and 9.

**HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 1**

Amend House Amendment No. 1 to House Committee Substitute No. 2 for Senate Bill No. 976, Page 58, Line 1 by inserting after all of said Line the following:

“Further amend said bill, Sections 290.505 and 290.531, Pages 57 through 58 by removing all of said Sections from the bill; and” ;and

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

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute No. 2 for Senate Bill 976, Page 56, Section 217.831, Line 20, by inserting after all of said Line, the following:

“233.155. 1. Whenever the inhabitants of any special road district already formed under sections 233.010 to 233.165 shall desire to extend the boundaries of such district to take in territory not included in the original district, and shall present a petition to the county commission of the county in which such district is located, or if the proposed district is to include portions of more than one county, then to the county commissions of each of such counties, signed by not less than thirty-five voters in the old district and not less than fifty percent of the voters in the territory proposed to be taken into said district, asking the county commission or commissions of such county or counties to submit the proposition of the proposed extension of such road district to a vote of the people of such proposed district for their adoption or rejection, the county commission of such county, or if the proposed district shall include parts of more than one county, the county commissions of all such counties, shall each make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district.

2. The question shall be submitted in substantially the following form:

Shall the special road district be extended?

3. If the territory of more than one county be included in said special road district, the county commission of each county in said district shall, as soon as the returns are in from said election, cause a certificate to be made out stating the number of votes cast for and against said proposition in said county, and cause such certificate to be filed with the county clerk of the county commission of every other county which shall form a part of said special road district. If it shall appear from the returns of said county and from said certificate that a majority of the votes cast upon the proposition in the whole proposed district be in favor of the extension of said road district, the county commission or county commissions in said proposed district shall declare the result of the vote thereon in said proposed district by an order of record, and shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election.

4. If any territory added to any such original district be in any county outside of the county of such original district, each county outside of such original district may appoint one road commissioner to act with the commissioners appointed in the county of the original district. Such commissioners so appointed outside of the county of the original district shall serve for a term of three years from the date of such appointment, and until their successors shall be appointed and qualified. Such commissioners shall be voters of such added territory in such county of their appointment. Except as herein provided, such commissioners shall be governed by sections 233.010 to 233.165. No change shall be made in the number of commissioners appointed by the county of the original district or in the manner of their appointment. **In any special road district located in two counties with an additional fourth commissioner appointed by the county outside of the original district as provided in this subsection, a fifth commissioner may be appointed by the same county that appointed the fourth commissioner. Except as herein provided, a fifth commissioner shall be governed by sections 233.010 to 233.165, shall serve for a term of three years from the date of the appointment and until the fifth commissioner's successor shall be appointed and qualified, and shall be a voter of the county of appointment.**

5. If a majority of the votes of the proposed district, as extended, be cast in favor of such extension,

then the territory of such district, as extended, shall be governed by sections 233.010 to 233.165. But if such extension proposition shall not receive a majority of the votes of said district, as extended, then said special road district shall remain as it was before said petition was filed. Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than seventeen miles square.”; and

Further amend said Bill, Page 56, Section 267.165, Lines 1-9, by deleting all of said Lines from the Bill; and

Further amend said Bill, Pages 110-111, Section 452.305, Lines 1-23, by deleting all of said Lines from the Bill; and

Further amend said Bill, Pages 111-114, Section 452.310, Lines 1-106, by deleting all of said Lines from the Bill; and

Further amend said Bill, Page 176, Section 478.387, Line 3, by deleting the word “**six**” and inserting in lieu thereof the word “**four**”; and

Further amend said Bill, Page 176, Section 478.387, Lines 4-6 by deleting all of said Lines and inserting in lieu thereof the following:

“Such reduction shall be the first four vacancies until the number of circuit judges is reduced by four.”; and

Further amend said Bill, Page 176, Section 478.437, Line 5, by deleting the word “**two**” and inserting in lieu thereof the word “**one**”; and

Further amend said Bill, Page 176, Section 478.437, Line 5, by deleting the word “**judges**” and inserting in lieu thereof the word “**judge**”; and

Further amend said Bill, Page 176, Section 478.437, Line 6, by inserting after all of said Line, the following:

“Such additional associate circuit court judge shall sit in the county of Lincoln.”; and

Further amend said Bill, Page 178, Section 478.750, Lines 5-6, by deleting all of said Lines and inserting in lieu thereof, the following:

“one circuit judge. Such reduction shall be in division 2 and shall take effect upon the vacancy or completion of the current term of such circuit judge occurring on or after the effective date of this section.”; and

Further amend said Bill, Page 178, Section 478.755, Line 3, by inserting after all of said Line, the following:

“Such additional associate circuit court judge shall sit in the county of Lawrence.”; and

Further amend said Bill, Page 178, Section 478.760, Line 3, by inserting after all of said Line, the following:

“Such additional associate circuit court judge shall sit in the county of Newton.”; and

Further amend said Bill, Page 187, Section 514.040, Line 30, by inserting after all of said Line, the following:

“516.190. 1. Whenever a cause of action has been fully barred by the laws of the state, territory or country in which it originated, said bar shall be a complete defense to any action thereon, brought in any of the courts of this state.

2. Notwithstanding any other provisions of law, and except for any judgment, order, or decree awarding child support or maintenance which mandates the making of payments over a period of time, whenever a judgment has been fully barred by the laws of the state, territory, or country in which it originated, such bar shall be a complete defense to any action to enforce or revive a judgment registered thereon in this state pursuant to section 511.760, RSMo, or any other statute, or to any action to enforce or revive any judgment obtained pursuant to an action to enforce that original judgment, and no execution, order, or process shall issue thereon, nor shall any suit be brought, had, or maintained thereon for any purpose whatsoever. Such bar shall be a complete defense to the enforcement of any lien resulting from any such judgment and shall cause said lien to expire and not be subject to revival.”; and

Further amend said Bill, Page 196, Section 575.070, Line 13, by inserting after all of said Line, the following:

“578.026. 1. A person performing a lawful seizure of any dog that is the subject of a violation of section 578.025, whether under the authority of a warrant or not, shall:

(1) Be given a disposition hearing within thirty days of the filing of the request for the purpose of granting immediate disposition of the dogs impounded;

(2) Place impounded dogs in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the dog shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose;

(3) Humanely kill any dog impounded if it is determined by a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose;

(4) Not be liable for any necessary damage to property if the dog has been lawfully seized.

2. The owner or custodian or any person claiming an interest in any dog that has been impounded because of being the subject of a violation of section 578.025 may prevent disposition of the dog by posting bond or security in an amount sufficient to provide for the dog's care and keeping for at least thirty days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this subsection, the authority having custody of the animal may humanely dispose of the dog at the end of the time for which expenses are covered by the bond or security, unless there is a court order prohibiting such disposition. Such order shall provide for a bond or other security in the amount necessary to protect the authority having custody of the dog from any cost of the care, keeping or disposal of the dog. The authority taking custody of a dog shall give notice of the provisions of this section by posting a copy of this section at the place where the dog was taken into custody or by delivering it to a person residing on the property.

3. The owner or custodian of any dog humanely killed pursuant to this section shall not be entitled to recover any damages related to, nor the actual value of, the dog if the dog was found by a licensed veterinarian to be diseased or disabled, or if the owner or custodian failed to post bond or security for the care, keeping and disposition of the dog after being notified of impoundment.”; and

Further amend said Bill, Page 206, Section 640.013, Line 9, by inserting after all of said Line, the following:

“643.151. 1. It is unlawful for any person to cause or permit any air pollution by emission of any air contaminant from any air contaminant source located in Missouri, in violation of sections 643.010 to 643.190, or any rule promulgated by the commission.

2. No person who knows or should know of the existence of such rules may cause or permit any air pollution by emission of any air contaminant source located outside Missouri, and which emissions enter Missouri in excess of the emission control regulations applicable to the portion of Missouri where the air contaminant enters the state.

3. In the event the commission determines that any provision of sections 643.010 to 643.190, or the rules promulgated hereunder, permits issued, or any final order or determination made by the commission or the director is being violated, the commission may cause to have instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violation or for the assessment of a penalty not to exceed ten thousand dollars for each violation per day for each day, or part thereof, the violation continues to occur, or both, as the court may deem proper. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed under section 643.085. The commission may request the attorney general or other counsel to bring such action in the name of the people of the state of Missouri. Process may be served in any manner provided by chapter 506, RSMo, including but not limited to sections 506.510 and 506.520, RSMo. Suit may be brought in any county where the defendant's principal place of business is located or where the air contaminant source is located or where the air contaminants enter the state of Missouri. Any offer of settlement to resolve a civil penalty under this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department under authority of this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

4. Any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director determines to be in persistent violation of the provisions of this section or any odor rule promulgated by the department shall forfeit any permits issued by the department under sections 640.700 to 640.755, RSMo, this chapter, or chapter 644, RSMo, until such time that the concentrated animal feeding operation or recycling company that converts animal parts into petroleum successfully reapplies for a new permit. For the purposes of this subsection, the term “persistent violation” shall mean any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that has been found by the commission or the director to have violated the provisions of this section at least six times during any twelve-month period or at least twelve times during any thirty-six month period.

5. During any thirty-six month period, any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or director has found to have violated the provisions of this section on more than one occasion shall be subject to a surcharge in addition to the civil penalties assessed under subsection 3 of this section. The surcharge shall be an amount equal to the sum of the penalty assessed under subsection 3 of this section for the current citation plus all the fines assessed against the violator during the thirty-six month period prior to the date the citation was issued.

6. The proceeds of any surcharge assessed under subsection 5 of this section shall be deposited into the “Air Pollution Enforcement Fund”, which is hereby established and shall be administered by the department. One half of all moneys in the fund shall be utilized exclusively to enforce the provisions of this section and one half of all moneys in the fund shall be transferred at least annually to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo.

7. Notwithstanding the provisions of section 33.080, RSMo, moneys in the air pollution enforcement fund shall not revert to general revenue. The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to general revenue.

8. Any member of the commission or employee thereof who is convicted of willful disclosure or conspiracy to disclose confidential information to any person other than one entitled to the information under sections 643.010 to 643.190 is guilty of a class A misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars.

[5.] **9.** No liability shall be imposed upon persons violating the provisions of sections 643.010 to 643.190 or any rule hereunder due to any violation caused by an act of God, war, strike, riot or other catastrophe.

644.076. 1. It is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission. In the event the commission or the director determines that any provision of sections 644.006 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits issued by, or any final abatement order, other order, or determination made by the commission or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other provision which this state is required to enforce pursuant to any federal water pollution control act, is being, was, or is in imminent danger of being violated, the commission or director may cause to have instituted a civil action in any court of competent jurisdiction for the injunctive relief to prevent any such violation or further violation or for the assessment of a penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 644.079. The commission, the chair of a watershed district's board of trustees created under section 249.1150, RSMo, or the director may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit may be brought in any county where the defendant's principal place of business is located or where the water contaminant or point source is located or was located at the time the violation occurred. Any offer of settlement to resolve a civil penalty pursuant to this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department pursuant to this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director determines to be in persistent violation of the provisions of this section shall forfeit any permits issued by the department under sections 640.700

to 640.755, RSMo, chapter 643, RSMo, or chapter 644, until such time the concentrated animal feeding operation or recycling company that converts animal parts into petroleum successfully reapplies for a new permit. For the purposes of this subsection, the term “persistent violation” shall mean any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director has found to have violated the provisions of this section at least six times during any twelve-month period or at least twelve times during any thirty-six month period.

3. During any thirty-six month period, any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or director has found to have violated the provisions of this section on more than one occasion shall be subject to a surcharge in addition to the civil penalties assessed under subsection 1 of this section. The surcharge shall be an amount equal to the sum of the penalty assessed under subsection 1 of this section for the current citation plus all the fines assessed against the violator during the thirty-six month period prior to the date the citation was issued.

4. The proceeds of any surcharge assessed under subsection 3 of this section shall be deposited into the “Water Pollution Enforcement Fund”, which is hereby established and shall be administered by the department. One half of all moneys in the fund shall be utilized exclusively to enforce the provisions of this section, and one half of all the moneys in the fund shall be transferred at least annually to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo.

5. Notwithstanding the provisions of section 33.080, RSMo, moneys in the water pollution enforcement fund shall not revert to general revenue. The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to general revenue.

6. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to sections 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months, or by both.

[3.] **7.** Any person who willfully or negligently commits any violation set forth pursuant to subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions for violation of the same provision of this section by any person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

[4.] **8.** The liabilities which shall be imposed pursuant to any provision of sections 644.006 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard, rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation caused by an act of God, war, strike, riot, or other catastrophe.”; and

Further amend said Bill, Pages 210, Section 6, Lines 4-8, by deleting all of said Lines and inserting in lieu thereof the following:

“(2) **“Health carrier”**, the same meaning as such term is defined in section 376.1350, RSMo; except when such health care services are provided, delivered, arranged for, paid for, or reimbursed by the MO HealthNet division within the department of social services or the department of mental health;

(3) **“Pharmacy benefit manager” or “PBM”**, a person or entity other than a pharmacy or pharmacist acting as an administrator in connection with pharmacy benefits; except when such pharmacy services are provided, delivered, arranged for, paid for, or reimbursed by the MO HealthNet division within the department of social services or the department of mental health;”; and

Further amend said Bill, Page 213, Section 8, Line 23, by inserting after all of said Line, the following:

“Section 9. Notwithstanding any other provision of law, any electrical corporation as defined by subdivision 15 of section 386.020, RSMo, which, by January 20, 2009, achieves an amount of eligible renewable energy technology nameplate capacity equal to or greater than fifteen percent of such corporation's total owned fossil-fired generating capacity, shall be exempt thereafter from a requirement to pay any subsidy, fee, or rebate to its customers that install their own solar electric energy system and shall be exempt from meeting any non-federal mandated renewable energy standard requirements. Any disputes or denial of exemptions under this section shall be reviewable by the circuit court of Cole County as prescribed by law.”; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 2

Amend House Amendment No. 2 to House Committee Substitute No. 2 for Senate Bill No. 976, Page 1, Line 5 by inserting after the word **“Missouri”** the following **“for no less than three hundred thousand dollars”**; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute No. 2 for Senate Bill No. 976, Page 213, Section 8, Line 23, by inserting after all of said Line, the following:

“Section 9. 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Joplin Regional Center, located in Jasper County, Joplin Missouri. The property to be conveyed is more particularly described as follows:

A tract of land lying in the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 31, Township 28, Range 32, Jasper County, Missouri, and described by the following metes and bounds: beginning at the Southwest corner of the above described Southwest Quarter (1/4) of the Southeast (1/4) of Section 31; thence North along the West line thereof 670.0 Feet; thence East with an angle of 90 degrees with the said West line 450.0 Feet to a point; thence South parallel to said West line 140.0 Feet; thence South 56 degrees East for a distance of 415.0 Feet to a point; thence South 290.0 Feet to the South line of said Southwest Quarter

(1/4) of the Southeast Quarter (1/4); thence West along said South line 800.0 Feet to point of beginning, containing ten and two-tenths (10.2) acres, more or less, except a strip of land fifty feet wide East and West off of the West side thereof, the same being reserved for road purposes.

2. The conveyance of the property described in this section shall not occur until the Joplin Regional Center is relocated from the property described in this section to different property.

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve the form of the instrument of conveyance.”; 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 Bill No. 976, Section 566.226, Page 195, Line 15, by inserting after all of said section the following:

“573.525. 1. It is the purpose of sections 573.525 to 573.537 to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of this state, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the state. The provisions of sections 573.525 to 573.537 have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of sections 573.525 to 573.537 to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of sections 573.525 to 573.537 to condone or legitimize the distribution of obscene material.

2. The general assembly finds that:

(1) Sexually oriented businesses, as a category of commercial enterprises, are associated with a wide variety of adverse secondary effects, including but not limited to personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation;

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area;

(3) Each of the foregoing negative secondary effects constitutes a harm which the state has a substantial interest in preventing and/or abating. Such substantial government interest in preventing secondary effects, which is the state's rationale for sections 573.525 to 573.537, exists independent of any comparative analysis between sexually oriented and nonsexually oriented businesses. Additionally, the state's interest in regulating sexually oriented businesses extends to preventing

future secondary effects of current or future sexually oriented businesses that may locate in the state.

573.528. For purposes of sections 573.525 to 573.537, the following terms shall mean:

(1) “Adult bookstore” or “adult video store”, a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A “principal business activity” exists where the commercial establishment:

(a) Has a substantial portion of its displayed merchandise which consists of such items; or

(b) Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or

(c) Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or

(d) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of such items; or

(e) Maintains a substantial section of its interior business space for the sale or rental of such items; or

(f) Maintains an adult arcade. “Adult arcade” means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas;

(2) “Adult cabaret”, a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude;

(3) “Adult motion picture theater”, a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration;

(4) “Characterized by”, describing the essential character or dominant theme of an item. As applied in sections 573.525 to 573.537, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America;

(5) “Employ”, “employee” or “employment”, describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises;

(6) “Establish” or “establishment”, any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business;

(7) “Influential interest”, any of the following:

(a) The actual power to operate the sexually oriented business or control the operation, management, or policies of the sexually oriented business or legal entity which operates the sexually oriented business;

(b) Ownership of a financial interest of thirty percent or more of a business or of any class of voting securities of a business; or

(c) Holding an office, such as president, vice president, secretary, treasurer, managing member, or managing director, in a legal entity which operates the sexually oriented business;

(8) “Nudity” or “state of nudity”, the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola;

(9) “Operator”, any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business;

(10) “Premises”, the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license;

(11) “Regularly”, the consistent and repeated doing of the act so described;

(12) “Semi-nude” or “state of semi-nudity”, the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part;

(13) “Semi-nude model studio”, a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class;

(14) “Sexual encounter center”, a business or commercial enterprise that, as one of its principal purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude;

(15) “Sexually oriented business”, an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, or a sexual encounter center;

(16) “Specified anatomical areas”:

(a) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered;

(17) “Specified criminal act”, any of the following specified offenses for which less than eight years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:

(a) Rape and sexual assault offenses;

(b) Sexual offenses involving minors;

(c) Offenses involving prostitution;

(d) Obscenity offenses;

(e) Offenses involving money laundering;

(f) Offenses involving tax evasion;

(g) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in paragraphs (a) to (f) of this subdivision; or

(h) Any offense committed in another jurisdiction which if committed in this state would have constituted an offense listed in paragraphs (a) to (g) of this subdivision;

(18) “Specified sexual activity”, any of the following:

(a) Intercourse, oral copulation, masturbation, or sodomy; or

(b) Excretory functions as a part of or in connection with any of the activities describe in paragraph (a) of this subdivision;

(19) “Substantial”, at least thirty percent of the item or items so modified;

(20) “Viewing room”, the room, booth, or area where a patron of a sexually oriented business

would ordinarily be positioned while watching a film, video cassette, digital video disc, or other video reproduction.

573.531. 1. No person shall establish a sexually oriented business within one thousand feet of any preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business. This subsection shall not apply to any sexually oriented business lawfully established prior to the effective date of sections 573.525 to 573.537. For purposes of this subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the closest portion of the parcel containing the sexually oriented business to the closest portion of the parcel containing the preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business.

2. No person shall establish a sexually oriented business if a person with an influential interest in the sexually oriented business has been convicted of or pled guilty or nolo contendere to a specified criminal act.

3. No person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.

4. No employee shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain on a fixed stage at least six feet from all patrons and at least eighteen inches from the floor in a room of at least six hundred square feet.

5. No employee who appears in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

6. A sexually oriented business which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;

(2) An operator's station shall not exceed thirty-two square feet of floor area;

(3) If the premises has two or more operator's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations;

(4) The view required under this subsection shall be by direct line of sight from the operator's station;

(5) It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and

(6) It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls,

merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

7. Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of sections 573.525 to 573.537 shall be given one hundred eighty days after the effective date of sections 573.525 to 573.537 to comply with the stage and building requirements of sections 573.525 to 573.537. During such one-hundred-eighty-day period, any employee who appears within view of any patron in a semi-nude condition shall remain, while semi-nude, at least six feet from all patrons.

8. No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day.

9. No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

10. No person shall knowingly allow a person under the age of eighteen years on the premises of a sexually oriented business.

573.534. Sections 573.525 to 573.537 do not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of sections 573.525 to 573.537. Notwithstanding any other provision of law to the contrary, for purposes of sections 573.525 to 573.537, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of sections 573.525 to 573.537 only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

573.537. 1. Any person, business, or entity violating or refusing to comply with any provision of sections 573.525 to 573.537 shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by imposition of a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed ninety days, or both. Each day that a violation is permitted to exist or occur, and each separate occurrence shall constitute a separate offense.

2. Any premises, building, dwelling, or other structure in which a sexually oriented business is repeatedly operated or maintained in violation of sections 573.525 to 573.537 shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the state in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

3. Notwithstanding the provisions of this section, the state may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of sections 573.525 to 573.537.

573.540. Nothing in sections 573.525 to 573.537 shall preempt or prevent any political subdivision in this state from maintaining, enacting, or enforcing any local ordinance, rule, regulation, resolution, or similar law concerning the regulation of sexually oriented businesses or similar adult oriented businesses.”; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute No. 2 for Senate Bill No. 976, Page 194, Section 559.115, Line 69, by inserting after all of said Line, the following:

“565.005. 1. At a reasonable time before the commencement of the first stage of any trial of murder in the first degree, **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve**, at which the death penalty is not waived, the state and defendant, upon request and without order of the court, shall serve counsel of the opposing party with:

(1) A list of all aggravating or mitigating circumstances as provided in [subsection 1 of] section 565.032 **for murder in the first degree or section 565.415 for forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve**, which the party intends to prove at the second stage of the trial;

(2) The names of all persons whom the party intends to call as witnesses at the second stage of the trial;

(3) Copies or locations and custodian of any books, papers, documents, photographs or objects which the party intends to offer at the second stage of the trial. If copies of such materials are not supplied to opposing counsel, the party shall cause them to be made available for inspection and copying without order of the court.

2. The disclosures required in subsection 1 of this section are supplemental to those required by rules of the supreme court relating to a continuing duty to disclose information, the use of matters disclosed, matters not subject to disclosure, protective orders, and sanctions for failure to comply with an applicable discovery rule or order, all of which shall also apply to any disclosure required by this section.

565.006. 1. At any time before the commencement of the trial of a homicide [offense], **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve**, the defendant may, with the assent of the court, waive a trial by jury and agree to submit all issues in the case to the court, whose finding shall have the force and effect of a verdict of a jury. Such a waiver must include a waiver of a trial by jury of all issues and offenses charged in the case, including the punishment to be assessed and imposed if the defendant is found guilty.

2. No defendant who pleads guilty to a homicide [offense], **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve**, or who is found guilty of a homicide [offense], **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve** after trial to the court without a jury shall be permitted a trial by jury on the issue of the punishment to be imposed, except by agreement of the state.

3. If a defendant is found guilty of murder in the first degree, **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve** after a jury trial in which the state has not waived the death penalty, the defendant may not waive a jury trial of the issue of the punishment to be imposed, except by agreement with the state and the court.

4. Any waiver of a jury trial and agreement permitted by this section shall be entered in the court record.

565.035. 1. Whenever the death penalty is imposed in any case, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the supreme court of Missouri. The circuit clerk of the court trying the case, within ten days after receiving the transcript, shall transmit the entire

record and transcript to the supreme court together with a notice prepared by the circuit clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report by the judge shall be in the form of a standard questionnaire prepared and supplied by the supreme court of Missouri.

2. The supreme court of Missouri shall consider the punishment as well as any errors enumerated by way of appeal.

3. With regard to the sentence, the supreme court shall determine:

(1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(2) Whether the evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection 2 of section 565.032 **or subsection 2 of section 565.435** and any other circumstance found;

(3) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime, the strength of the evidence and the defendant.

4. Both the defendant and the state shall have the right to submit briefs within the time provided by the supreme court, and to present oral argument to the supreme court.

5. The supreme court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the supreme court, with regard to review of death sentences, shall be authorized to:

(1) Affirm the sentence of death; or

(2) Set the sentence aside and resentence the defendant to life imprisonment without eligibility for probation, parole, or release except by act of the governor; or

(3) Set the sentence aside and remand the case for retrial of the punishment hearing. A new jury shall be selected or a jury may be waived by agreement of both parties and then the punishment trial shall proceed in accordance with this chapter, with the exception that the evidence of the guilty verdict shall be admissible in the new trial together with the official transcript of any testimony and evidence properly admitted in each stage of the original trial where relevant to determine punishment.

6. There shall be an assistant to the supreme court, who shall be an attorney appointed by the supreme court and who shall serve at the pleasure of the court. The court shall accumulate the records of all cases in which the sentence of death or life imprisonment without probation or parole was imposed after May 26, 1977, or such earlier date as the court may deem appropriate. The assistant shall provide the court with whatever extracted information the court desires with respect thereto, including but not limited to a synopsis or brief of the facts in the record concerning the crime and the defendant. The court shall be authorized to employ an appropriate staff, within the limits of appropriations made for that purpose, and such methods to compile such data as are deemed by the supreme court to be appropriate and relevant to the statutory questions concerning the validity of the sentence. The office of the assistant to the supreme court shall be attached to the office of the clerk of the supreme court for administrative purposes.

7. In addition to the mandatory sentence review, there shall be a right of direct appeal of the conviction to the supreme court of Missouri. This right of appeal may be waived by the defendant. If an appeal is taken,

the appeal and the sentence review shall be consolidated for consideration. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence.

565.040. 1. In the event that the death penalty provided in this chapter is held to be unconstitutional, any person convicted of murder in the first degree, **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve** shall be sentenced by the court to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for resentencing or retrial of the punishment pursuant to subsection 5 of section 565.036.

2. In the event that any death sentence imposed pursuant to this chapter is held to be unconstitutional, the trial court which previously sentenced the defendant to death shall cause the defendant to be brought before the court and shall sentence the defendant to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be inapplicable, unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for retrial of the punishment pursuant to subsection 5 of section 565.035.”; and

Further amend said Bill, Page 195, Section 565.084, Line 20, by inserting after all of said Line, the following:

“565.425. 1. Except as provided in subsections 2, 3, and 4 of this section, no forcible rape of a child under the age of twelve offense may be tried together with any offense other than forcible rape of a child under the age of twelve and no forcible sodomy of a child under the age of twelve offense may be tried together with any offense other than forcible sodomy of a child under the age of twelve. In the event of a joinder of forcible rape of a child under the age of twelve offenses or forcible sodomy of a child under the age of twelve offenses, all offenses charged which are supported by the evidence in the case shall, when requested by one of the parties or the court, be submitted to the jury or, in a jury-waived trial, considered by the judge.

2. A count charging any offense of forcible rape of a child under the age of twelve of a particular individual may be joined in an indictment or information and tried with one or more counts charging alternatively any other forcible rape of a child under the age of twelve or offense other than forcible rape of a child under the age of twelve committed against that individual. A count charging any offense of forcible sodomy of a child under the age of twelve of a particular individual may be joined in an indictment or information and tried with one or more counts charging alternatively any other forcible sodomy of a child under the age of twelve or offense other than forcible sodomy of a child under the age of twelve committed against that individual. The state shall not be required to make an election as to the alternative count on which it will proceed. This subsection in no way limits the right to try in the conjunctive, where they are properly joined under subsection 1 of this section, either:

(1) Separate offenses other than forcible rape of a child under the age of twelve or separate offenses of forcible rape of a child under the age of twelve committed against different individuals;

(2) Separate offenses other than forcible sodomy of a child under the age of twelve or separate offenses of forcible sodomy of a child under the age of twelve committed against different individuals.

3. (1) When a defendant has been charged and proven before trial to be a prior offender pursuant to chapter 558, RSMo, so that the judge shall assess punishment and not a jury for an offense other than forcible rape of a child under the age of twelve, that offense may be tried and submitted to the trier together with any forcible rape of a child under the age of twelve charge with which it is lawfully joined. In such case the judge shall assess punishment on any offense joined with a forcible rape of a child under the age of twelve charge according to law and, when the trier is a jury, it shall be instructed upon punishment on the charge of forcible rape of a child under the age of twelve in accordance with section 565.430.

(2) When a defendant has been charged and proven before trial to be a prior offender pursuant to chapter 558, RSMo, so that the judge shall assess punishment and not a jury for an offense other than forcible sodomy of a child under the age of twelve, that offense may be tried and submitted to the trier together with any forcible sodomy of a child under the age of twelve charge with which it is lawfully joined. In such case the judge shall assess punishment on any offense joined with a forcible sodomy of a child under the age of twelve charge according to law and, when the trier is a jury, it shall be instructed upon punishment on the charge of forcible sodomy of a child under the age of twelve in accordance with section 565.430.

4. When the state waives the death penalty for a forcible rape of a child under the age of twelve offense or forcible sodomy of a child under the age of twelve offense, that offense may be tried and submitted to the trier together with any other charge with which it is lawfully joined.

565.430. 1. Where forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve is charged but not submitted or where the state waives the death penalty, the submission to the trier and all subsequent proceedings in the case shall proceed as in all other criminal cases with a single stage trial in which guilt and punishment are submitted together.

2. Where forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage, the trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than forcible rape of a child under the age of twelve in a count together with a count of forcible rape of a child under the age of twelve, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo. If an offense is charged other than forcible sodomy of a child under the age of twelve in a count together with a count of forcible sodomy of a child under the age of twelve, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo.

3. If the trier at the first stage of a trial where the death penalty was not waived finds the defendant guilty of forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and mitigation of punishment, including but not limited to evidence supporting any of the aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.435, may be presented subject to the rules of evidence at criminal trials. Such evidence may include, within the discretion of the court, evidence concerning the

victim and the impact of the crime upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. If the trier is a jury, it shall be instructed on the law. The attorneys may then argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor:

(1) If the trier finds by a preponderance of the evidence that the defendant is mentally retarded;
or

(2) If the trier does not find beyond a reasonable doubt at least one of the aggravating circumstances set out in subsection 2 of section 565.435; or

(3) If the trier concludes that there is evidence in mitigation of punishment, including but not limited to evidence supporting the mitigating circumstances listed in subsection 3 of section 565.435, which is sufficient to outweigh the evidence in aggravation of punishment found by the trier; or

(4) If the trier decides under all of the circumstances not to assess and declare the punishment at death. If the trier is a jury it shall be so instructed.

If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out in writing the aggravating circumstance or circumstances listed in subsection 2 of section 565.435 which it found beyond a reasonable doubt. If the trier is a jury, it shall be instructed before the case is submitted that if it is unable to decide or agree upon the punishment the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor or death. The court shall follow the same procedure as set out in this section whenever it is required to determine punishment for forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve.

4. Upon written agreement of the parties and with leave of the court, the issue of the defendant's mental retardation may be taken up by the court and decided prior to trial without prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in subsection 3 of this section.

5. As used in this section, the terms "mental retardation" or "mentally retarded" refer to a condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with continual extensive related deficits and limitations in two or more adaptive behaviors such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which conditions are manifested and documented before eighteen years of age.

6. The provisions of this section shall only govern offenses committed on or after August 28, 2008.

565.435. 1. In all cases of forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve for which the death penalty is authorized, the judge in a jury-waived trial shall consider, or he or she shall include in his or her instructions to the jury for it to consider:

(1) Whether an aggravating circumstance or circumstances enumerated in subsection 2 of this section is established by the evidence beyond a reasonable doubt; and

(2) If an aggravating circumstance or circumstances is proven beyond a reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence of life imprisonment

without eligibility for probation, parole, or release except by act of the governor. In determining the issues enumerated in this subdivision and subdivision (1) of this subsection, the trier shall consider all evidence which it finds to be in aggravation or mitigation of punishment, including evidence received during the first stage of the trial and evidence supporting any of the aggravating or mitigating circumstances set out in subsections 2 and 3 of this section. If the trier is a jury, it shall not be instructed upon any specific evidence which may be in aggravation or mitigation of punishment, but shall be instructed that each juror shall consider any evidence which he or she considers to be aggravating or mitigating.

2. Aggravating circumstances for a forcible rape of a child under the age of twelve offense or forcible sodomy of a child under the age of twelve offense shall be limited to the following:

(1) The offense was committed by a person with a prior record of pleading to or being found guilty of forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve, or the offense was committed by a person who has pleaded guilty to or been found guilty of one or more serious assaultive criminal offenses;

(2) The offense was committed while the offender was engaged in the commission or attempted commission of another unlawful rape or sodomy;

(3) The offender by his act of forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person;

(4) The offender committed the offense for himself or another, for the purpose of receiving money or any other thing of monetary value from the victim of the forcible rape or forcible sodomy or another;

(5) The offender caused or directed another to commit forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve or committed forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve as an agent or employee of another person;

(6) The raped or sodomized individual was a witness or potential witness in any past or pending investigation or past or pending prosecution, and was raped or sodomized as a result of his or her status as a witness or potential witness;

(7) The offense was committed during the commission of a crime which is part of a pattern of criminal street gang activity as defined in section 578.421, RSMo;

(8) The offense was committed outrageously, wantonly vile, horribly, or inhumanely in that it involved torture or depravity of mind;

(9) The offense was committed by a person in, or who escaped from, the lawful custody of a peace officer or place of lawful confinement;

(10) The offense was committed while the defendant was engaged in the perpetration or was aiding or encouraging another person to perpetrate or attempt to perpetrate a felony of any degree of homicide, burglary, robbery, kidnapping or any felony offense under chapter 195, RSMo.

3. Mitigating circumstances shall include the following:

- (1) **The defendant has no significant history of prior criminal activity;**
- (2) **The offense was committed while the defendant was under the influence of extreme mental or emotional disturbance;**
- (3) **The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired;**
- (4) **The age of the defendant at the time of the crime;**
- (5) **The defendant acted under the substantial domination of another person.**

566.030. 1. A person commits the crime of forcible rape if such person has sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible rape or an attempt to commit forcible rape is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years; or

(2) The victim is a child less than twelve years of age, in which case [the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section], **the punishment shall be either death or life imprisonment without eligibility for probation, parole, or release except by act of the governor; except that, if a person has not reached his or her eighteenth birthday at the time of the commission of the crime, the punishment shall be life imprisonment without eligibility for probation, parole, or release except by an act of the governor.**

3. No person found guilty of or pleading guilty to forcible rape or an attempt to commit forcible rape shall be granted a suspended imposition of sentence or suspended execution of sentence.

566.060. 1. A person commits the crime of forcible sodomy if such person has deviate sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The victim is a child less than twelve years of age, in which case [the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim is under the age of twelve, and “life imprisonment” shall mean imprisonment for the duration of a person’s natural life for the purposes of this section], **the punishment shall be either death or life imprisonment without eligibility for probation, parole, or release except by act of the governor; except that, if a person has not reached his or her eighteenth birthday at the time of the commission of the crime, the punishment shall be life imprisonment without eligibility for probation, parole, or release except by an act of the governor.**

3. No person found guilty of or pleading guilty to forcible sodomy or an attempt to commit forcible sodomy shall be granted a suspended imposition of sentence or suspended execution of sentence.”; and

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute No. 2 for Senate Bill No. 976, Section 640.013, Page 206, Line 9 by inserting immediately after said Line the following:

“650.052. 1. The state's DNA profiling system shall:

(1) Assist federal, state and local criminal justice and law enforcement agencies in the identification, detection or exclusion of individuals who are subjects of the investigation or prosecution of criminal offenses in which biological evidence is recovered or obtained; and

(2) If personally identifiable information is removed, support development of forensic validation studies, forensic protocols, and the establishment and maintenance of a population statistics database for federal, state, or local crime laboratories of law enforcement agencies; and

(3) Assist in the recovery or identification of human remains from mass disasters, or for other humanitarian purposes, including identification of missing persons.

2. The Missouri state highway patrol shall act as the central repository for the DNA profiling system and shall collaborate with the Federal Bureau of Investigation and other criminal justice agencies relating to the state's participation in CODIS and the National DNA Index System or in any DNA database.

3. The Missouri state highway patrol may promulgate rules and regulations to implement the provisions of sections 650.050 to 650.100 in accordance with Federal Bureau of Investigation recommendations for the form and manner of collection of blood or other scientifically accepted biological samples and other procedures for the operation of sections 650.050 to 650.100. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. The Missouri state highway patrol shall provide the necessary components for collection of the [convicted] offender's biological samples. For qualified offenders as defined by section 650.055 who are under custody and control of the department of corrections, the DNA sample collection shall be performed by the department of corrections and the division of probation and parole, or their authorized designee or

contracted third party. For qualified offenders as defined by section 650.055 who are under custody and control of a county jail, the DNA sample collections shall be performed by the county jail or its authorized designee or contracted third party. For qualified offenders as defined by section 650.055 who are under the custody and control of companies contracted by the county or court to perform supervision and/or treatment of the offender, the sheriff's department of the county assigned to the offender shall perform the DNA sample collection. The specimens shall thereafter be forwarded to the Missouri state highway patrol crime laboratory. Any DNA profiling analysis or collection of DNA samples by the state or any county performed pursuant to sections 650.050 to 650.100 shall be subject to appropriations.

5. The state's participating forensic DNA laboratories shall meet quality assurance standards specified by the Missouri state highway patrol crime laboratory and the Federal Bureau of Investigation to ensure quality DNA identification records submitted to the central repository.

6. The state's participating forensic DNA laboratories may provide the system for identification purposes to criminal justice, law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court and provide expert testimony in court on DNA evidentiary issues.

7. The department of public safety shall have the authority to promulgate rules and regulations to carry out the provisions of sections 650.050 to 650.100. 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, 2004, shall be invalid and void.

650.055. 1. Every individual, in a Missouri circuit court, who pleads guilty to, or is found guilty of a felony or any offense under chapter 566, RSMo, **or who is seventeen years of age or older and who is arrested for a felony offense under chapter 565 or 566, RSMo**, or has been determined beyond a reasonable doubt to be a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) **Upon booking at a county jail or detention facility; or**

(2) Upon entering or before release from the department of corrections reception and diagnostic centers;

or

[(2)] (3) Upon entering or before release from a county jail or detention facility, state correctional facility, or any other detention facility or institution, whether operated by private, local, or state agency, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo; or

[(3)] (4) When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other jurisdiction which would be considered a qualifying offense as defined in this section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or

[(4)] (5) If such individual is under the jurisdiction of the department of corrections. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody or jurisdiction over those who have been **arrested for**, convicted of, pleaded guilty to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed is hereby made mandatory. The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA databank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of sections 650.050 to 650.100 shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA databank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) Peace officers, as defined in section 590.010, RSMo, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;

(2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;

(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their employees who need to obtain such records to perform their public duties; or

(4) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes, including but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

8. An individual may request expungement of his or her DNA sample and DNA profile through the

court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section, section 488.5050, RSMo, and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records.”; and

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

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute No. 2 for Senate Bill No. 976, Page 16, Section 58.720, Line 87, by inserting after all of said line the following:

“67.402. 1. The governing body of **the following counties may enact nuisance abatement ordinances as provided in this section:**

(1) Any county of the first classification with more than one hundred thirty-five thousand four hundred but [less] **fewer** than one hundred thirty-five thousand five hundred inhabitants[.];

(2) Any county of the first classification with more than seventy-one thousand three hundred but [less] **fewer** than seventy-one thousand four hundred inhabitants[, and];

(3) Any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but [less] **fewer** than one hundred ninety-nine thousand two hundred inhabitants;

(4) **Any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants;**

(5) Any county of the third classification without a township form of government and with more than sixteen thousand four hundred but fewer than sixteen thousand five hundred inhabitants.

2. The governing body of any county described in subsection 1 of this section may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances, broken furniture, or overgrown or noxious weeds in residential subdivisions or districts which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.

[2.] **3.** Any ordinance enacted pursuant to this section shall:

(1) Set forth those conditions which constitute a nuisance and which are detrimental to the health, safety, or welfare of the residents of the county;

(2) Provide for duties of inspectors with regard to those conditions which may be declared a nuisance, and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such property;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the nuisance is to be abated, listing a reasonable time for commencement, and may provide that such notice be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located shall be made parties;

(4) Provide that upon failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter before the county commission, giving the affected parties at least ten days' written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if evidence supports a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, the county commission shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the property to be a nuisance and detrimental to the health, safety, or welfare of the residents of the county and ordering the nuisance abated. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, no order shall be issued.

[3.] **4.** Any ordinance authorized by this section may provide that if the owner fails to begin abating the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the county clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the county collector's option, for the property and the certified cost shall be collected by the county collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance

shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.” ; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR
HOUSE AMENDMENT NO. 7

Amend House Substitute Amendment No. 1 for House Amendment No. 7 to House Committee Substitute No. 2 for Senate Bill No. 976, Page 3, Section 538.240, Line 5, by deleting the words, “**to regulate**” and insert in lieu thereof the word, “**in regulating**”; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR
HOUSE AMENDMENT NO. 7

Amend House Committee Substitute No. 2 for Senate Bill No. 976, Page 192, Section 537.675, Line 75, by inserting immediately after all of said line the following:

“538.205. As used in sections 538.205 to [538.230] **538.305**, the following terms shall mean:

(1) “Economic damages”, damages arising from pecuniary harm including, without limitation, medical damages, and those damages arising from lost wages and lost earning capacity;

(2) “Equitable share”, the share of a person or entity in an obligation that is the same percentage of the total obligation as the person's or entity's allocated share of the total fault, as found by the trier of fact;

(3) “Future damages”, damages that the trier of fact finds will accrue after the damages findings are made;

(4) “Health care provider”, any physician, hospital, health maintenance organization, ambulatory surgical center, long-term care facility including those licensed under chapter 198, RSMo, dentist, registered or licensed practical nurse, optometrist, podiatrist, pharmacist, chiropractor, professional physical therapist, psychologist, physician-in-training, and any other person or entity that provides health care services under the authority of a license or certificate; **except that, health care provider does not include a person, hospital, or abortion facility if the act that is the subject of the claim for damages involved the performance or inducement of an abortion, except for medical emergencies, as the terms abortion, abortion facility, and medical emergency are defined in section 188.015, RSMo;**

(5) “Health care services”, any services that a health care provider renders to a patient in the ordinary course of the health care provider's profession or, if the health care provider is an institution, in the ordinary course of furthering the purposes for which the institution is organized. Professional services shall include, but are not limited to, transfer to a patient of goods or services incidental or pursuant to the practice of the health care provider's profession or in furtherance of the purposes for which an institutional health care provider is organized; **except that, health care services does not include the performance or inducement of an abortion, except for a medical emergency, as those terms are defined in section 188.015, RSMo;**

(6) “Medical damages”, damages arising from reasonable expenses for necessary drugs, therapy, and medical, surgical, nursing, x-ray, dental, custodial and other health and rehabilitative services;

(7) “Noneconomic damages”, damages arising from nonpecuniary harm including, without limitation, pain, suffering, mental anguish, inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life, and loss of consortium but shall not include punitive damages;

(8) “Past damages”, damages that have accrued when the damages findings are made;

(9) “Physician employee”, any person or entity who works for hospitals for a salary or under contract and who is covered by a policy of insurance or self-insurance by a hospital for acts performed at the direction or under control of the hospital;

(10) “Punitive damages”, damages intended to punish or deter willful, wanton or malicious misconduct, including exemplary damages and damages for aggravating circumstances;

(11) “Self-insurance”, a formal or informal plan of self-insurance or no insurance of any kind.

538.240. Under the policy and laws of the state of Missouri favoring childbirth over abortion and to regulate abortion to the greatest extent allowed by law, the general assembly declares that the protections from certain liabilities afforded health care providers under sections 538.205 to 538.305 shall not apply to persons, hospitals, and abortion facilities if and when engaged in the performance or inducement of abortion, except in the case of a medical emergency as the term is defined in section 188.015, RSMo.”; and

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

HOUSE AMENDMENT NO. 8

Amend House Committee Substitute No. 2 for Senate Bill No. 976, Page 213, Section 8, Line 23 by inserting immediately after said Line the following:

“Section 9. When a pharmacist fills a prescription for any name brand or generic drug that has been prescribed as an immunosuppressant from a specific manufacturer and that drug has been substituted with a drug from a manufacturer other than the manufacturer specified in the prescription, MO HealthNet enrollees shall be notified in writing or verbally, upon delivery of the prescription. If such drug is substituted with notice to the MO HealthNet enrollee, the pharmacist, who fills such prescription shall also notify, unless authorized to make such substitution under subdivisions (1) and (2) of subsection 2 of section 338.056, RSMo, the prescribing health care professional before the delivery of the prescription. This requirement shall not apply to prescriptions dispensed for inpatients of a hospital, nursing home, assisted living facility, or inpatients of a mental health or residential facility. The provisions of Section 208.227, RSMo shall apply to any additional geographic areas of the state or populations covered and designated after the effective date of this section to receive MO HealthNet benefits through a care plan other than fee for service. For purposes of this section, “immunosuppressive drug” means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system, and is used to prevent the rejection of transplanted organs and tissues.”; and

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

HOUSE AMENDMENT NO. 9

Amend House Committee Substitute No. 2 for Senate Bill No. 976, Section 386.266, Page 97, Line 84

by inserting after all of said section 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.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

HOUSE BILLS ON THIRD READING

Senator Mayer moved that **HCS** for **HB 1722**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SS for **SCS** for **HCS** for **HB 1722** was again taken up.

At the request of Senator Mayer, **HCS** for **HB 1722**, with **SCS** and **SS** for **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 Part 1 and Part 3 of **HCS** for **SCS** for **SB 765** 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 **SCS** for **SB 765**. Representatives: Schneider, Wasson, Nieves, Skaggs and Frame.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS** for **SCS** for **SB 765**: Senators Goodman, Griesheimer, Purgason, Days and Green.

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

HOUSE BILLS ON THIRD READING

Senator Mayer moved that **HCS** for **HB 1722**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SS for **SCS** for **HCS** for **HB 1722** was again taken up.

Senator Bartle offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House

Bill No. 1722, Page 60, Section 167.115, Line 18, by inserting after all of said line the following:

“167.151. 1. The school board of any district, in its discretion, may admit to the school pupils not entitled to free instruction and prescribe the tuition fee to be paid by them, except as provided in sections 167.121 and 167.131.

2. Orphan children, children with only one parent living, and children whose parents do not contribute to their support--if the children are between the ages of six and twenty years and are unable to pay tuition--may attend the schools of any district in the state in which they have a permanent or temporary home without paying a tuition fee.

3. Any person who pays a school tax in any other district than that in which he resides may send his children to any public school in the district in which the tax is paid and receive as a credit on the amount charged for tuition the amount of the school tax paid to the district; except that any person who owns real estate of which eighty acres or more are used for agricultural purposes and upon which his residence is situated may send his children to public school in any school district in which a part of such real estate, contiguous to that upon which his residence is situated, lies and shall not be charged tuition therefor; so long as thirty-five percent of the real estate is located in the school district of choice. The school district of choice shall count the children in its average daily attendance for the purpose of distribution of state aid through the foundation formula.

4. Any owner of agricultural land who, pursuant to subsection 3 of this section, has the option of sending his children to the public schools of more than one district shall exercise such option as provided in this subsection. Such person shall send written notice to all school districts involved specifying to which school district his children will attend by June thirtieth in which such a school year begins. If notification is not received, such children shall attend the school in which the majority of his property lies. Such person shall not send any of his children to the public schools of any district other than the one to which he has sent notice pursuant to this subsection in that school year or in which the majority of his property lies without paying tuition to such school district.

[5. If a pupil is attending school in a district other than the district of residence and the pupil's parent is teaching in the school district or is a regular employee of the school district which the pupil is attending, then the district in which the pupil attends school shall allow the pupil to attend school upon payment of tuition in the same manner in which the district allows other pupils not entitled to free instruction to attend school in the district. The provisions of this subsection shall apply only to pupils attending school in a district which has an enrollment in excess of thirteen thousand pupils and not in excess of fifteen thousand pupils and which district is located in a county of the first classification with a charter form of government which has a population in excess of six hundred thousand persons and not in excess of nine hundred thousand persons.]”;

Further amend the title and enacting clause accordingly.

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

Senator Justus offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 52, Section 163.011, Line 8 of said page, by inserting after all of said line the following:

“167.018. 1. Sections 167.018 and 167.019 shall be known and may be cited as “The Foster Care Education Bill of Rights.”

2. Each school district shall designate a staff person as the educational liaison for foster care children. The liaison shall do all of the following in an advisory capacity:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children;

(2) Assist foster care pupils when transferring from one school to another or from one school district to another, by ensuring proper transfer of credits, records, and grades;

(3) Request school records, as provided in section 167.022, within two business days of placement of a foster care pupil in a school; and

(4) Submit school records of foster care pupils within three business days of receiving a request for school records, under subdivision (3) of this subsection.

167.019. 1. A child placing agency, as defined under section 210.481, RSMo, shall promote educational stability for foster care children by considering the child's school attendance area when making placement decisions. The foster care pupil shall have the right to remain enrolled in and attend his or her school of origin pending resolution of school placement disputes. The department of elementary and secondary education shall promulgate rules and regulations for assigning transportation costs associated with pupil placement under this subsection.

2. Each school district shall accept for credit full or partial course work satisfactorily completed by a pupil while attending a public school, nonpublic, or nonsectarian school in accordance with district policies or regulations.

3. If a pupil completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court as described in chapter 211, RSMo, the school district of residence shall issue to the pupil a diploma from the school the pupil last attended before detention or, in the alternative, the superintendent of the school district may issue the diploma.

4. School districts shall ensure that if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or child placing agency, or due to a verified court appearance or related court-ordered activity, the grades and credits of the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades shall occur as a result of the absence of the pupil under these circumstances.

5. School districts shall be authorized to permit access of pupil school records to any child placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile officer or by law and to assist with the school transfer or placement of a pupil.

6. 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, 2008, shall be invalid and void.”; and

Further amend said bill, page 92, section 210.102, line 18 of said page, by inserting immediately after all of said line the following:

“210.1050. 1. For purposes of this section, for pupils in foster care or children placed for treatment in a licensed residential care facility by the department of social services, “full school day” shall mean six hours in which the child is under the guidance and direction of teachers in the educational process.

2. Each pupil in foster care or child placed for treatment in a licensed residential care facility by the department of social services shall be entitled to a full school day of education unless the school district determines that fewer hours are warranted.

3. The commissioner of education shall designate an ombudsman to assist the family support team and the school district as they work together to meet the needs of children placed for treatment in a licensed residential care facility by the department of social services. The ombudsman shall have the final decision over discrepancies regarding school day length. A full school day of education shall be provided pending the ombudsman's final decision.”; and

Further amend the title and enacting clause accordingly.

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

Senator Rupp offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 21, Section 160.545, Line 11 of said page, by inserting immediately after the word “or” as it appears the first time on said page, the following: **“within the limits established in subsection 9 of this section any two-year public or private”**; and

Further amend said bill and section, page 22, line 6 of said page, by inserting after all of said line the following:

“9. For a two-year public or private vocational or technical school to obtain reimbursements under subsection 6 of this section, except for those schools that are receiving reimbursements on August 28, 2008, the following requirements shall be satisfied:

(1) Such two-year public or private vocational or technical school shall be a member of the north central association and be accredited by the higher learning commission as of July 1, 2008, and maintain such accreditation;

(2) Such two-year public or private vocational or technical school shall be designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

(3) No two-year public or private vocational or technical school shall receive tuition reimbursements in excess of the tuition rate charged by a public community college for course work offered by the private vocational or technical school within the service area of such college; and

(4) The reimbursements provided to any two-year private vocational or technical school shall not violate the provisions of article IX, section 8, or article I, section 7, of the Missouri Constitution or the first amendment of the United States Constitution.”.

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

Senator Green offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 52, Section 163.011, Line 8, by inserting after all of said line the following:

“163.095. For any district in the county with a charter form of government and with more than one million inhabitants that in calendar year 2005 (school year 2005-2006) erroneously set a levy in the capital projects fund rather than the incidental fund and reported the capital projects amount to the county for which the county issued tax notices and the district received taxes for calendar year 2005, the department of elementary and secondary education shall calculate the amount the district would have received in state school aid for fiscal year 2006 had the district placed the levy in the incidental fund rather than the capital projects fund and use this revised 2005-2006 calculated funding amount in the distribution of state school aid for fiscal year 2007 and subsequent years. The calculation shall not change the actual funding due the district for the 2005-2006 year.”; and

Further amend the title and enacting clause accordingly.

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

Senator Champion offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 87, Section 177.088, Line 22, by inserting after all of said line the following:

“192.631. 1. Subject to appropriations, by July 1, 2009, the department of health and senior services shall establish a school-based influenza vaccination pilot program. Participation in the program shall be voluntary on the part of the school district and shall be administered with the consent of the student's parents or legal guardian. When creating the program, the department shall also take into account:

- (1) The costs and benefits of establishing a school-based influenza vaccination pilot program;**
- (2) The barriers to implementing the proposed pilot program; and**
- (3) The fiscal impact to the state of such program.**

2. The department shall work to increase influenza vaccination awareness and participation among parents of children aged six months to five years in child care facilities. The official website of the department shall have information on the benefits of annual vaccination against influenza for children and its programs offered for the children. The department shall cooperate with the department of social services and department of elementary and secondary education in order to distribute the information to the parents and child care facilities effectively in August or September in every year.

3. The department shall promulgate rules for the implementation of the pilot program created under 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, 2008, shall be invalid and void.

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

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

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

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.”; and

Further amend the title and enacting clause accordingly.

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

Senator Shoemyer offered SA 6:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 83, Section 171.258, Line 11 of said page, by inserting after all of said line the following:

“173.270. 1. The coordinating board for higher education shall make provisions for institutions under the board's jurisdiction to award a tuition and fee waiver for undergraduate courses at state institutions of higher education for any student, beginning with incoming freshmen in the 2009 fall semester or term, who:

(1) Is a resident of this state;

(2) Has graduated within the previous three years from high school or passed the GED examination; and

(3) Has been in foster care or other residential care under the department of social services on or after:

(a) The day preceding the student's eighteenth birthday;

(b) The day of the student's fourteenth birthday, if the student was also eligible for adoption on or after that day; or

(c) The day the student graduated from high school or received a GED.

2. To be eligible for a waiver award, a student shall:

(1) Apply to and be accepted at the institution not later than:

(a) The third anniversary of the date the student was discharged from foster or other residential care, the date the student graduated from high school, or the date the student received a GED, whichever is earliest; or

(b) The student's twenty-first birthday;

(2) Apply for other student financial assistance, other than student loans, in compliance with federal financial aid rules, including the federal Pell grant;

(3) Apply to the coordinating board for higher education for a determination of eligibility. Application shall be on forms and in a manner prescribed by rule of the coordinating board; and

(4) Complete a minimum of one hundred hours of community service or public internship within a twelve-month period beginning September first for each year in which the student is receiving a tuition and fee waiver award under this section. The department of higher education, shall by rule determine the community service and public internships that students may participate in to meet the requirements of this subdivision. A student may fulfill this requirement by completing the necessary community service or public internship hours during the summer.

3. The tuition and fee waiver provided by this section shall be awarded on an annual basis, subject to appropriation, and shall continue to be available, if the student is otherwise eligible under this section, as long as the student remains in good academic standing at the state institution of higher education. The institution shall monitor compliance with subdivision (4) of subsection 2 of this section and report it to the department of higher education.

4. The waiver provided by this section for each eligible student may be used for no more than four years of undergraduate study and may only be used after other sources of financial aid that are dedicated solely to tuition and fees are exhausted.

5. No student who is enrolled in an institution of higher education as of August 28, 2008, shall be eligible for a waiver award under this section.

6. 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, 2008, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Shoemyer moved that the above amendment be adopted.

Senator Engler raised the point of order that **SA 6** is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Shoemyer offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 28, Section 160.820, Line 6 of said page, by inserting after all of said line the following:

“161.370. 1. There is hereby created in the state treasury the “School Safety and School Violence Prevention Fund”, which shall consist of money collected under this section. The state treasurer shall

be custodian of the fund. In accordance with sections 30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Subject to appropriations, beginning with the 2010 fiscal year and in each subsequent year, the general assembly may appropriate up to one million five hundred thousand dollars to the department of elementary and secondary education to be placed in the school safety and school violence prevention fund.

3. There is hereby created within the department of elementary and secondary education the statewide center for school safety and school violence prevention, which shall be available to provide services and resources for all public school districts in the state.

4. The department shall provide funding from the school safety and school violence prevention fund to the statewide center each year. The center shall use such funds for staff salaries and benefits, equipment, supplies, program materials, workshops, training sessions, and other items directly related to carrying out the mission of the center.

5. The center shall offer services and resources to all public schools of the state which shall include but not be limited to:

(1) Make violence prevention and intervention programs and models available, as well as provide training in the areas of bullying prevention, character education, conflict resolution, fight prevention and intervention, Internet safety education, which shall include cyberbullying prevention, peer mediation, post-trauma defusing and debriefing, suicide prevention, human sensitivity awareness, violence prevention curriculum framework, and other related areas as determined by the center and the department;

(2) Provide guidance for districts as they conduct building and district safety reviews, including emergency preparedness;

(3) Provide examples of comprehensive school emergency plans;

(4) Assist in staff development on school safety and violence prevention issues;

(5) Periodically publish a safe schools newsletter or other publications;

(6) Maintain an active web site;

(7) Provide annual training programs for school safety coordinators and provide an information network for these coordinators;

(8) Serve as a clearinghouse on school safety information for school staff, parents, community members, and other individuals or agencies; and

(9) Collaborate with national, state, and local agencies on school safety issues.

6. The center shall furnish the department with an annual budget each fiscal year, as well as a list of actual expenditures, at the end of each fiscal year. The center shall also provide for the

department an annual year-end summary that highlights the different services and programs provided by the center during the year, as well as the number of schools that utilized each service or program. The department shall make such information available to the legislature annually.”; and

Further amend the title and enacting clause accordingly.

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

Senator Shoemyer offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 29, Section 161.650, Line 22 of said page, by inserting after all of said line the following:

“161.670. 1. Notwithstanding any other law, prior to July 1, 2007, the state board of education shall establish a virtual public school to serve school-age students residing in the state. The virtual public school shall offer instruction in a virtual setting using technology, intranet, and/or Internet methods of communication. Any student under the age of twenty-one in grades kindergarten through twelve who resides in this state shall be eligible to enroll in the virtual public school regardless of the student's physical location.

2. For purposes of calculation and distribution of state school aid, students enrolled in a virtual public school shall be included, at the choice of the student's parent or guardian, in the student enrollment of the school district in which the student physically resides. The virtual public school shall report to the district of residence the following information about each student served by the virtual public school: name, address, eligibility for free or reduced-price lunch, limited English proficiency status, special education needs, and the number of courses in which the student is enrolled. The virtual public school shall promptly notify the resident district when a student discontinues enrollment. A “full-time equivalent student” is a student who successfully has completed the instructional equivalent of six credits per regular term. Each virtual course shall count as one class and shall generate that portion of a full-time equivalent that a comparable course offered by the school district would generate. In no case shall more than the full-time equivalency of a regular term of attendance for a single student be used to claim state aid. Full-time equivalent student credit completed shall be reported to the department of elementary and secondary education in the manner prescribed by the department. Nothing in this section shall prohibit students from enrolling in additional courses under a separate agreement that includes terms for paying tuition or course fees.

3. When a school district has a student who has completed courses through the virtual public school authorized by this section, the school district may identify any credits that were earned through the virtual public school on the student's diploma, transcript, or in the student's records. A school district may exclude credits earned through the virtual school when calculating in-district academic awards.

4. When a school district has one or more resident students enrolled in a virtual public school program authorized by this section, whose parent or guardian has chosen to include such student in the district's enrollment, the department of elementary and secondary education shall disburse an amount corresponding to fifteen percent of the state aid under sections 163.031 and 163.043, RSMo, attributable to such student to the resident district. Subject to an annual appropriation by the general assembly, the department shall

disburse an amount corresponding to eighty-five percent of the state adequacy target attributable to such student to the virtual public school.

[4.] **5.** Except as specified in this section and as may be specified by rule of the state board of education, the virtual public school shall comply with all state laws and regulations applicable to school districts, including but not limited to the Missouri school improvement program (MSIP), adequate yearly progress (AYP), annual performance report (APR), teacher certification, and curriculum standards.

[5.] **6.** The state board of education through the rulemaking process and the department of elementary and secondary education in its policies and procedures shall ensure that multiple content providers are allowed.

[6.] **7.** 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, 2006, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

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

Senator McKenna offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 75, Section 169.010, Line 23, by inserting immediately after said line the following:

“169.070. 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

(1) Two and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years.

In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Between July 1, 1998, and July 1, 2013, two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

(4) Between July 1, 1998, and July 1, 2013, two and thirty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight

years or more but less than twenty-nine years, and the member has not attained age fifty-five;

(5) Between July 1, 1998, and July 1, 2013, two and three-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years, and the member has not attained age fifty-five;

(6) Between July 1, 1998, and July 1, 2013, two and twenty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years, and the member has not attained age fifty-five;

(7) Between July 1, 1998, and July 1, 2013, two and two-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years, and the member has not attained age fifty-five;

(8) Between July 1, 2001, and July 1, 2013, two and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is thirty-one years or more regardless of age.

2. In lieu of the retirement allowance provided in subsection 1 of this section, a member whose age is sixty years or more on September 28, 1975, may elect to have the member's retirement allowance calculated as a sum of the following items:

(1) Sixty cents plus one and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years;

(3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection for each month of attained age in excess of sixty years but not in excess of age sixty-five.

3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this section, collectively called "option 1", a member whose creditable service is twenty-five years or more or who has attained the age of fifty-five with five or more years of creditable service may elect in the member's application for retirement to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the total of the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the total of the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated to receive the survivorship payments dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after acquiring twenty-five or more years of creditable service or after attaining the age of fifty-five years and acquiring five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship benefits under option 2 or a payment of the accumulated contributions of the member. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section;

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either a payment of the member's accumulated contributions, or survivorship benefits

under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the member's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section.

4. If the total of the retirement or disability allowance paid to an individual before the death of the individual is less than the accumulated contributions at the time of retirement, the difference shall be paid to the beneficiary of the individual, or to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the individual in that order of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section had been elected, and the beneficiary dies after receiving the optional benefit, and if the total retirement allowance paid to the retired individual and the beneficiary of the retired individual is less than the total of the contributions, the difference shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

5. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the death of the member shall be paid to the beneficiary of the member or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) to the estate of the member in that order of precedence; except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence.

6. If a member ceases to be a public school employee as herein defined and certifies to the board of trustees that such cessation is permanent, or if the membership of the person is otherwise terminated, the member shall be paid the member's accumulated contributions with interest.

7. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a member ceases to be a public school employee after acquiring five or more years of membership service in Missouri, the member may at the option of the member leave the member's contributions with the retirement system and claim a retirement allowance any time after reaching the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of the law in effect at the time the member requests the member's retirement to become effective.

8. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in determining the member's contributions during the last school year for which the member received a year of creditable service immediately prior to the member's disability, whichever is greater, except that no such allowance shall exceed the retirement allowance to which the member would have been entitled upon retirement at age sixty if the member had continued to teach from the date of disability until age sixty at the same salary rate.

9. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member of the system for whom federal Old Age and Survivors Insurance tax is paid

from state or local tax funds on account of the member's employment entitling the person to membership in the system. The monetary benefits for a member who elected not to exercise an option to pay into the system a retroactive contribution of four percent on that part of the member's annual salary rate which was in excess of four thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each year of employment in a position covered by this system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of this section as it appears in RSMo, 1969, shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the benefits provided in this section as it appears in RSMo, 1959; except that if the member has at least thirty years of creditable service at retirement the member shall receive the benefit payable pursuant to that section as though the member's age were sixty-five at retirement;

(4) For years of membership service after July 1, 1961, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

10. The monetary benefits for each other member for whom federal Old Age and Survivors Insurance tax is or was paid at any time from state or local funds on account of the member's employment entitling the member to membership in the system shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

11. Any retired member of the system who was retired prior to September 1, 1972, or beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement allowance of the member of two percent for each year, or major fraction of more than one-half of a year, which the retired member has been retired prior to July 1, 1975. This increased amount shall be payable commencing with January, 1976, and shall thereafter be referred to as the member's retirement allowance. The increase provided for in this subsection shall not affect the retired member's eligibility for compensation provided for in section 169.580 or 169.585, nor shall the amount being paid pursuant to these sections be reduced because of any increases provided for in this section.

12. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the

case of any member retiring on or after July 1, 2000, the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement. Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

13. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 12 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; except that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1976.

14. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

15. Notwithstanding any other provision of law, any person retired prior to September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have his or her retirement allowance increased to the amount he or she would have been receiving had the option not been elected, actuarially adjusted to recognize any excessive benefits which would have been paid to him or her up to the time of application.

16. Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided pursuant to this subsection. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United States Code. Such plan shall be created solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

17. Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive an amount based on the person's years of service so that the total amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's

retirement allowance. In determining the minimum amount to be received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance due to election of an optional form of retirement having a continued monthly payment after the person's death. Notwithstanding any other provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based on the person's years of service less than the following amounts:

- (1) Thirty or more years of service, one thousand two hundred dollars;
- (2) At least twenty-five years but less than thirty years, one thousand dollars;
- (3) At least twenty years but less than twenty-five years, eight hundred dollars;
- (4) At least fifteen years but less than twenty years, six hundred dollars.

18. Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, and any designated beneficiary of such a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement or aging and upon request shall give written or oral opinions to the board in response to such requests. Beginning September 1, 1996, as compensation for such service, the member shall have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased member shall as compensation for such service have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. The total compensation provided by this section including the compensation provided by this subsection shall be used in calculating any future cost-of-living adjustments provided by subsection 12 of this section.

19. Any member who has retired prior to July 1, 1998, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive a payment equivalent to eight and seven-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

20. Any member who has retired shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such request. As compensation for such duties, the beneficiary of the retired member, or, if there is no beneficiary, the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the retired member, in that order of precedence, shall receive as a part of compensation for these duties a death benefit of five thousand dollars.

21. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall

give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to five dollars times the member's number of years of creditable service.

22. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a payment equivalent to three and five-tenths percent of the previous month's benefit, which shall be added to the member or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

23. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a dollar amount equal to three dollars times the member's number of years of creditable service, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

24. Notwithstanding the provisions of subsection 6 of section 169.030 to the contrary, any member who has retired, attained the age of seventy-five and above, and received cost-of-living increases totaling eighty percent as provided in subsection 12 of this section prior to January 1, 2009, shall be made, constituted, and employed by the board as a special consultant on the matters of education, retirement, and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, beginning January 1, 2009, and through January 1, 2014, the member shall receive an amount equal to five dollars per month multiplied by years of service which shall be added to the member's monthly annuity.

169.670. 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and sixty-one hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal Social Security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership service for each year of prior service credit;

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between July 1, 2001, and July 1, 2013, a member may elect to receive a retirement allowance of:

(a) One and fifty-nine hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years and the member has not attained the age of fifty-five;

(b) One and fifty-seven hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and fifty-three hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and fifty-one hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years and the member has not attained the age of fifty-five; and

(5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this subsection, a member retiring on or after July 1, 2001, whose creditable service is thirty years or more or whose sum of age and creditable service is eighty years or more, shall receive a temporary retirement allowance equivalent to eight-tenths of one percent of the member's final average salary multiplied by the member's years of service until such time as the member reaches the minimum age for Social Security retirement benefits.

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is twenty-five years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement

with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 7. A plan of variable monthly benefit payments which provides, in conjunction with the member's retirement benefits under the federal Social Security laws, level or near-level retirement benefit

payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after attaining age fifty-five and acquiring five or more years of creditable service or after acquiring twenty-five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship payments under option 2 or a payment of the member's accumulated contributions. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 of this section.

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the beneficiary has an insurable interest in the life of the deceased member or disability retiree, the designated beneficiary may elect to receive either a payment of the person's accumulated contributions or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement or disability allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) person's estate in that order of precedence; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) to the member's estate; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to

the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence.

7. If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

8. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

9. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

10. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

11. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

12. Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

13. Benefits paid pursuant to the provisions of the public education employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code, except as provided under this subsection. Notwithstanding any other law, the board of trustees may establish a benefit plan under Section 415(m) of Title 26 of the United States Code. Such plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

14. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

15. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

16. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and one-tenth percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

17. Notwithstanding the provisions of subsection 7 of section 169.620 to the contrary, any member who has retired, attained the age of seventy-five and above, and received cost-of-living increases totaling eighty percent as provided in subsection 2 of this section prior to January 1, 2009, shall be made, constituted, and employed by the board as a special consultant on the matters of education, retirement, and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, beginning January 1, 2009, and through January 1, 2014, the member shall receive an amount equal to three dollars per month multiplied by years of service which shall be added to the member's monthly annuity.”; and

Further amend the title and enacting clause accordingly.

Senator McKenna moved that the above amendment be adopted.

Senator Mayer raised the point of order that **SA 9** is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Engler offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 23, Section 160.775, Line 23 of said page, by inserting immediately after said line the following:

“160.782. As used in sections 160.782 to 160.797, the following terms shall mean:

(1) “Certified laboratory”, a laboratory that is certified by the Substance Abuse and Mental Health Services Administration of the federal Department of Health and Human Services to engage in drug testing for federal agencies;

(2) “Confirmatory drug test”, a test by a gas chromatography/mass spectrometry testing procedure of a urine specimen conducted after an initial positive drug test result;

(3) “Confirmed breath alcohol test”, a second breath alcohol specimen provided by the employee fifteen minutes after the initial positive breath alcohol screening test to confirm the alcohol

concentration of the four hundreds of one percent or more by weight of alcohol in the blood;

(4) “Confirmed positive breath alcohol test”, a confirmed alcohol concentration of the amount of four hundreds of one percent or more by weight of alcohol in the blood;

(5) “Confirmed positive drug test result”, a finding by a confirmatory test of the presence in the tested urine of any of the drugs or their metabolites at or above the minimum detection level specified in section 160.791;

(6) “Employee”, a laborer, worker, mechanic, or truck driver who performs work on a project as described in section 160.785;

(7) “Employer”, a contractor, subcontractor, or agent of a contractor or subcontractor that performs work on a project as described in section 160.785;

(8) “Initial breath alcohol screening test”, an initial breath specimen provided by the employee to determine the weight of alcohol in the blood;

(9) “Initial drug screening test”, a test by an immunoassay procedure of a urine specimen;

(10) “Initial positive breath alcohol screening test”, an alcohol concentration of the amount of four hundreds of one percent or more by weight of alcohol in the blood;

(11) “Initial positive drug test result”, a finding by an initial screening test of the presence in the tested urine of any of the drugs or their metabolites at or above the minimum detection level specified in section 160.791;

(12) “Medical review officer”, a licensed physician who has knowledge of substance abuse disorders, laboratory testing procedures, and chain-of-custody procedures and who has the necessary medical training to interpret and evaluate a confirmed positive drug test result, a person's medical history, and any other relevant biomedical information;

(13) “Third-party administrator”, a person contracted by an employer, either directly or in cooperation with other employers or organizations, to administer the drug and alcohol testing program of the employer under sections 160.782 to 160.797;

(14) “Verified positive drug test result”, a confirmed positive drug test result that has been verified by a medical review officer for the presence in the tested urine of any of the drugs or their metabolites at or above the minimum detection level specified in section 160.791.

160.785. 1. Any entity that provides construction services under contract on the property of a public elementary or secondary school shall have in place before any work on the project commences, a drug and alcohol testing program that complies with sections 160.782 to 160.797. An employer may contract with a third-party administrator to administer the employer's drug and alcohol testing program under this section.

2. A bidder for contracts as described in subsection 1 of this section shall submit with the bid all of the following:

(1) A statement that the bidder has in place, before any work on the project commences, a drug and alcohol testing program that complies with sections 160.782 to 160.797;

(2) A statement from each subcontractor or agent that will be performing work on the project

that the subcontractor or agent has in place, or will have in place before any work on the project commences, a drug and alcohol testing program that complies with sections 160.782 to 160.797.

3. An employer that is required under sections 160.782 to 160.797 to have, but that does not have, a drug and alcohol testing program in place on August 28, 2008 shall provide notice to all of its employees that a drug and alcohol testing program is being implemented and may not begin actual drug and alcohol testing until sixty days after the date of the notice.

160.788. Before an employee is tested for the presence of drugs or alcohol, an employer or third-party administrator shall provide the employee with a written policy statement that contains the following:

(1) A statement that an employee who receives a verified positive drug test result may challenge or explain the result to the medical review officer within two working days after receiving notification of the test result; that, if the explanation is unsatisfactory to the medical review officer, the medical review officer will report the test result to the employer; and that the employee may, within two working days after receiving that notice, request a retest of the specimen that tested positive by a certified laboratory chosen by the employee at the expense of the employee;

(2) A statement that the employee shall be given the opportunity to provide any information that he or she considers relevant to the test, including identification of any prescription drugs or nonprescription drugs that he or she is currently using or has recently used or any other relevant medical information.

160.791. 1. An employer may not permit an employee to work on a project unless the employee has tested negative for the presence of drugs or alcohol in the employee's system not more than twelve months preceding the date on which the employee commences work on the project.

2. After an employee begins work on a project, the employer may require the employee to submit to testing if the employer has a reasonable belief, based on specific, objective, and articulable facts and reasonable inferences drawn from those facts, that the employee is using or has used drugs or alcohol in violation of the employer's policy. Those facts and inferences may be based on any of the following:

(1) Facts or events observed while the employee is at work, such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of drugs or alcohol;

(2) Abnormal conduct or erratic behavior of the employee while at work or a significant deterioration in the employee's work performance;

(3) A report of drug or alcohol use provided by a reliable and credible source;

(4) Evidence that the employee has tampered with a drug test during his or her employment with the employer or after receiving an offer of employment with the employer;

(5) Evidence that the employee has used, possessed, attempted to possess, distributed, or delivered drugs or alcohol while at work, while on the employer's premises or on the site of the project, or while operating the employer's vehicles, machinery, or equipment;

(6) Any other fact or event that provides a reasonable belief that the employee is using or has used drugs or alcohol in violation of the employer's policy.

3. After an employee begins work on a project, the employer shall require the employee to submit to random testing, the frequency of which shall be at an annualized rate of fifty percent of the workforce. Employees tested under this subsection shall be selected for random testing according to objective, neutral, and nondiscriminatory criteria, so that on any given day, any given employee has an equal chance of being tested. Testing under this subsection shall be conducted without prior warning.

4. An employee who under any other state or federal law is required to submit to random drug and alcohol testing that is at least as strict as the testing required under this section is not required to submit to testing under this section.

5. Testing under this section shall be performed by a certified laboratory selected by the employer or third-party administrator and shall be conducted in accordance with scientific and technical guidelines established by the Substance Abuse and Mental Health Services Administration of the federal Department of Health and Human Services for those certified laboratories. At a minimum, an employee shall be tested for all of the following:

(1) Amphetamines, with the following minimum detection levels constituting a positive drug test result:

(a) A level of one thousand nanograms per milliliter constituting an initial positive drug test result;

(b) A level of five hundred nanograms per milliliter constituting a confirmed positive drug test result;

(2) Barbiturates, with the following minimum detection levels constituting a positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of three hundred nanograms per milliliter constituting a confirmed positive drug test result;

(3) Benzodiazepines, with the following minimum detection levels constituting a positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of three hundred nanograms per milliliter constituting a confirmed positive drug test result;

(4) Cocaine metabolites, with the following minimum detection levels constituting a positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of one hundred fifty nanograms per milliliter constituting a confirmed positive drug test result;

(5) Marijuana metabolites, with the following minimum detection levels constituting a positive drug test result:

(a) A level of fifty nanograms per milliliter constituting an initial positive drug test result;

(b) A level of fifteen nanograms per milliliter constituting a confirmed positive drug test result;

(6) Methadone, with the following minimum detection levels constituting a confirmed positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of three hundred nanograms per milliliter constituting a confirmed positive drug test result;

(7) Opiates, with the following minimum detection levels constituting a positive drug test result:

(a) A level of two thousand nanograms per milliliter constituting an initial positive drug test result;

(b) A level of two thousand nanograms per milliliter constituting a confirmed positive drug test result;

(8) Phencyclidine, with the following minimum detection levels constituting a positive drug test result:

(a) A level of twenty-five nanograms per milliliter constituting an initial positive drug test result;

(b) A level of twenty-five nanograms per milliliter constituting a confirmed positive drug test result;

(9) Propoxyphene, with the following minimum detection levels constituting a positive drug test result:

(a) A level of three hundred nanograms per milliliter constituting an initial positive drug test result;

(b) A level of three hundred nanograms per milliliter constituting a confirmed positive drug test result;

(10) Alcohol, with an alcohol concentration of the amount of four-hundredths of one percent or more by weight of alcohol in the blood constituting a confirmed positive alcohol test result as determined by an analysis of a breath specimen provided by the employee.

6. This section shall not be construed to prohibit an employer from establishing and enforcing reasonable work rules relating to the use, possession, distribution, or delivery of drugs or alcohol in the workplace.

160.794. 1. An employee shall be given the opportunity to provide to the medical review officer any information that he or she considers relevant to the test, including identification of any prescription drugs or nonprescription drugs that he or she is currently using or has recently used or any other relevant medical information.

2. Within one working day after receipt of a verified positive test result, the employer or third-

party administrator shall inform the employee of the test result, the consequences of the test result, and the options available to the employee. On request, the third-party administrator or medical review officer shall provide a copy of the test result to the employee.

3. Within two working days after receiving a verified positive test result, the employee may request a retest of the specimen that tested positive by a certified laboratory chosen by the employee. The employee shall pay the cost of any retesting requested by the employee but not required by the employer, subject to reimbursement by the employer if the result of the retest is negative.

4. If testing is conducted based on reasonable suspicion, the employer shall document in writing the circumstances upon which that reasonable suspicion is based and, upon request, shall provide a copy of that documentation to the employee. The employer shall retain a copy of that documentation for not less than one year.

5. Any test of an employee conducted under this section shall occur immediately before, during, or immediately after the regular work period of the employee. If the test is conducted during an employee's regular work period, the employee shall be paid for the time lost from work at the employee's hourly basic rate of pay, plus the hourly contribution for health insurance benefits, vacation benefits, pension benefits, and any other bona fide economic benefits payable to the employee. If the test is conducted outside the employee's regular work period, the employee shall be paid for the time necessary to take the test, including reasonable travel time, at the employee's hourly basic rate of pay. The employer shall pay the cost of all testing required by the employer. The employee shall pay the cost of any retesting or additional testing requested by the employee, but not required by the employer, subject to reimbursement by the employer if the result of the retest or additional test is negative.

6. Except as required or permitted under this section, any information, written or otherwise, relating to the result of a test conducted under this section shall remain confidential and may be disclosed only as follows:

(1) On the specific written consent of the employee who is the subject of the test. That consent shall state the name of the person who is authorized to obtain the information, the purpose of the disclosure, the precise information to be disclosed, and the duration of the consent and shall be signed by the person authorizing the disclosure;

(2) On the order of a court, hearing examiner, arbitrator, or other decision maker for purposes of a court proceeding, administrative proceeding, grievance proceeding, or any other proceeding arising out of an adverse employment action taken as a result of a test conducted under this section.

160.797. 1. An employee who refuses to submit to testing as required under sections 160.782 to 160.797 or who is the subject of a verified positive test result may not be permitted to work on a project until the employee tests negative for the presence of drugs or alcohol in his or her system. An employee who is the subject of more than one verified positive test result during the life of a project may not work on the project for the life of the project.

2. Any employer that knowingly permits an employee of the employer to work on a project in violation of sections 160.782 to 160.797 may be fined not more than two hundred dollars or imprisoned for not more than six months, or both. Each day that a violation continues is a separate offense.

160.798. The requirements of sections 160.782 to 160.797 shall not apply to employers who are party to a program for drug and alcohol testing, which program has been in existence since at least January 1, 2005, provided that such program:

(1) Requires the testing of substances which include those substances set forth in subsection 5 of section 160.791;

(2) Utilizes detection levels which are at least as stringent as those set forth in subsection 5 of section 160.791;

(3) Provides for random testing and reasonable suspicion testing;

(4) Provides for review of test results by a medical review officer;

(5) Allows the employee to have a positive test specimen retested, at the employee's expense;

(6) Provides that an employee who tests positive or refuses to submit to a test shall not be permitted to resume employment until he or she tests negative for the presence of drugs or alcohol.”;
and

Further amend the title and enacting clause accordingly.

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

Senator Smith offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 72, Section 168.520, Line 13 of said page, by inserting immediately after said line the following:

“168.700. 1. This act shall be known, and may be cited, as the “Missouri Teaching Fellows Program”.

2. As used in this section, the following terms shall mean:

(1) “Department”, the Missouri department of higher education;

(2) “Eligible applicant”[,]:

(a) A high school senior who:

[(a)] a. Is a United States citizen;

[(b)] b. Has a cumulative grade point average ranking in the top ten percentile in their graduating class and scores in the top twenty percentile on either the ACT or SAT assessment; or has a cumulative grade point average ranking in the top twenty percentile in their graduating class and scores in the top ten percentile of the ACT or SAT assessment;

[(c)] c. Upon graduation from high school, attends a Missouri higher education institution and attains a teaching certificate and either a bachelors or graduate degree with a cumulative grade point average of at least [three-point zero] **three and twenty-five hundredths** on a four-point scale or equivalent;

[(d)] d. Signs an agreement with the department in which the applicant agrees to engage in qualified employment upon graduation from a higher education institution for five years; and

[(e)] e. Upon graduation from the higher education institution, engages in qualified employment; **or**

(b) A graduate of a Missouri public higher education institution who:

a. Has attained a certificate of license to teach from the state board of education under section 168.021 after August 28, 2008;

b. Has attained either a bachelor's degree or graduate degree with a cumulative grade point average of at least three and twenty-five hundredths on a four point scale, or an equivalent;

c. Is hired as a teacher in a school district described in subdivision (3) of subsection 2 of this section; and

d. Signs an agreement with the department in which the applicant agrees to engage in qualified employment for five years.

(3) "Qualified employment", employment as a teacher in a school located in a school district that is not classified as accredited by the state board of education at the time the eligible applicant signs their first contract to teach in such district. Preference in choosing schools to receive participating teachers shall be given to schools in such school districts with a higher-than-the-state-average of students eligible to receive a reduced lunch price under the National School Act, 42 U.S.C. Section 1751, et seq., as amended;

(4) "Teacher", any employee of a school district, regularly required to be certified under laws relating to the certification of teachers, except superintendents and assistant superintendents but including certified teachers who teach at the prekindergarten level within a prekindergarten program in which no fees are charged to parents or guardians.

3. Within the limits of amounts appropriated therefor, the department shall, upon proper verification to the department by an eligible applicant and the school district in which the applicant is engaged in qualified employment, enter into a one-year contract with eligible applicants to repay the interest and principal on the educational loans of the applicants or provide a stipend to the applicant as provided in subsection 4 of this section. The department may enter into subsequent one-year contracts with eligible applicants, not to total more than five such contracts. The fifth one-year contract shall provide for a stipend to such applicants as provided in subsection 4 of this section. If the school district becomes accredited at any time during which the eligible applicant is teaching at a school under a contract entered into pursuant to this section, nothing in this section shall preclude the department and the eligible applicant from entering into subsequent contracts to teach within the school district. An eligible applicant who does not enter into a contract with the department under the provisions of this subsection shall not be eligible for repayment of educational loans or a stipend under the provisions of subsection 4 of this section.

4. At the conclusion of each of the first four academic years that an eligible applicant engages in qualified employment, up to one-fourth of the eligible applicant's educational loans, not to exceed five thousand dollars per year, shall be repaid under terms provided in the contract. For applicants without any educational loans, the applicant may receive a stipend of up to five thousand dollars at the conclusion of each of the first four academic years that the eligible applicant engages in qualified employment. At the conclusion of the fifth academic year that an eligible applicant engages in qualified employment, a stipend in an amount equal to one thousand dollars shall be granted to the eligible applicant. The maximum of five thousand dollars per year and the stipend of one thousand dollars shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. The amount of any repayment of educational loans or

the issuance of a stipend under this subsection shall not exceed the actual cost of tuition, required fees, and room and board for the eligible applicant at the institution of higher education from which the eligible applicant graduated.

5. The department shall maintain a Missouri teaching fellows program coordinator position, the main responsibility of which shall be the identification, recruitment, and selection of potential students meeting the requirements of paragraph (b) of subdivision (2) of subsection 2 of this section. In selecting potential students, the coordinator shall give preference to applicants that represent a variety of racial backgrounds in order to ensure a diverse group of eligible applicants.

6. The department shall promulgate rules to enforce the provisions of this section, including, but not limited to, applicant eligibility, selection criteria, and the content of loan repayment contracts. If the number of applicants exceeds the revenues available for loan repayment or stipends, priority shall be to those applicants with the highest high school grade-point average and highest scores on the ACT or SAT assessments.

7. 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. There is hereby created in the state treasury the "Missouri Teaching Fellows Program Fund". The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Private donations, federal grants, and other funds provided for the implementation of this section shall be placed in the Missouri teaching fellows program fund. Upon appropriation, money in the fund shall be used solely for the repayment of loans and the payment of stipends under the provisions of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

9. Subject to appropriations, the general assembly shall include an amount necessary to properly fund this section, not to exceed one million dollars in any fiscal year. The maximum of one million dollars in any fiscal year shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency."; and

Further amend the title and enacting clause accordingly.

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

Senator Smith offered **SA 12**:

SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House

Bill No. 1722, Page 42, Section 162.963, Line 3 of said page, by inserting immediately after said line the following:

“162.1168. 1. There is hereby established a pilot program within the Missouri preschool project to be known as the “Missouri Preschool Plus Grant Program”, which shall serve up to one thousand two hundred fifty students with high quality early childhood educational services in order to improve school readiness outcomes. The program shall be administered by the department of elementary and secondary education in collaboration with the coordinating board for early childhood. Grants shall be awarded in this section for three years and shall be renewable. The program shall be funded through appropriations to the Missouri preschool plus grant program fund. Funds from the gaming commission fund shall not be used to fund the program.

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

(1) “Department”, the department of elementary and secondary education;

(2) “Program”, the Missouri preschool plus grant program.

3. Grantees shall include the following:

(1) School districts classified as unaccredited by the state board of education;

(2) Non-sectarian community-based organizations located within a school district classified as unaccredited by the state board of education; or

(3) Any school district that, as a result of a boundary change election as provided in 162.431, receives pupils from a provisionally accredited or unaccredited school district.

4. If a school district becomes classified as provisionally accredited or accredited by the state board of education, the school district may complete the length of an existing grant and shall be eligible for one additional renewal for three years.

5. To receive a preschool placement under this section, a child shall be one or two years away from kindergarten entry.

6. The Missouri preschool plus grant program shall comply with the standards developed under section 161.213, RSMo. Public school grantees shall employ teachers with a bachelor's degree. Non-sectarian community-based organizations may employ teachers with at least an associate's degree provided such teachers demonstrate they are on the path to obtaining a bachelor's degree within five years.

7. Families with incomes less than one hundred thirty percent of the federal poverty guidelines shall receive free services through eligible grantees. Families with incomes at or above one hundred thirty percent of the federal poverty guidelines may be charged a co-pay on a sliding scale, as established by the department.

8. At least fifty percent of the preschool placements funded by the program shall be offered through non-sectarian community-based organizations.

9. The department shall develop standards for teacher-pupil ratios, classroom size, teacher training and educational attainment, and curriculum.

10. Grantees participating in the program shall give admission preference to dependents of active

duty military personnel.

11. School districts and non-sectarian community-based organizations in which such pilot programs exist shall collect data about short-term and long-term student performance, where feasible, so that the program may be evaluated on quantitative measurements developed by the department. The department shall make a good faith effort to collect long-term student performance data required under this subsection for students who attend non-public schools. For purposes of this subsection, "long-term" shall mean from point of entry to graduation from high school.

12. Grantees shall coordinate preschool programs with the nearest parents as teachers site to ensure a continuum of care.

13. The department shall accept applications in a competitive bid process to begin implementation of the program for the 2009-2010 school year.

14. The department shall promulgate rules and regulations necessary to implement this section by January 1, 2009. 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, 2008, shall be invalid and void.

15. The general assembly shall appropriate an amount sufficient to adequately fund the provisions of this section, which shall be ten million dollars in any fiscal year.

16. There is hereby created in the state treasury the "Missouri Preschool Plus Grant Program Fund" which shall consist of general revenue appropriated to the program, funds received from the federal government, and voluntary contributions to support or match program activities. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

17. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

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

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset."; and

Further amend the title and enacting clause accordingly.

Senator Smith moved that the above amendment be adopted, which motion failed.

Senator Smith offered **SA 13**:

SENATE AMENDMENT NO. 13

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 83, Section 173.258, Line 11 of said page, by inserting immediately after said line the following:

“173.1120. When funds are available, the department of elementary and secondary education shall contract with an on-line test preparation company or companies to provide a customized SAT and ACT preparation program to all public high school juniors. Students may choose to participate in either the SAT or ACT preparation program, but not both. The company chosen shall have demonstrated performance in adaptive learning technologies to diagnose students' individual strengths and areas for improvement. The company shall provide a skills-based approach which emphasizes skill development in English, reading, mathematics, and if providing skills-preparation for the ACT, science.”; and

Further amend the title and enacting clause accordingly.

Senator Smith moved that the above amendment be adopted, which motion failed.

Senator Smith offered **SA 14**:

SENATE AMENDMENT NO. 14

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 13, Section 160.261, Line 7 of said page, by inserting after all of said line the following:

“160.400. 1. A charter school is an independent public school.

2. Charter schools may be operated only in a metropolitan school district or in an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants and may be sponsored by any of the following:

(1) The school board of the district;

(2) A public four-year college or university with its primary campus in the school district or in a county adjacent to the county in which the district is located, with an approved teacher education program that meets regional or national standards of accreditation;

(3) A community college located in the district; or

(4) Any private four-year college or university located in a city not within a county with an enrollment of at least one thousand students, and with an approved teacher preparation program.

3. [The mayor of] **In** a city not within a county [may request a sponsor under subdivision (2), (3), or (4) of subsection 2 of this section to consider sponsoring a], **charter schools may also include** workplace charter [school] **schools**, which [is] **are** defined for purposes of sections 160.400 to 160.420 as a charter school with the ability to target prospective students whose parent or parents are employed in a business district, as defined in the charter, which is located in the city.

4. No sponsor shall receive from an applicant for a charter school any fee of any type for the consideration of a charter, nor may a sponsor condition its consideration of a charter on the promise of future payment of any kind.

5. The charter school shall be a Missouri nonprofit corporation incorporated pursuant to chapter 355, RSMo. The charter provided for herein shall constitute a contract between the sponsor and the charter school.

6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo, the charter school shall select the method for election of officers pursuant to section 355.326, RSMo, based on the class of corporation selected. Meetings of the governing board of the charter school shall be subject to the provisions of sections 610.010 to 610.030, RSMo, the open meetings law.

7. A sponsor of a charter school, its agents and employees are not liable for any acts or omissions of a charter school that it sponsors, including acts or omissions relating to the charter submitted by the charter school, the operation of the charter school and the performance of the charter school.

8. A charter school may affiliate with a four-year college or university, including a private college or university, or a community college as otherwise specified in subsection 2 of this section when its charter is granted by a sponsor other than such college, university or community college. Affiliation status recognizes a relationship between the charter school and the college or university for purposes of teacher training and staff development, curriculum and assessment development, use of physical facilities owned by or rented on behalf of the college or university, and other similar purposes. The primary campus of the college or university must be located within the county in which the school district lies wherein the charter school is located or in a county adjacent to the county in which the district is located. A university, college or community college may not charge or accept a fee for affiliation status.

9. The expenses associated with sponsorship of charter schools shall be defrayed by the department of elementary and secondary education retaining one and five-tenths percent of the amount of state and local funding allocated to the charter school under section 160.415, not to exceed one hundred twenty-five thousand dollars, adjusted for inflation. Such amount shall not be withheld when the sponsor is a school district or the state board of education. The department of elementary and secondary education shall remit the retained funds for each charter school to the school's sponsor, provided the sponsor remains in good standing by fulfilling its sponsorship obligations under sections 160.400 to 160.420 and 167.349, RSMo, with regard to each charter school it sponsors **including appropriate demonstration of the following:**

(1) Expends no less than ninety percent of its charter school sponsorship funds in support of its charter school sponsorship program, or as a direct investment in the sponsored schools;

(2) Maintains a comprehensive application process that follows fair procedures and rigorous criteria and grants charters only to those developers who demonstrate strong capacity for establishing and operating a quality charter school;

(3) Negotiates contracts with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences, and other material terms;

(4) Conducts contract oversight that evaluates performance, monitors compliance, informs intervention and renewal decisions, and ensures autonomy provided under applicable law; and

(5) Designs and implements a transparent and rigorous program that uses comprehensive data to make merit-based renewal decisions.

10. No university, college or community college shall grant a charter to a nonprofit corporation if an

employee of the university, college or community college is a member of the corporation's board of directors.

11. No sponsor shall grant a charter under sections 160.400 to 160.420 and 167.349, RSMo, without ensuring that a criminal background check and child abuse registry check are conducted for all members of the governing board of the charter schools or the incorporators of the charter school if initial directors are not named in the articles of incorporation, nor shall a sponsor renew a charter without ensuring a criminal background check and child abuse registry check are conducted for each member of the governing board of the charter school.

12. No member of the governing board of a charter school shall hold any office or employment from the board or the charter school while serving as a member, nor shall the member have any substantial interest, as defined in section 105.450, RSMo, in any entity employed by or contracting with the board. No board member shall be an employee of a company that provides substantial services to the charter school. All members of the governing board of the charter school shall be considered decision-making public servants as defined in section 105.450, RSMo, for the purposes of the financial disclosure requirements contained in sections 105.483, 105.485, 105.487, and 105.489, RSMo.

13. A sponsor shall provide timely submission to the state board of education of all data necessary to demonstrate that the sponsor is in material compliance with all requirements of sections 160.400 to 160.420 and 167.349, RSMo.

14. The state board of education shall ensure each sponsor is in compliance with all requirements under sections 160.400 to 160.420 and 167.349, RSMo, for each charter school sponsored by any sponsor. The state board shall notify each sponsor of the standards for sponsorship of charter schools, delineating both what is mandated by statute and what best practices dictate. The state board, after a public hearing, may require remedial action for a sponsor that it finds has not fulfilled its obligations of sponsorship, such remedial actions including withholding the sponsor's funding and suspending for a period of up to one year the sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional school. If the state board removes the authority to sponsor a currently operating charter school, the state board shall become the interim sponsor of the school for a period of up to three years until the school finds a new sponsor or until the charter contract period lapses.

160.405. 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a school board, the applicant shall give a copy of its application to the school board of the district in which the charter school is to be located and to the state board of education, within five business days of the date the application is filed with the proposed sponsor. The school board may file objections with the proposed sponsor, and, if a charter is granted, the school board may file objections with the state board of education. The charter shall include a mission statement for the charter school, a description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy and operational decisions of the charter school, a financial plan for the first three years of operation of the charter school including provisions for annual audits, a description of the charter school's policy for securing personnel services, its personnel policies, personnel qualifications, and professional development plan, a description of the grades or ages of students being served, the school's calendar of operation, which shall include at least the equivalent of a full school term as defined in section 160.011, and an outline of criteria specified in this section designed to measure the effectiveness of the school. The charter shall also state:

(1) The educational goals and objectives to be achieved by the charter school;

(2) A description of the charter school's educational program and curriculum;

(3) The term of the charter, which shall be not less than five years, nor greater than ten years and shall be renewable;

(4) A description of the charter school's pupil performance standards, which must meet the requirements of subdivision (6) of subsection 5 of this section. The charter school program must be designed to enable each pupil to achieve such standards;

(5) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school; and

(6) A description of the charter school's policies on student discipline and student admission, which shall include a statement, where applicable, of the validity of attendance of students who do not reside in the district but who may be eligible to attend under the terms of judicial settlements.

2. Proposed charters shall be subject to the following requirements:

(1) A charter may be approved when the sponsor determines that the requirements of this section are met and determines that the applicant is sufficiently qualified to operate a charter school. The sponsor's decision of approval or denial shall be made within ninety days of the filing of the proposed charter;

(2) If the charter is denied, the proposed sponsor shall notify the applicant in writing as to the reasons for its denial and forward a copy to the state board of education within five business days following the denial;

(3) If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor's written reasons for its denial. If the state board determines that the applicant meets the requirements of this section, that the applicant is sufficiently qualified to operate the charter school, and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school. The state board shall review the proposed charter and make a determination of whether to deny or grant the proposed charter within sixty days of receipt of the proposed charter, provided that any charter to be considered by the state board of education under this subdivision shall be submitted no later than March first prior to the school year in which the charter school intends to begin operations. The state board of education shall notify the applicant in writing as the reasons for its denial, if applicable; and

(4) The sponsor of a charter school shall give priority to charter school applicants that propose a school oriented to high-risk students and to the reentry of dropouts into the school system. If a sponsor grants three or more charters, at least one-third of the charters granted by the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their proposed mission, curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk" student is one who is at least one year behind in satisfactory completion of course work or obtaining credits for graduation, pregnant or a parent, homeless or has been homeless sometime within the preceding six months, has limited English proficiency, has been suspended from school three or more times, is eligible for free or reduced-price school lunch, or has been referred by the school district for enrollment in an alternative program. "Dropout" shall be defined through the guidelines of the school core

data report. The provisions of this subsection do not apply to charters sponsored by the state board of education.

3. If a charter is approved by a sponsor, the charter application shall be submitted to the state board of education, along with a statement of finding that the application meets the requirements of sections 160.400 to 160.420 and section 167.439, RSMo, and a monitoring plan under which the charter sponsor will evaluate the academic performance of students enrolled in the charter school. The state board of education may, within sixty days, disapprove the granting of the charter. The state board of education may disapprove a charter on grounds that the application fails to meet the requirements of sections 160.400 to 160.420 and section 167.349, RSMo, or that a charter sponsor previously failed to meet the statutory responsibilities of a charter sponsor.

4. Any disapproval of a charter pursuant to subsection 3 of this section shall be subject to judicial review pursuant to chapter 536, RSMo.

5. A charter school shall, as provided in its charter:

(1) Be nonsectarian in its programs, admission policies, employment practices, and all other operations;

(2) Comply with laws and regulations of the state, county, or city relating to health, safety, and state minimum educational standards, as specified by the state board of education, including the requirements relating to student discipline under sections 160.261, 167.161, 167.164, and 167.171, RSMo, notification of criminal conduct to law enforcement authorities under sections 167.115 to 167.117, RSMo, academic assessment under section 160.518, transmittal of school records under section 167.020, RSMo, and the minimum number of school days and hours required under section 160.041;

(3) Except as provided in sections 160.400 to 160.420, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, publish audit reports and annual financial reports as provided in chapter 165, RSMo, provided that the annual financial report may be published on the department of elementary and secondary education's Internet web site in addition to other publishing requirements, and provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. A charter school that receives local educational agency status under subsection 6 of this section shall meet the requirements imposed by the Elementary and Secondary Education Act for audits of such agencies. For purposes of an audit by petition under section 29.230, RSMo, a charter school shall be treated as a political subdivision on the same terms and conditions as the school district in which it is located. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo. A charter school that incurs debt must include a repayment plan in its financial plan;

(5) Provide a comprehensive program of instruction for at least one grade or age group from kindergarten through grade twelve, which may include early childhood education if funding for such programs is established by statute, as specified in its charter;

(6) (a) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, collect baseline data during at least the first three years for determining how the charter school is performing and to the extent applicable, participate in the statewide system of assessments, comprised of the essential skills tests and the nationally standardized

norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, which shall also include a statement that background checks have been completed on the charter school's board members, report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof, and provide data required for the study of charter schools pursuant to subsection 4 of section 160.410. No charter school will be considered in the Missouri school improvement program review of the district in which it is located for the resource or process standards of the program.

(b) For proposed high risk or alternative charter schools, sponsors shall approve performance measures based on mission, curriculum, teaching methods, and services. Sponsors shall also approve comprehensive academic and behavioral measures to determine whether students are meeting performance standards on a different time frame as specified in that school's charter. Student performance shall be assessed comprehensively to determine whether a high risk or alternative charter school has documented adequate student progress. Student performance shall be based on sponsor-approved comprehensive measures as well as standardized public school measures. Annual presentation of charter school report card data to the department of elementary and secondary education, the state board, and the public shall include comprehensive measures of student progress.

(c) Nothing in this [paragraph] **subdivision** shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter;

(7) Assure that the needs of special education children are met in compliance with all applicable federal and state laws and regulations;

(8) Provide along with any request for review by the state board of education the following:

(a) Documentation that the applicant has provided a copy of the application to the school board of the district in which the charter school is to be located, except in those circumstances where the school district is the sponsor of the charter school; and

(b) A statement outlining the reasons for approval or disapproval by the sponsor, specifically addressing the requirements of sections 160.400 to 160.420 and 167.349, RSMo.

6. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor. The sponsor and the governing board and staff of the charter school shall jointly review the school's performance, management and operations at least once every two years or at any point where the operation or management of the charter school is changed or transferred to another entity, either public or private. The governing board of a charter school may amend the charter, if the sponsor approves such amendment, or the sponsor and the governing board may reach an agreement in writing to reflect the charter school's decision to become a local educational agency [for the sole purpose of seeking direct access to federal grants]. In such case the sponsor shall give the department of elementary and secondary education written notice no later than March first of any year, with the agreement to become effective July first. The department may waive the March first notice date in its discretion. The department shall identify and furnish a list of its regulations that pertain to local educational agencies to such schools within thirty days of receiving such notice.

7. (1) A sponsor may revoke a charter at any time if the charter school commits a serious breach of one

or more provisions of its charter or on any of the following grounds: failure to meet academic performance standards as set forth in its charter, failure to meet generally accepted standards of fiscal management, failure to provide information necessary to confirm compliance with all provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo, within forty-five days following receipt of written notice requesting such information, or violation of law.

(2) The sponsor may place the charter school on probationary status to allow the implementation of a remedial plan, which may require a change of methodology, a change in leadership, or both, after which, if such plan is unsuccessful, the charter may be revoked.

(3) At least sixty days before acting to revoke a charter, the sponsor shall notify the governing board of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action. The school's governing board may request in writing a hearing before the sponsor within two weeks of receiving the notice.

(4) The sponsor of a charter school shall establish procedures to conduct administrative hearings upon determination by the sponsor that grounds exist to revoke a charter. Final decisions of a sponsor from hearings conducted pursuant to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

(5) A termination shall be effective only at the conclusion of the school year, unless the sponsor determines that continued operation of the school presents a clear and immediate threat to the health and safety of the children.

(6) A charter sponsor shall make available the school accountability report card information as provided under section 160.522 and the results of the academic monitoring required under subsection 3 of this section.

8. A sponsor shall take all reasonable steps necessary to confirm that each charter school sponsored by such sponsor is in material compliance and remains in material compliance with all material provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo. Every charter school shall provide all information necessary to confirm ongoing compliance with all provisions of its charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely manner to its sponsor.

9. A school district may enter into a lease with a charter school for physical facilities.

10. A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee at the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. As used in this subsection, "unlawful reprisal" means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an educational program.

11. Charter school board members shall be subject to the same liability for acts while in office as if they were regularly and duly elected members of school boards in any other public school district in this state. The governing board of a charter school may participate, to the same extent as a school board, in the Missouri public entity risk management fund in the manner provided under sections 537.700 to 537.756, RSMo.

12. Any entity, either public or private, operating, administering, or otherwise managing a charter school shall be considered a quasi-public governmental body and subject to the provisions of sections 610.010 to 610.035, RSMo.

13. The chief financial officer of a charter school shall maintain a surety bond in an amount determined by the sponsor to be adequate based on the cash flow of the school.

160.410. 1. A charter school shall enroll:

(1) All pupils resident in the district in which it operates;

(2) Nonresident pupils eligible to attend a district's school under an urban voluntary transfer program; [and]

(3) In the case of a charter school whose mission includes student drop-out prevention or recovery, a nonresident pupil from the same or an adjacent county who submits a timely application; and

(4) In the case of a workplace charter school, any student eligible to attend under subdivision (1) or (2) of this subsection whose parent is employed in the business district, who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. The configuration of a business district shall be set forth in the charter and shall not be construed to create an undue advantage for a single employer or small number of employers.

2. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education; [and]

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school or in the case of a workplace charter school, a child whose parent is employed in the business district or at the business site of such school; **and**

(3) A charter school whose mission includes student drop-out prevention or recovery as described in subdivision (3) of subsection 1 of this section shall give preference for admission to resident pupils over nonresident pupils.

3. A charter school shall not limit admission based on race, ethnicity, national origin, disability, gender, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level.

4. The department of elementary and secondary education shall commission a study of the performance of students at each charter school in comparison with [a comparable] **an equivalent group of district students representing an equivalent demographic and geographic population** and a study of the impact of charter schools upon **the constituents they serve** in the districts in which they are located, to be conducted by a contractor selected through a request for proposal. **The department of elementary and secondary education shall coordinate the request for proposal process in conjunction with individuals representing charter public schools and the districts in which the charter schools are located.** The department of elementary and secondary education shall reimburse the contractor from funds appropriated

by the general assembly for the purpose. The study of a charter school's student performance in relation to a comparable group shall be designed to provide information that would allow parents and educators to make valid comparisons of academic performance between the charter school's students and [a] **an equivalent** group of **district** students [comparable to the students enrolled in the charter school] **representing an equivalent demographic and geographic population. The student performance assessment and comparison shall include, but may not be limited to as prescribed by the request for proposal: Missouri Assessment Program test performance and aggregate growth over several years; student reenrollment rates; educator, parent, and student satisfaction data; graduation rates in secondary programs; and performance of students enrolled in the same public school for three or more consecutive years.** The impact study shall be undertaken every two years to determine the [effect] **impact** of charter schools on [education stakeholders] **the constituents they serve** in the districts where charter schools are operated. The impact study [may] **shall** include, but is not limited to, determining if changes have been made in district policy or procedures attributable to the charter school and to perceived changes in attitudes and expectations on the part of district personnel, school board members, parents, students, the business community and other education stakeholders. The department of elementary and secondary education shall make the results of the studies public and shall deliver copies to the governing boards of the charter schools, the sponsors of the charter schools, the school board and superintendent of the districts in which the charter schools are operated.

5. A charter school shall make available for public inspection, and provide upon request, to the parent, guardian, or other custodian of any school-age pupil resident in the district in which the school is located the following information:

- (1) The school's charter;
- (2) The school's most recent annual report card published according to section 160.522; and
- (3) The results of background checks on the charter school's board members.

The charter school may charge reasonable fees, not to exceed the rate specified in section 610.026, RSMo, for furnishing copies of documents under this subsection.”; and

Further amend the title and enacting clause accordingly.

Senator Smith moved that the above amendment be adopted, which motion failed.

Senator Bray offered **SA 15**:

SENATE AMENDMENT NO. 15

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 28, Section 160.820, Line 6 of said page, by inserting after all of said line the following:

“160.950. 1. There is hereby created in the state treasury the “The Persistence to Graduation Fund”, which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. The fund shall be administered by the department of elementary and

secondary education.

2. The department of elementary and secondary education shall establish a procedure whereby seven-director, urban, and metropolitan school districts may apply for grant awards from the Persistence to Graduation Fund in order for such districts to implement drop-out prevention strategies. Successful applicants under this section shall be awarded grants for one to five consecutive years. Upon expiration of the initial grant, the district may reapply for an extension of the grant award for a period of time deemed appropriate by both the district and the department. The department of elementary and secondary education shall give preference to school districts that propose a holistic approach to drop-out prevention, directed at a broad array of students, from the pre-kindergarten level through early adulthood, including the following characteristics:

(1) A collaborative approach between the school district and various community organizations, including non-profit organizations, local governmental organizations, law enforcement agencies, “approved public institutions” and “approved private institutions” as such terms are defined in section 173.1102, RSMo, and institutions able to deliver proven, research-based intervention services;

(2) Early intervention strategies, including family engagement, early childhood education, early literacy development, family literacy, and mental health detection and treatment;

(3) Increased accountability measures that track at-risk students that leave the district;

(4) The implementation or augmentation of the following basic core strategies for drop-out prevention:

(a) Mentoring;

(b) Tutoring;

(c) Alternative Schooling;

(d) Career and Technical Education; and

(e) Before or After School Programs;

(5) The implementation of early intervention strategies for students who display strong indicators that they will not persist to graduation.

3. Grants awarded under this section shall be restricted to school districts that display at least one of the following criteria:

(1) The district has not met the graduation rate indicated on its most current annual performance review;

(2) The district is classified as unaccredited, provisionally accredited, or interim accredited by the state board of education;

(3) The district obtained a score on its most recent annual performance review consistent with the classification of provisionally accredited or unaccredited.

4. The department of elementary and secondary education shall promulgate rules, no later than January 15, 2009, for the implementation of this section, including:

(1) A procedure by which funds shall be allocated to the applying school districts; and

(2) A means to judge the effectiveness of the drop-out prevention programs of the districts that receive grants under this 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 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, 2008, shall be invalid and void.

5. The department of elementary and secondary education may cease award payments to any district at any time if the department determines that such funds are being misused or if the district's drop-out prevention program is deemed to be ineffectual. Any decision to discontinue payments of such funds shall be presented to the applicable district in writing at least thirty days prior to the cessation of fund payments.

6. The department of elementary and secondary education shall report to the general assembly and to the governor, no later than January fifteenth annually:

(1) The recipients and amounts of the grants awarded under this section; and

(2) The persistence to graduation data from the preceding five years for each district awarded grants under this section.

7. The general assembly shall annually appropriate an amount sufficient to properly fund the provisions of this section, which shall be a minimum of five million dollars in any fiscal year.

8. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after the effective date of this section unless reauthorized by an act of the general assembly; and

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

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

Senator Bray offered SA 1 to SA 15, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 15

Amend Senate Amendment No. 15 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 4, Section 160.950, Lines 18-21, by striking all of said lines from the bill; and

Further renumber the remaining subsection accordingly.

Senator Bray moved that the above amendment be adopted, which motion failed.

SA 15 was again taken up.

Senator Bray moved that the above amendment be adopted, which motion failed.

Senator Bray offered **SA 16**:

SENATE AMENDMENT NO. 16

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 1, In the Title, Line 8 of the title, by inserting after "RSMo," the following: "and section 168.021 as truly agreed to and finally passed by senate bill no. 1066, ninety-fourth general assembly, second regular session, and signed by the governor,"; and

Further amend said bill and page, Section A, Line 6 of said page, by inserting after "RSMo," the following: "and section 168.021 as truly agreed to and finally passed by senate bill no. 1066, ninety-fourth general assembly, second regular session, and signed by the governor,"; and

Further amend said bill, Page 67, Section 167.630, Line 21 of said page, by inserting after all of said line the following:

"168.021. 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board with advice from the advisory council established by section 168.015 to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association such as North Central Association. Such certificate shall be limited to the major area of postgraduate study of the holder, shall be issued only after successful completion of the examination required for graduation pursuant to rules adopted by the state board of education, and shall be restricted to those certificates established pursuant to subdivision (1) of subsection 3 of this section; [or]

(3) By the state board, which shall issue the professional certificate classification in both the general and specialized areas most closely aligned with the current areas of certification approved by the state board, commensurate with the years of teaching experience of the applicant, and based upon the following criteria:

(a) Recommendation of a state-approved baccalaureate-level teacher preparation program;

(b) Successful attainment of the Missouri qualifying score on the exit assessment for teachers or administrators designated by the state board of education. Applicants who have not successfully achieved a qualifying score on the designated examinations will be issued a two-year nonrenewable provisional certificate; and

(c) Upon completion of a background check and possession of a valid teaching certificate in the state from which the applicant's teacher preparation program was completed; **or**

(4) By the state board, under rules and regulations prescribed by it, on the basis of certification by the American Board for Certification of Teacher Excellence (ABCTE) and verification of ability to work with children as demonstrated by sixty contact hours in any one of the following areas as validated by the school principal: sixty contact hours in the classroom, of which at least forty-five

must be teaching; sixty contact hours as a substitute teacher, with at least thirty consecutive hours in the same classroom; sixty contact hours of teaching in a private school; or sixty contact hours of teaching as a paraprofessional, for an initial four-year ABCTE certificate of license to teach, except that such certificate shall not be granted for the areas of early childhood education, elementary education, or special education. Upon the completion of the requirements listed in paragraphs (a), (b), (c), (d), and (e) of this subdivision, an applicant shall be eligible to apply for a career continuous professional certificate under subdivision (2) of subsection 3 of this section:

(a) Completion of thirty contact hours of professional development within four years, which may include hours spent in class in an appropriate college curriculum;

(b) Validated completion of two years of a district mentoring program approved by the state board of education, or, if the district does not have such a mentoring program, then validated completion of two years of the mentoring program of the American Board for Certification of Teacher Excellence;

(c) Attainment of a successful performance-based teacher evaluation, as determined by the district, on an annual basis;

(d) Participation in a beginning teacher assistance program; and

(e) Attainment of a qualifying score on the pedagogy examination designated by the state board of education for certification of alternatively certified teachers.

2. All valid teaching certificates issued pursuant to law or state board policies and regulations prior to September 1, 1988, shall be exempt from the professional development requirements of this section and shall continue in effect until they expire, are revoked or suspended, as provided by law. When such certificates are required to be renewed, the state board or its designee shall grant to each holder of such a certificate the certificate most nearly equivalent to the one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or continuous professional certificate shall, upon expiration of his or her current certificate, be issued the appropriate level of certificate based upon the classification system established pursuant to subsection 3 of this section.

3. Certificates of license to teach in the public schools of the state shall be based upon minimum requirements prescribed by the state board of education. The state board shall provide for the following levels of professional certification: an initial professional certificate and a career continuous professional certificate.

(1) The initial professional certificate shall be issued upon completion of requirements established by the state board of education and shall be valid based upon verification of actual teaching within a specified time period established by the state board of education. The state board shall require holders of the four-year initial professional certificate to:

(a) Participate in a mentoring program approved and provided by the district for a minimum of two years;

(b) Complete thirty contact hours of professional development, which may include hours spent in class in an appropriate college curriculum; and

(c) Participate in a beginning teacher assistance program;

(2) (a) The career continuous professional certificate shall be issued upon verification of completion

of four years of teaching under the initial professional certificate and upon verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of subdivision (1) of this subsection **or paragraphs (a), (b), (c), (d), and (e) of subdivision (4) of subsection 1 of this section.**

(b) The career continuous professional certificate shall be continuous based upon verification of actual employment in an educational position as provided for in state board guidelines and completion of fifteen contact hours of professional development per year which may include hours spent in class in an appropriate college curriculum. Should the possessor of a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour professional development requirement, the possessor may, within two years, make up the missing hours. In order to make up for missing hours, the possessor shall first complete the fifteen-hour requirement for the current year and then may count hours in excess of the current year requirement as make-up hours. Should the possessor fail to make up the missing hours within two years, the certificate shall become inactive. In order to reactivate the certificate, the possessor shall complete twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate. The requirements of this paragraph shall be monitored and verified by the local school district which employs the holder of the career continuous professional certificate.

(c) A holder of a career continuous professional certificate shall be exempt from the professional development contact hour requirements of paragraph (b) of this subdivision if such teacher has a local professional development plan in place within such teacher's school district and meets two of the three following criteria:

- a. Has ten years of teaching experience as defined by the state board of education;
- b. Possesses a master's degree; or
- c. Obtains a rigorous national certification as approved by the state board of education.

4. Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures allowing a teacher who has not been employed in an educational position for three years or more to reactivate his or her last level of certification by completing twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate.

5. The state board shall, upon an appropriate background check, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach.

6. The state board may assess to holders of an initial professional certificate a fee, to be deposited into the excellence in education revolving fund established pursuant to section 160.268, RSMo, for the issuance of the career continuous professional certificate. However, such fee shall not exceed the combined costs of issuance and any criminal background check required as a condition of issuance. **Applicants for the initial**

ABCTE certificate shall be responsible for any fees associated with the program leading to the issuance of the certificate, but nothing in this section shall prohibit a district from developing a policy that permits fee reimbursement.

7. Any member of the public school retirement system of Missouri who entered covered employment with ten or more years of educational experience in another state or states and held a certificate issued by another state and subsequently worked in a school district covered by the public school retirement system of Missouri for ten or more years who later became certificated in Missouri shall have that certificate dated back to his or her original date of employment in a Missouri public school.

8. The provisions of subdivision (4) of subsection 1 of this section, as well as any other provision of this section relating to the American Board for Certification of Teacher Excellence, shall terminate on August 28, 2014.”; and

Further amend said bill, page 94, section 160.730, line 31 of said page, by inserting immediately after said line the following:

“[168.021. 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board with advice from the advisory council established by section 168.015 to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association such as North Central Association. Such certificate shall be limited to the major area of postgraduate study of the holder, shall be issued only after successful completion of the examination required for graduation pursuant to rules adopted by the state board of education, and shall be restricted to those certificates established pursuant to subdivision (1) of subsection 3 of this section; [or]

(3) By the state board, which shall issue the professional certificate classification in both the general and specialized areas most closely aligned with the current areas of certification approved by the state board, commensurate with the years of teaching experience of the applicant, and based upon the following criteria:

(a) Recommendation of a state-approved baccalaureate-level teacher preparation program;

(b) Successful attainment of the Missouri qualifying score on the exit assessment for teachers or administrators designated by the state board of education. Applicants who have not successfully achieved a qualifying score on the designated examinations will be issued a two-year nonrenewable provisional certificate; and

(c) Upon completion of a background check and possession of a valid teaching certificate in the state from which the applicant's teacher preparation program was completed; **or**

(4) By the state board, under rules and regulations prescribed by it, on the basis of certification by the American Board for Certification of Teacher Excellence (ABCTE) and

verification of ability to work with children as demonstrated by sixty contact hours in any one of the following areas as validated by the school principal: sixty contact hours in the classroom, of which at least forty-five must be teaching; sixty contact hours as a substitute teacher, with at least thirty consecutive hours in the same classroom; sixty contact hours of teaching in a private school; or sixty contact hours of teaching as a paraprofessional, for an initial four-year ABCTE certificate of license to teach, except that such certificate shall not be granted for the areas of early childhood education, elementary education, or special education. Upon the completion of the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an applicant shall be eligible to apply for a career continuous professional certificate under subdivision (2) of subsection 3 of this section:

(a) Completion of thirty contact hours of professional development within four years, which may include hours spent in class in an appropriate college curriculum;

(b) Validated completion of two years of the mentoring program of the American Board for Certification of Teacher Excellence or a district mentoring program approved by the state board of education;

(c) Attainment of a successful performance-based teacher evaluation; and

(d) Participate in a beginning teacher assistance program.

2. All valid teaching certificates issued pursuant to law or state board policies and regulations prior to September 1, 1988, shall be exempt from the professional development requirements of this section and shall continue in effect until they expire, are revoked or suspended, as provided by law. When such certificates are required to be renewed, the state board or its designee shall grant to each holder of such a certificate the certificate most nearly equivalent to the one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or continuous professional certificate shall, upon expiration of his or her current certificate, be issued the appropriate level of certificate based upon the classification system established pursuant to subsection 3 of this section.

3. Certificates of license to teach in the public schools of the state shall be based upon minimum requirements prescribed by the state board of education. The state board shall provide for the following levels of professional certification: an initial professional certificate and a career continuous professional certificate.

(1) The initial professional certificate shall be issued upon completion of requirements established by the state board of education and shall be valid based upon verification of actual teaching within a specified time period established by the state board of education. The state board shall require holders of the four-year initial professional certificate to:

(a) Participate in a mentoring program approved and provided by the district for a minimum of two years;

(b) Complete thirty contact hours of professional development, which may include hours spent in class in an appropriate college curriculum; and

(c) Participate in a beginning teacher assistance program;

(2) (a) The career continuous professional certificate shall be issued upon verification of

completion of four years of teaching under the initial professional certificate and upon verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of subdivision (1) of this subsection **or paragraphs (a), (b), (c), and (d) of subdivision (4) of subsection 1 of this section.**

(b) The career continuous professional certificate shall be continuous based upon verification of actual employment in an educational position as provided for in state board guidelines and completion of fifteen contact hours of professional development per year which may include hours spent in class in an appropriate college curriculum. Should the possessor of a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour professional development requirement, the possessor may, within two years, make up the missing hours. In order to make up for missing hours, the possessor shall first complete the fifteen-hour requirement for the current year and then may count hours in excess of the current year requirement as make-up hours. Should the possessor fail to make up the missing hours within two years, the certificate shall become inactive. In order to reactivate the certificate, the possessor shall complete twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate. The requirements of this paragraph shall be monitored and verified by the local school district which employs the holder of the career continuous professional certificate.

(c) A holder of a career continuous professional certificate shall be exempt from the professional development contact hour requirements of paragraph (b) of this subdivision if such teacher has a local professional development plan in place within such teacher's school district and meets two of the three following criteria:

- a. Has ten years of teaching experience as defined by the state board of education;
- b. Possesses a master's degree; or
- c. Obtains a rigorous national certification as approved by the state board of education.

4. Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures allowing a teacher who has not been employed in an educational position for three years or more to reactivate his or her last level of certification by completing twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate.

5. The state board shall, upon an appropriate background check, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach.

6. The state board may assess to holders of an initial professional certificate a fee, to be deposited into the excellence in education revolving fund established pursuant to section 160.268, RSMo, for the issuance of the career continuous professional certificate. However, such fee shall not exceed the combined costs of issuance and any criminal background check required as a condition of issuance. **Applicants for the initial ABCTE certificate shall be responsible for any fees associated with the program leading to the issuance of the certificate, but nothing in this section shall prohibit a district from developing a policy that permits fee reimbursement.**

7. Any member of the public school retirement system of Missouri who entered covered employment with ten or more years of educational experience in another state or states and held a certificate issued by another state and subsequently worked in a school district covered by the public school retirement system of Missouri for ten or more years who later became certificated in Missouri shall have that certificate dated back to his or her original date of employment in a Missouri public school.

8. The provisions of subdivision (4) of subsection 1 of this section, as well as any other provision of this section relating to the American Board for Certification of Teacher Excellence, shall terminate on August 28, 2014.]”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted, which motion failed.

Senator Scott assumed the Chair.

Senator Bray offered **SA 17**:

SENATE AMENDMENT NO. 17

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 13, Section 160.261, Line 7 of said page, by inserting immediately after all of said line the following:

“160.405. 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a school board, the applicant shall give a copy of its application to the school board of the district in which the charter school is to be located and to the state board of education, within five business days of the date the application is filed with the proposed sponsor. The school board may file objections with the proposed sponsor, and, if a charter is granted, the school board may file objections with the state board of education. The charter shall include a mission statement for the charter school, a description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy and operational decisions of the charter school, a financial plan for the first three years of operation of the charter school including provisions for annual audits, a description of the charter school's policy for securing personnel services, its personnel policies, personnel qualifications, and professional development plan, a description of the grades or ages of students being served, the school's calendar of operation, which shall include at least the equivalent of a full school term as defined in section 160.011, and an outline of criteria specified in this section designed to measure the effectiveness of the school. The charter shall also state:

- (1) The educational goals and objectives to be achieved by the charter school;
- (2) A description of the charter school's educational program and curriculum;

(3) The term of the charter, which shall be not less than five years, nor greater than ten years and shall be renewable;

(4) A description of the charter school's pupil performance standards, which must meet the requirements of subdivision (6) of subsection 5 of this section. The charter school program must be designed to enable each pupil to achieve such standards;

(5) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school; and

(6) A description of the charter school's policies on student discipline and student admission, which shall include a statement, where applicable, of the validity of attendance of students who do not reside in the district but who may be eligible to attend under the terms of judicial settlements.

2. Proposed charters shall be subject to the following requirements:

(1) A charter may be approved when the sponsor determines that the requirements of this section are met and determines that the applicant is sufficiently qualified to operate a charter school. The sponsor's decision of approval or denial shall be made within ninety days of the filing of the proposed charter;

(2) If the charter is denied, the proposed sponsor shall notify the applicant in writing as to the reasons for its denial and forward a copy to the state board of education within five business days following the denial;

(3) If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor's written reasons for its denial. If the state board determines that the applicant meets the requirements of this section, that the applicant is sufficiently qualified to operate the charter school, and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school. The state board shall review the proposed charter and make a determination of whether to deny or grant the proposed charter within sixty days of receipt of the proposed charter, provided that any charter to be considered by the state board of education under this subdivision shall be submitted no later than March first prior to the school year in which the charter school intends to begin operations. The state board of education shall notify the applicant in writing as the reasons for its denial, if applicable; and

(4) The sponsor of a charter school shall give priority to charter school applicants that propose a school oriented to high-risk students and to the reentry of dropouts into the school system. If a sponsor grants three or more charters, at least one-third of the charters granted by the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their proposed mission, curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk" student is one who is at least one year behind in satisfactory completion of course work or obtaining credits for graduation, pregnant or a parent, homeless or has been homeless sometime within the preceding six months, has limited English proficiency, has been suspended from school three or more times, is eligible for free or reduced-price school lunch, or has been referred by the school district for enrollment in an alternative program. "Dropout" shall be defined through the guidelines of the school core data report. The provisions of this subsection do not apply to charters sponsored by the state board of education.

3. If a charter is approved by a sponsor, the charter application shall be submitted to the state board of

education, along with a statement of finding that the application meets the requirements of sections 160.400 to 160.420 and section 167.439, RSMo, and a monitoring plan under which the charter sponsor will evaluate the academic performance of students enrolled in the charter school. The state board of education may, within sixty days, disapprove the granting of the charter. The state board of education may disapprove a charter on grounds that the application fails to meet the requirements of sections 160.400 to 160.420 and section 167.349, RSMo, or that a charter sponsor previously failed to meet the statutory responsibilities of a charter sponsor.

4. Any disapproval of a charter pursuant to subsection 3 of this section shall be subject to judicial review pursuant to chapter 536, RSMo.

5. A charter school shall, as provided in its charter:

(1) Be nonsectarian in its programs, admission policies, employment practices, and all other operations;

(2) Comply with laws and regulations of the state, county, or city relating to health, safety, and state minimum educational standards, as specified by the state board of education, including the requirements relating to student discipline under sections 160.261, 167.161, 167.164, and 167.171, RSMo, notification of criminal conduct to law enforcement authorities under sections 167.115 to 167.117, RSMo, academic assessment under section 160.518, transmittal of school records under section 167.020, RSMo, and the minimum number of school days and hours required under section 160.041;

(3) Except as provided in sections 160.400 to 160.420, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, publish audit reports and annual financial reports as provided in chapter 165, RSMo, provided that the annual financial report may be published on the department of elementary and secondary education's Internet web site in addition to other publishing requirements, and provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. A charter school that receives local educational agency status under subsection 6 of this section shall meet the requirements imposed by the Elementary and Secondary Education Act for audits of such agencies. For purposes of an audit by petition under section 29.230, RSMo, a charter school shall be treated as a political subdivision on the same terms and conditions as the school district in which it is located. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo. A charter school that incurs debt must include a repayment plan in its financial plan;

(5) Provide a comprehensive program of instruction for at least one grade or age group from kindergarten through grade twelve, which may include early childhood education if funding for such programs is established by statute, as specified in its charter;

(6) (a) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, collect baseline data during at least the first three years for determining how the charter school is performing and to the extent applicable, participate in the statewide system of assessments, comprised of the essential skills tests and the nationally standardized norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, which shall also include a statement that background checks have been completed on the charter school's board members, report to its sponsor,

the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof, and provide data required for the study of charter schools pursuant to subsection 4 of section 160.410. No charter school will be considered in the Missouri school improvement program review of the district in which it is located for the resource or process standards of the program.

(b) For proposed high risk or alternative charter schools, sponsors shall approve performance measures based on mission, curriculum, teaching methods, and services. Sponsors shall also approve comprehensive academic and behavioral measures to determine whether students are meeting performance standards on a different time frame as specified in that school's charter. Student performance shall be assessed comprehensively to determine whether a high risk or alternative charter school has documented adequate student progress. Student performance shall be based on sponsor-approved comprehensive measures as well as standardized public school measures. Annual presentation of charter school report card data to the department of elementary and secondary education, the state board, and the public shall include comprehensive measures of student progress.

(c) Nothing in this paragraph shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter;

(7) Assure that the needs of special education children are met in compliance with all applicable federal and state laws and regulations;

(8) Provide along with any request for review by the state board of education the following:

(a) Documentation that the applicant has provided a copy of the application to the school board of the district in which the charter school is to be located, except in those circumstances where the school district is the sponsor of the charter school; and

(b) A statement outlining the reasons for approval or disapproval by the sponsor, specifically addressing the requirements of sections 160.400 to 160.420 and 167.349, RSMo.

6. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor. The sponsor and the governing board and staff of the charter school shall jointly review the school's performance, management and operations at least once every two years or at any point where the operation or management of the charter school is changed or transferred to another entity, either public or private. The governing board of a charter school may amend the charter, if the sponsor approves such amendment, or the sponsor and the governing board may reach an agreement in writing to reflect the charter school's decision to become a local educational agency for the sole purpose of seeking direct access to federal grants. In such case the sponsor shall give the department of elementary and secondary education written notice no later than March first of any year, with the agreement to become effective July first. The department may waive the March first notice date in its discretion. The department shall identify and furnish a list of its regulations that pertain to local educational agencies to such schools within thirty days of receiving such notice.

7. (1) A sponsor may revoke a charter at any time if the charter school commits a serious breach of one or more provisions of its charter or on any of the following grounds: failure to meet academic performance standards as set forth in its charter, failure to meet generally accepted standards of fiscal management, failure to provide information necessary to confirm compliance with all provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo, within forty-five days following receipt of written notice

requesting such information, or violation of law.

(2) The sponsor may place the charter school on probationary status to allow the implementation of a remedial plan, which may require a change of methodology, a change in leadership, or both, after which, if such plan is unsuccessful, the charter may be revoked.

(3) At least sixty days before acting to revoke a charter, the sponsor shall notify the governing board of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action. The school's governing board may request in writing a hearing before the sponsor within two weeks of receiving the notice.

(4) The sponsor of a charter school shall establish procedures to conduct administrative hearings upon determination by the sponsor that grounds exist to revoke a charter. Final decisions of a sponsor from hearings conducted pursuant to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

(5) A termination shall be effective only at the conclusion of the school year, unless the sponsor determines that continued operation of the school presents a clear and immediate threat to the health and safety of the children.

(6) A charter sponsor shall make available the school accountability report card information as provided under section 160.522 and the results of the academic monitoring required under subsection 3 of this section.

(7) Any charter school that attains a score on its annual performance review consistent with the classification of unaccredited shall be classified as unaccredited by the state board of education within sixty days of the publication of the annual performance review data. Any charter school classified as unaccredited by the state board of education for two successive school years shall have their charter revoked on June thirtieth of the second full school year of such unaccredited classification after the school year during which the unaccredited classification is initially assigned.

8. A sponsor shall take all reasonable steps necessary to confirm that each charter school sponsored by such sponsor is in material compliance and remains in material compliance with all material provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo. Every charter school shall provide all information necessary to confirm ongoing compliance with all provisions of its charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely manner to its sponsor.

9. A school district may enter into a lease with a charter school for physical facilities.

10. A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee at the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. As used in this subsection, "unlawful reprisal" means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an educational program.

11. Charter school board members shall be subject to the same liability for acts while in office as if they were regularly and duly elected members of school boards in any other public school district in this state. The governing board of a charter school may participate, to the same extent as a school board, in the

Missouri public entity risk management fund in the manner provided under sections 537.700 to 537.756, RSMo.

12. Any entity, either public or private, operating, administering, or otherwise managing a charter school shall be considered a quasi-public governmental body and subject to the provisions of sections 610.010 to 610.035, RSMo.

13. The chief financial officer of a charter school shall maintain a surety bond in an amount determined by the sponsor to be adequate based on the cash flow of the school.”; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Callahan, Days, Kennedy and Smith.

SA 17 failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bray	Coleman	Days	Engler	Graham	Green	Justus
Kennedy	Shoemyer	Wilson—11					

NAYS—Senators

Bartle	Callahan	Champion	Crowell	Dempsey	Gibbons	Goodman	Griesheimer
Koster	Lager	Loudon	Mayer	McKenna	Nodler	Purgason	Ridgeway
Rupp	Scott	Shields	Smith	Stouffer—21			

Absent—Senator Clemens—1

Absent with leave—Senator Vogel—1

Vacancies—None

Senator Shoemyer offered **SA 18**:

SENATE AMENDMENT NO. 18

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 83, Section 173.258, Line 11 of said page, by inserting after all of said line the following:

“173.270. 1. The coordinating board for higher education shall make provisions for institutions under the board's jurisdiction to award a tuition and fee waiver for undergraduate courses at state institutions of higher education for any student, beginning with incoming freshmen in the 2009 fall semester or term, who:

(1) Is a resident of this state;

(2) Has graduated within the previous three years from high school or passed the GED examination; and

(3) Has been in foster care or other residential care under the department of social services:

(a) On or after the day preceding the student's eighteenth birthday;

(b) On or after the day of the student's fourteenth birthday, if the student was also eligible for adoption on or after that day;

(c) On or after the day the student graduated from high school or received a GED; or

(d) For the previous two years.

2. To be eligible for a waiver award, a student shall:

(1) Apply to and be accepted at the institution not later than:

(a) The third anniversary of the date the student was discharged from foster or other residential care, the date the student graduated from high school, or the date the student received a GED, whichever is earliest; or

(b) The student's twenty-first birthday;

(2) Apply for other student financial assistance, other than student loans, in compliance with federal financial aid rules, including the federal Pell grant;

(3) Apply to the coordinating board for higher education for a determination of eligibility. Application shall be on forms and in a manner prescribed by rule of the coordinating board; and

(4) Complete a minimum of one hundred ten hours of community service or public internship within a twelve-month period beginning September first for each year in which the student is receiving a tuition and fee waiver award under this section. The department of higher education, shall by rule determine the community service and public internships that students may participate in to meet the requirements of this subdivision. A student may fulfill this requirement by completing the necessary community service or public internship hours during the summer.

3. The tuition and fee waiver provided by this section shall be awarded on an annual basis, subject to appropriation, and shall continue to be available, if the student is otherwise eligible under this section, as long as the student remains in good academic standing at the state institution of higher education. The institution shall monitor compliance with subdivision (4) of subsection 2 of this section and report it to the department of higher education.

4. The waiver provided by this section for each eligible student may be used for no more than four years of undergraduate study and may only be used after other sources of financial aid that are dedicated solely to tuition and fees are exhausted.

5. No student who is enrolled in an institution of higher education as of August 28, 2008, shall be eligible for a waiver award under this section.

6. 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, 2008, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

Senator Shoemyer moved that the above amendment be adopted.

At the request of Senator Mayer, **HCS** for **HB 1722**, with **SCS**, **SS** for **SCS** and **SA 18** (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCS** for **SCS** for **SBs 1034** and **802**, begs leave to report that it has examined the same and finds that the bill has been duly enrolled and that the printed copies furnished the Senators are correct.

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 **SCS** for **SB 1209**, entitled:

An Act to repeal sections 21.810, 67.1360, 94.900, 94.902, 135.090, 142.869, 144.030, 144.270, 155.010, 242.230, 242.500, 245.020, 245.105, 245.197, 246.305, and 478.466, RSMo, and to enact in lieu thereof twenty-six new sections relating to taxes and fees, with penalty provisions, and with an emergency clause.

With House Amendment Nos. 1 and 2, House Substitute Amendment No. 1 for House Amendment No. 3, House Amendment Nos. 4, 5, 6, 7 and 8, House Substitute Amendment No.1 for House Amendment No. 9 and House Amendment No. 10.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 28, Section 190.450, Lines 1 to 8, by deleting all of said lines; and

Further amend said bill, Page 29, Section 190.451, Lines 1 to 22, by deleting all of said lines; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 3, Section 21.810, Line 55, by inserting after all of said line the following:

“32.057. 1. Except as otherwise specifically provided by law, it shall be unlawful for the director of revenue, any officer, employee, agent or deputy or former director, officer, employee, agent or deputy of the department of revenue, any person engaged or retained by the department of revenue on an independent contract basis, any person to whom authorized or unauthorized disclosure is made by the department of revenue, or any person who lawfully or unlawfully inspects any report or return filed with the department of revenue or to whom a copy, an abstract or a portion of any report or return is furnished by the department of revenue to make known in any manner, to permit the inspection or use of or to divulge to anyone any information relative to any such report or return, any information obtained by an investigation conducted by the department in the discharge of official duty, or any information received by the director in cooperation with the United States or other states in the enforcement of the revenue laws of this state. Such

confidential information is limited to information received by the department in connection with the administration of the tax laws of this state.

2. Nothing in this section shall be construed to prohibit:

(1) The disclosure of information, returns, reports, or facts shown thereby, as described in subsection 1 of this section, by any officer, clerk or other employee of the department of revenue charged with the custody of such information:

(a) To a taxpayer or the taxpayer's duly authorized representative under regulations which the director of revenue may prescribe;

(b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue laws of this state;

(c) To the state auditor or the auditor's duly authorized employees as required by subsection 4 of this section;

(d) To any city officer designated by ordinance of a city within this state to collect a city earnings tax, upon written request of such officer, which request states that the request is made for the purpose of determining or enforcing compliance with such city earnings tax ordinance and provided that such information disclosed shall be limited to that sufficient to identify the taxpayer, and further provided that in no event shall any information be disclosed that will result in the department of revenue being denied such information by the United States or any other state. The city officer requesting the identity of taxpayers filing state returns but not paying city earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax, and the director shall compare the list submitted with the director's records and return to such city official the name and address of any taxpayer who is a resident of such city who has filed a state tax return but who does not appear on the list furnished by such city. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information;

(e) To any employee of any county or other political subdivision imposing a sales tax which is administered by the state department of revenue whose office is authorized by the governing body of the county or other political subdivision to receive any and all records of the state director of revenue pertaining to the administration, collection and enforcement of its sales tax. The request for sales tax records and reports shall include a description of the type of report requested, the media form including electronic transfer, computer tape or disk, or printed form, and the frequency desired. The request shall be made by annual written application and shall be filed with the director of revenue. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information. Such city or county or any employee thereof shall be subject to the same standards for confidentiality as required for the department of revenue in using the information contained in the reports;

(f) To the director of the department of economic development or the director's duly authorized employees in discharging the director's official duties to certify taxpayers eligibility to claim state tax credits as prescribed by statutes;

(g) To any employee of any political subdivision, such records of the director of revenue pertaining to the administration, collection and enforcement of the tax imposed in chapter 149, RSMo, as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by such political subdivision. The request for such records shall be made in writing to the director of revenue, and shall include a description of the type of information requested and the desired frequency. The director of revenue may charge a fee

to reimburse the department for costs reasonably incurred in providing such information;

(2) The publication by the director of revenue or of the state auditor in the audit reports relating to the department of revenue of:

(a) Statistics, statements or explanations so classified as to prevent the identification of any taxpayer or of any particular reports or returns and the items thereof;

(b) The names and addresses without any additional information of persons who filed returns and of persons whose tax refund checks have been returned undelivered by the United States Post Office;

(3) The director of revenue from permitting the Secretary of the Treasury of the United States or the Secretary's delegates, the proper officer of any state of the United States imposing a tax equivalent to any of the taxes administered by the department of revenue of the state of Missouri or the appropriate representative of the multistate tax commission to inspect any return or report required by the respective tax provision of this state, or may furnish to such officer an abstract of the return or report or supply the officer with information contained in the return or disclosed by the report of any authorized investigation. Such permission, however, shall be granted on condition that the corresponding revenue statute of the United States or of such other state, as the case may be, grants substantially similar privileges to the director of revenue and on further condition that such corresponding statute gives confidential status to the material with which it is concerned;

(4) The disclosure of information, returns, reports, or facts shown thereby, by any person on behalf of the director of revenue, in any action or proceeding to which the director is a party or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state when such information is directly involved in the action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such information as is pertinent to the action or proceeding and no more;

(5) The disclosure of information, returns, reports, or facts shown thereby, by any person to a state or federal prosecuting official, including, but not limited to, the state and federal attorneys general, or the official's designees involved in any criminal, quasi-criminal, or civil investigation, action or proceeding pursuant to the laws of this state or of the United States when such information is pertinent to an investigation, action or proceeding involving the administration of the revenue laws or duties of public office or employment connected therewith;

(6) Any school district from obtaining the aggregate amount of the financial institution tax paid pursuant to chapter 148, RSMo, by financial institutions located partially or exclusively within the school district's boundaries, provided that the school district request such disclosure in writing to the department of revenue;

(7) The disclosure of records which identify all companies licensed by this state pursuant to the provisions of subsections 1 and 2 of section 149.035, RSMo. The director of revenue may charge a fee to reimburse the department for the costs reasonably incurred in providing such records;

(8) The disclosure to the commissioner of administration pursuant to section 34.040, RSMo, of a list of vendors and their affiliates who meet the conditions of section 144.635, RSMo, but refuse to collect the use tax levied pursuant to chapter 144, RSMo, on their sales delivered to this state;

(9) The disclosure to the public of any information, returns, reports, or facts shown thereby regarding the claiming of a state tax credit by a member of the Missouri general assembly.

3. Any person violating any provision of subsection 1 or 2 of this section shall, upon conviction, be guilty of a class D felony.

4. The state auditor or the auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070, RSMo, shall have the right to inspect any report or return filed with the department of revenue if such inspection is related to and for the purpose of auditing the department of revenue; except that, the state auditor or the auditor's duly authorized employees shall have no greater right of access to, use and publication of information, audit and related activities with respect to income tax information obtained by the department of revenue pursuant to chapter 143, RSMo, or federal statute than specifically exists pursuant to the laws of the United States and of the income tax laws of the state of Missouri.”; and

Further amend said bill, Page 15, Section 94.1011, Line 49, by inserting after all of said line the following:

“105.485. 1. Each financial interest statement required by sections 105.483 to 105.492 shall be on a form prescribed by the commission and shall be signed and verified by a written declaration that it is made under penalties of perjury; provided, however, the form shall not seek information which is not specifically required by sections 105.483 to 105.492.

2. Each person required to file a financial interest statement pursuant to subdivisions (1) to (12) of section 105.483 shall file the following information for himself, his spouse and dependent children at any time during the period covered by the statement, whether singularly or collectively; provided, however, that said person, if he does not know and his spouse will not divulge any information required to be reported by this section concerning the financial interest of his spouse, shall state on his financial interest statement that he has disclosed that information known to him and that his spouse has refused or failed to provide other information upon his bona fide request, and such statement shall be deemed to satisfy the requirements of this section for such financial interest of his spouse; and provided further if the spouse of any person required to file a financial interest statement is also required by section 105.483 to file a financial interest statement, the financial interest statement filed by each need not disclose the financial interest of the other, provided that each financial interest statement shall state that the spouse of the person has filed a separate financial interest statement and the name under which the statement was filed:

(1) The name and address of each of the employers of such person from whom income of one thousand dollars or more was received during the year covered by the statement;

(2) The name and address of each sole proprietorship which he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or coparticipant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partners' units; and the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system in which the person owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

(3) The name and address of any other source not reported pursuant to subdivisions (1) and (2) and subdivisions (4) to (9) of this subsection from which such person received one thousand dollars or more of income during the year covered by the statement, including, but not limited to, any income otherwise

required to be reported on any tax return such person is required by law to file; except that only the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system need be reported pursuant to this subdivision;

(4) The location by county, the subclassification for property tax assessment purposes, the approximate size and a description of the major improvements and use for each parcel of real property in the state, other than the individual's personal residence, having a fair market value of ten thousand dollars or more in which such person held a vested interest including a leasehold for a term of ten years or longer, and, if the property was transferred during the year covered by the statement, the name and address of the persons furnishing or receiving consideration for such transfer;

(5) The name and address of each entity in which such person owned stock, bonds or other equity interest with a value in excess of ten thousand dollars; except that, if the entity is a corporation listed on a regulated stock exchange, only the name of the corporation need be listed; and provided that any member of any board or commission of the state or any political subdivision who does not receive any compensation for his services to the state or political subdivision other than reimbursement for his actual expenses or a per diem allowance as prescribed by law for each day of such service need not report interests in publicly traded corporations or limited partnerships which are listed on a regulated stock exchange or automated quotation system pursuant to this subdivision; and provided further that the provisions of this subdivision shall not require reporting of any interest in any qualified plan or annuity pursuant to the Employees' Retirement Income Security Act;

(6) The name and address of each corporation for which such person served in the capacity of a director, officer or receiver;

(7) The name and address of each not-for-profit corporation and each association, organization, or union, whether incorporated or not, except not-for-profit corporations formed to provide church services, fraternal organizations or service clubs from which the officer or employee draws no remuneration, in which such person was an officer, director, employee or trustee at any time during the year covered by the statement, and for each such organization, a general description of the nature and purpose of the organization;

(8) The name and address of each source from which such person received a gift or gifts, or honorarium or honoraria in excess of two hundred dollars in value per source during the year covered by the statement other than gifts from persons within the third degree of consanguinity or affinity of the person filing the financial interest statement. For the purposes of this section, a "gift" shall not be construed to mean political contributions otherwise required to be reported by law or hospitality such as food, beverages or admissions to social, art, or sporting events or the like, or informational material. For the purposes of this section, a "gift" shall include gifts to or by creditors of the individual for the purpose of canceling, reducing or otherwise forgiving the indebtedness of the individual to that creditor;

(9) The lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of office of such official, except that such statement shall not include travel or lodging expenses:

(a) Paid in the ordinary course of business for businesses described in subdivisions (1), (2), (5) and (6) of this subsection which are related to the duties of office of such official; or

(b) For which the official may be reimbursed as provided by law; or

(c) Paid by persons related by the third degree of consanguinity or affinity to the person filing the statement; or

(d) Expenses which are reported by the campaign committee or candidate committee of the person filing the statement pursuant to the provisions of chapter 130, RSMo; or

(e) Paid for purely personal purposes which are not related to the person's official duties by a third person who is not a lobbyist, a lobbyist principal or member, or officer or director of a member, of any association or entity which employs a lobbyist. The statement shall include the name and address of such person who paid the expenses, the date such expenses were incurred, the amount incurred, the location of the travel and lodging, and the nature of the services rendered or reason for the expenses;

(10) The assets in any revocable trust of which the individual is the settlor if such assets would otherwise be required to be reported under this section;

(11) The name, position and relationship of any relative within the first degree of consanguinity or affinity to any other person who:

(a) Is employed by the state of Missouri, by a political subdivision of the state or special district, as defined in section 115.013, RSMo, of the state of Missouri;

(b) Is a lobbyist; or

(c) Is a fee agent of the department of revenue;

(12) The name and address of each campaign committee, political committee, candidate committee, or continuing committee for which such person or any corporation listed on such person's financial interest statement received payment; **and**

(13) For members of the general assembly or any statewide elected public official, their spouses, and their dependent children, whether any state tax credits were claimed on the member's, spouse's, or dependent child's most recent state income tax return.

3. For the purposes of subdivisions (1), (2) and (3) of subsection 2 of this section, an individual shall be deemed to have received a salary from his employer or income from any source at the time when he shall receive a negotiable instrument whether or not payable at a later date and at the time when under the practice of his employer or the terms of an agreement, he has earned or is entitled to anything of actual value whether or not delivery of the value is deferred or right to it has vested. The term "income" as used in this section shall have the same meaning as provided in the Internal Revenue Code of 1986, and amendments thereto, as the same may be or becomes effective, at any time or from time to time for the taxable year, provided that income shall not be considered received or earned for purposes of this section from a partnership or sole proprietorship until such income is converted from business to personal use.

4. Each official, officer or employee or candidate of any political subdivision described in subdivision (11) of section 105.483 shall be required to file a financial interest statement as required by subsection 2 of this section, unless the political subdivision biennially adopts an ordinance, order or resolution at an open meeting by September fifteenth of the preceding year, which establishes and makes public its own method of disclosing potential conflicts of interest and substantial interests and therefore excludes the political subdivision or district and its officers and employees from the requirements of subsection 2 of this section. A certified copy of the ordinance, order or resolution shall be sent to the commission within ten days of its adoption. The commission shall assist any political subdivision in developing forms to complete the

requirements of this subsection. The ordinance, order or resolution shall contain, at a minimum, the following requirements with respect to disclosure of substantial interests:

(1) Disclosure in writing of the following described transactions, if any such transactions were engaged in during the calendar year:

(a) For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars, if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision;

(b) The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars, if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision;

(2) The chief administrative officer and chief purchasing officer of such political subdivision shall disclose in writing the information described in subdivisions (1), (2) and (6) of subsection 2 of this section;

(3) Disclosure of such other financial interests applicable to officials, officers and employees of the political subdivision, as may be required by the ordinance or resolution;

(4) Duplicate disclosure reports made pursuant to this subsection shall be filed with the commission and the governing body of the political subdivision. The clerk of such governing body shall maintain such disclosure reports available for public inspection and copying during normal business hours.

135.030. 1. As used in this section:

(1) The term “maximum upper limit” shall, for each calendar year after December 31, 1997, but before calendar year 2008, be the sum of twenty-five thousand dollars. For [the] **all** calendar [year] **years** beginning on **or after** January 1, 2008, the maximum upper limit shall be the sum of twenty-seven thousand five hundred dollars;

(2) The term “minimum base” shall, for each calendar year after December 31, 1997, but before calendar year 2008, be the sum of thirteen thousand dollars. For [the] **all** calendar [year] **years** beginning **on or after** January 1, 2008, the minimum base shall be the sum of fourteen thousand three hundred dollars.

2. If the income on a return is equal to or less than the maximum upper limit for the calendar year for which the return is filed, the property tax credit shall be determined from a table of credits based upon the amount by which the total property tax described in section 135.025 exceeds the percent of income in the following list:

If the income on the return is:

Not over the minimum base

The percent is:

0 percent with credit not to exceed actual property tax or rent equivalent paid up to [\$750] **\$1,100**

Over the minimum base but	1/16 percent accumulative
not over the maximum upper	per \$300 from 0 percent
limit	to 4 percent.

The director of revenue shall prescribe a table based upon the preceding sentences. The property tax shall be in increments of twenty-five dollars and the income in increments of three hundred dollars. The credit shall be the amount rounded to the nearest whole dollar computed on the basis of the property tax and income at the midpoints of each increment. As used in this subsection, the term “accumulative” means an increase by continuous or repeated application of the percent to the income increment at each three hundred dollar level.

3. Notwithstanding subsection 4 of section 32.057, RSMo, the department of revenue or any duly authorized employee or agent shall determine whether any taxpayer filing a report or return with the department of revenue who has not applied for the credit allowed pursuant to section 135.020 may qualify for the credit, and shall notify any qualified claimant of the claimant's potential eligibility, where the department determines such potential eligibility exists.

135.305. A Missouri wood energy producer shall be eligible for a tax credit on taxes otherwise due under chapter 143, RSMo, except sections 143.191 to 143.261, RSMo, as a production incentive to produce processed wood products in a qualified wood producing facility using Missouri forest product residue. The tax credit to the wood energy producer shall be five dollars per ton of processed material. The credit may be claimed for a period of five years and is to be a tax credit against the tax otherwise due. **No new tax credits, provided for under sections 135.300 to 135.311, shall be authorized after June 30, 2013.**”; and

Further amend said bill, Page 18, Section 135.610, Line 50, by inserting after all of said line the following:

“135.800. 1. The provisions of sections 135.800 to 135.830 shall be known and may be cited as the “Tax Credit Accountability Act of 2004”.

2. As used in sections 135.800 to 135.830, the following terms mean:

(1) “Administering agency”, the state agency or department charged with administering a particular tax credit program, as set forth by the program's enacting statute; where no department or agency is set forth, the department of revenue;

(2) “Agricultural tax credits”, the agricultural product utilization contributor tax credit created pursuant to section 348.430, RSMo, the new generation cooperative incentive tax credit created pursuant to section 348.432, RSMo, and the wine and grape production tax credit created pursuant to section 135.700;

(3) “All tax credit programs”, the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, housing tax credits, redevelopment tax credits, and training and educational tax credits;

(4) “Business recruitment tax credits”, the business facility tax credit created pursuant to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development programs created pursuant to sections 100.700 to 100.850, RSMo, the development tax credits created pursuant to sections 32.100 to

32.125, RSMo, the rebuilding communities tax credit created pursuant to section 135.535, and the film production tax credit created pursuant to section 135.750;

(5) “Community development tax credits”, the neighborhood assistance tax credit created pursuant to sections 32.100 to 32.125, RSMo, the family development account tax credit created pursuant to sections 208.750 to 208.775, RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo, and the transportation development tax credit created pursuant to section 135.545;

(6) “Domestic and social tax credits”, the youth opportunities tax credit created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the shelter for victims of domestic violence created pursuant to section 135.550, the senior citizen or disabled person property tax credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit created pursuant to sections 135.325 to 135.339, the maternity home tax credit created pursuant to section 135.600, and the shared care tax credit created pursuant to section 660.055, RSMo;

(7) “Entrepreneurial tax credits”, the capital tax credit created pursuant to sections 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax credit created pursuant to section 620.1039, RSMo, the small business incubator tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit created pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(8) “Environmental tax credits”, the charcoal producer tax credit created pursuant to section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311[, and the manufacturing and recycling flexible cellulose casing tax credit created pursuant to section 260.285, RSMo];

(9) “Housing tax credits”, the neighborhood preservation tax credit created pursuant to sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(10) “Recipient”, the individual or entity who is the original applicant for and who receives proceeds from a tax credit program directly from the administering agency, the person or entity responsible for the reporting requirements established in section 135.805;

(11) “Redevelopment tax credits”, the historic preservation tax credit created pursuant to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax credit created pursuant to sections 447.700 to 447.718, RSMo, the community development corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit created pursuant to section 100.297, RSMo, and the disabled access tax credit created pursuant to section 135.490;

(12) “Training and educational tax credits”, the community college new jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo[, the skills development account tax credit created pursuant to sections 620.1400 to 620.1460, RSMo, the mature worker tax credit created pursuant to section 620.1560, RSMo, and the sponsorship and mentoring tax credit created pursuant to section 135.348].”; and

Further amend said bill, Page 38, Section 478.466, Line 23, by inserting after all of said line the following:

“[135.348. 1. As used in this section, the following terms mean:

(1) “Approved program”, a sponsorship and mentoring program established pursuant to this section and approved by the department of elementary and secondary education;

(2) “Eligible student”, a resident pupil of a school district who is determined by the local school board to be eligible to participate in a sponsorship and mentoring program pursuant to this section and who participates in such program for no less than eight calendar months in the tax year for which a return is filed claiming a credit authorized in this section;

(3) “Net expenditures”, only those amounts paid or incurred for the participation of an eligible student participating in an approved sponsorship and mentoring program less any amounts received by the qualified taxpayer from any source for the provision of a sponsorship and mentoring program for an eligible student;

(4) “Qualified taxpayer”, an employer who makes expenditures pursuant to this section.

2. For taxable years commencing on or after January 1, 1998, a qualified taxpayer shall be allowed a credit against the tax imposed by chapter 143, RSMo, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, RSMo, to the extent of the lesser of two thousand dollars times the number of eligible students for which the qualified taxpayer is allowed a credit pursuant to this section or the net expenditures made directly or through a fund during a taxable year by the qualified taxpayer for the participation of an eligible student in an approved sponsorship and mentoring program established pursuant to this section. No credit shall be allowed for any amounts for which any other credit is claimed or allowed under any other provision of state law for the same net expenditures.

3. The tax credit allowed by this section shall be claimed by the qualified taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after all other credits provided by law have been applied. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability shall not be refundable but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. The department of elementary and secondary education shall establish, by rule, guidelines and criteria for approval of sponsorship and mentoring programs established by school districts and for determining the eligibility of students for participation in sponsorship and mentoring programs established pursuant to this section. Such determinations for eligibility of students shall be based upon a definition of an at-risk student as established by the department by rule.

5. A local school board may establish a sponsorship and mentoring program and apply to the department of elementary and secondary education for approval of such program. A tax credit may only be received pursuant to this section for expenditures for sponsorship and mentoring programs approved by the department. The school board of each district which has an approved program shall annually certify to the department of elementary and secondary education the number of eligible students participating in the program. The principal of any school in a district which has an approved program may recommend, to the local school board, those students who do not meet the definition of “at-risk” students established pursuant to this section, and the school board may submit the names of such students and the circumstances which justify the student's participation

in an approved program to the department of elementary and secondary education for approval of such student's participation. If approved by the department, such students shall be considered eligible students for participation in an approved program.

6. The department of elementary and secondary education shall provide written notification to the department of revenue of each eligible student participating in an approved program pursuant to this section, the student's school district, the name of the qualified taxpayer approved to receive a tax credit on the basis of such eligible student's participation in an approved program pursuant to this section and the amount of such credit as determined in subsection 2 of this section. This section is subject to appropriations.]

[260.285. 1. Any manufacturer engaged in this state in production of a meat or poultry food product intended for human consumption that is recycling flexible cellulose casing manufactured from cotton linters used and consumed directly in the production of such food product shall be eligible for a credit as defined in subsection 2 of this section. For purposes of this section, "cotton linters" means fibers from any plant or wood pulp material used for the creation of flexible cellulose casings.

2. The credit authorized in subsection 1 shall be equal to the amount of state sales or use taxes paid by a manufacturer to a retailer on such packaging material which is subsequently recycled by either the manufacturer or other person or entity to which the manufacturer conveys such packaging materials, less any consideration received by the manufacturer for such conveyance.

3. A manufacturer shall claim the refund in the month following the month in which the material has been recycled or conveyed for recycling. When claiming a credit pursuant to this section, a manufacturer shall provide a detailed accounting of the amount of packaging material recycled, amount of sales or use tax paid on such material, an affidavit attesting that the manufacturer is eligible pursuant to the provisions of this section for the credit being claimed, documentation that the activity constitutes recycling as certified by the director of the department of natural resources and any other documentation determined necessary by the director of the department of revenue. The director shall refund any valid credit claims within sixty days of receipt. If the director determines that a fraudulent claim for the credit has been filed, the director may assess a penalty in an amount not to exceed twice the amount of fraudulent credits claimed.

4. Payment of credits authorized by this section shall not alter the liability of a retailer regarding sales tax on such material. Credits authorized by this section shall be paid from funds appropriated for the refund of taxes.]"; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR
HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Section 32.400, Page 3, Line 9, by inserting after all of said section, 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. **No penalty or interest imposed under any law shall be charged on any real property tax when there is clear and convincing evidence that the county made an error or omission in determining taxes owed by a taxpayer.**

2. The county collector shall 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 with any penalties or interest owing. The taxpayer may then submit a written request for a refund of penalties, interest, or taxes to the county commission. If the county commission approves the refund, then such penalties, interest, or taxes shall be refunded as provided in subsection 5 of section 139.031, RSMo.

52.290. 1. In all counties except counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312 and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo. **In any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, four-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo.**

2. In all counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than seven hundred thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector [may] **shall** charge a surcharge for payment by credit card.”; and

Further amend said bill, Section 67.175, Page 5, Line 64, by inserting after all of said section, the following:

“67.548. 1. In any first or second class county not having a charter form of government, which contains all or any part of a city with a population of greater than four hundred thousand inhabitants, in which the voters have approved a sales tax as provided by section 67.547, the county commission may:

(1) Reduce or eliminate the county general fund levy, the special road and bridge levy, or the park levy; and

(2) Grant county sales tax revenues to cities, towns and villages and to special road districts organized pursuant to chapter 233, RSMo.

2. [If the county commission reduces a special road and bridge tax levy pursuant to this section which results in a reduction of revenue available to a city, town or village or to a special road district organized pursuant to chapter 233, RSMo, the commission shall in that year in which the reduction of revenue occurs set aside and place to the credit of each such entity sales tax revenues in an amount at least equal to that which each such entity would have otherwise been entitled from the special road and bridge tax levy, had it not been for such reduction. In subsequent years, each such entity shall receive from the county an amount of sales tax revenue equal to the amount of special road and bridge tax revenue that each such entity would have received in that year, but for the reduction in the special road and bridge tax. The county shall transfer such sales tax revenue to each such entity in twelve equal monthly installments during each year in which such entity is entitled to receive such sales tax revenue] **Nothing herein shall restrict or eliminate the county's obligation to allocate revenue from the special road and bridge levy, as annually considered by the county commission, to the cities, towns, and villages and to special road districts organized under chapter 233, RSMo. Additionally, in the event the county utilizes sales tax revenues received under section 67.547 for the county's road and bridge program, the county shall be obligated to pay the same allocation percentage of such revenue to the cities, towns, and villages and to special road districts as if such revenue had been received pursuant to the special road and bridge levy and shall be paid in twelve equal monthly installments during the year in which such entity is entitled to receive the revenue. Nothing herein shall be deemed to eliminate or restrict the county's discretion in setting the special road and bridge levy or the amount of sales tax revenue to be used for the county's road and bridge program.**”; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 8, Section 67.1360, Line 127, by inserting after all of said line the following:

“86.200. The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) “Accumulated contributions”, the sum of all mandatory contributions deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) “Actuarial equivalent”, a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) “Average final compensation”:

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on

October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a policeman, or if the member has had less than two years of creditable service, then the average earnable compensation of the member's entire period of creditable service;

(c) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer for reasons other than death or disability before earning at least two years of creditable service after such return, the portion of the member's benefit attributable to creditable service earned before DROP entry shall be determined using average final compensation as defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable to creditable service earned after return to active participation in the system shall be determined using average final compensation as defined in paragraph (b) of this subdivision;

(d) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer after earning at least two years of creditable service after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision;

(e) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and whose employment as a police officer terminates due to death or disability after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision; and

(f) With respect to the surviving spouse or surviving dependent child of a member who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a police officer or, if the member has had less than two years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

(5) "Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;

(6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer the retirement system;

(7) "Creditable service", prior service plus membership service as provided in sections 86.200 to 86.366;

(8) "**Dependent**", **an individual or individuals receiving at least one-half of their support from the member at his or her death;**

(9) “DROP”, the deferred retirement option plan provided for in section 86.251;

[(9)] (10) “Earnable compensation”, the annual salary which a member would earn during one year on the basis of the member's rank or position as specified in the applicable salary matrix in section 84.160, RSMo, plus additional compensation for academic work as provided in subsection 8 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 9 of section 84.160, RSMo. Such amount shall include the member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code or, effective October 1, 2001, to a transportation fringe benefit program pursuant to Section 132(f)(4) of the Internal Revenue Code. Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under the plan established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. For purposes of this subdivision, a “noneligible participant” is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:

(a) The last day of the plan year that includes August 28, 1995; or

(b) December 31, 1995;

[(10)] (11) “Internal Revenue Code”, the federal Internal Revenue Code of 1986, as amended;

[(11)] (12) “Mandatory contributions”, the contributions required to be deducted from the salary of each member who is not participating in DROP in accordance with section 86.320;

[(12)] (13) “Medical board”, the board of physicians provided for in section 86.237;

[(13)] (14) “Member”, a member of the retirement system as defined by sections 86.200 to 86.366;

[(14)] (15) “Members' interest”, interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;

[(15)] (16) “Membership service”, service as a policeman rendered since last becoming a member, except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman, in which case “membership service” means service as a policeman rendered since last becoming a member prior to entering such armed service;

(17) “Partial dependent”, an individual or individuals who receive less than fifty percent of their support from the member at his or her death;

[(16)] (18) “Plan year” or “limitation year”, the twelve consecutive-month period beginning each October first and ending each September thirtieth;

[(17)] (19) “Policeman” or “police officer”, any member of the police force of such cities who holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo;

[(18)] (20) “Prior service”, all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to 86.366;

[(19)] (21) "Retirement allowance", annual payments for life as provided by sections 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon termination of employment as a police officer and actual retirement;

[(20)] (22) "Retirement system", the police retirement system of the cities as defined in sections 86.200 to 86.366;

[(21)] (23) "Surviving spouse", the surviving spouse of a member who was the member's spouse at the time of the member's death.

86.287. Upon the receipt by the board of trustees of evidence and proof that the death of a member was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty and not caused by negligence on the part of the member, there shall be paid in lieu of the benefits pursuant to sections 86.280 to 86.283:

(1) Effective October 1, 1999, a pension to the surviving spouse until the surviving spouse dies or remarries, whichever is earlier, of seventy-five percent of the deceased member's average final compensation plus fifteen percent of such compensation to, or for the benefit of, each unmarried dependent child of the deceased member, who is either under the age of eighteen, or who, regardless of age, is totally and permanently disabled and incapacitated from engaging in a gainful occupation sufficient to support himself or herself;

(2) Any surviving spouse or unmarried dependent child receiving benefits pursuant to this section immediately prior to October 1, 1999, shall upon application to the board of trustees be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the surviving spouse or unmarried dependent child is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, a surviving spouse shall receive additional monthly compensation equal to the amount which when added to the benefits the surviving spouse was receiving pursuant to this section prior to October 1, 1999, will increase the surviving spouse's total monthly benefit payment pursuant to this section to seventy-five percent of the deceased member's average final compensation, and there shall be payable an additional monthly compensation of one hundred dollars or five percent of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member;

(3) If no surviving spouse benefits are payable pursuant to subdivisions (1) and (2) of this section, such total pension as would have been paid pursuant to subdivisions (1) and (2) of this section had there been a surviving spouse shall be divided among the unmarried dependent children under age eighteen and such unmarried dependent children, regardless of age, who are totally and permanently disabled and incapacitated from engaging in a gainful occupation sufficient to support themselves. The benefit shall be divided equally among the eligible dependent children, and the share of a child who is no longer eligible shall be divided equally among the remaining eligible dependent children; provided that not more than one-half of the surviving spouse's benefit shall be paid for one child;

(4) If there is no surviving spouse or unmarried dependent children of either class mentioned in subdivision (3) of this section, then an amount equal to the surviving spouse's benefit shall be paid to the member's dependent father or dependent mother to continue until remarriage or death; **however, the board of trustees shall review the application for benefits and determine on the basis of the information presented whether the applicant or applicants are dependent or partially dependent and, if partially**

dependent, the benefit shall be paid based upon the proportionate share of support, considering all other sources, actually provided by the member to such applicant;

(5) No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen;

(6) Wherever any dependent child designated by the board of trustees to receive benefits pursuant to this section is in the care of the surviving spouse of the deceased member, such benefits may be paid to such surviving spouse for the child;

(7) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) to (3) of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years in those cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.”; and

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 26, Section 144.030, Line 270, by deleting all of said line and inserting in lieu thereof the following:

“(39) All purchases by a sports complex authority created under section 64.920, RSMo;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.”; and

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

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 29, Section 190.451, Line 22, by inserting after all of said line the following:

“233.155. 1. Whenever the inhabitants of any special road district already formed under sections 233.010 to 233.165 shall desire to extend the boundaries of such district to take in territory not included in the original district, and shall present a petition to the county commission of the county in which such district is located, or if the proposed district is to include portions of more than one county, then to the county commissions of each of such counties, signed by not less than thirty-five voters in the old district and not less than fifty percent of the voters in the territory proposed to be taken into said district, asking the county commission or commissions of such county or counties to submit the proposition of the proposed extension of such road district to a vote of the people of such proposed district for their adoption or rejection, the county commission of such county, or if the proposed district shall include parts of more than one county, the county commissions of all such counties, shall each make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district.

2. The question shall be submitted in substantially the following form:

Shall the special road district be extended?

3. If the territory of more than one county be included in said special road district, the county commission of each county in said district shall, as soon as the returns are in from said election, cause a certificate to be made out stating the number of votes cast for and against said proposition in said county, and cause such certificate to be filed with the county clerk of the county commission of every other county which shall form a part of said special road district. If it shall appear from the returns of said county and from said certificate that a majority of the votes cast upon the proposition in the whole proposed district be in favor of the extension of said road district, the county commission or county commissions in said proposed district shall declare the result of the vote thereon in said proposed district by an order of record, and shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election.

4. If any territory added to any such original district be in any county outside of the county of such original district, each county outside of such original district may appoint one road commissioner to act with the commissioners appointed in the county of the original district. Such commissioners so appointed outside of the county of the original district shall serve for a term of three years from the date of such appointment, and until their successors shall be appointed and qualified. Such commissioners shall be voters of such added territory in such county of their appointment. Except as herein provided, such commissioners shall be governed by sections 233.010 to 233.165. No change shall be made in the number of commissioners appointed by the county of the original district or in the manner of their appointment. **In any special road district located in two counties with an additional fourth commissioner appointed by the county outside of the original district as provided in this subsection, a fifth commissioner may be appointed by the same county that appointed the fourth commissioner. Except as herein provided, a fifth commissioner shall be governed by sections 233.010 to 233.165, shall serve for a term of three years from the date of the appointment and until the fifth commissioner's successor shall be appointed and qualified, and shall be a voter of the county of appointment.**

5. If a majority of the votes of the proposed district, as extended, be cast in favor of such extension, then the territory of such district, as extended, shall be governed by sections 233.010 to 233.165. But if such extension proposition shall not receive a majority of the votes of said district, as extended, then said special road district shall remain as it was before said petition was filed. Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than seventeen miles square.”; and

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

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Section 94.271, Page 9, Lines 10-11, by deleting the words, “**and funding the construction, maintenance, and operation of capital improvements**”; and

Further amend said bill, section, page, Lines 17-18, by deleting the words, “**and funding the**

construction, maintenance, and operation of capital improvements”; and

Further amend said bill, Section 155.010, Page 28, Line13, by inserting the following after all of said line:

“190.335. 1. In lieu of the tax levy authorized under section 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as “emergency services”, and which may also include the purchase and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of (insert name of county) impose a county sales tax of (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

YES

NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the governing body shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given

year shall be carried forward to subsequent years. The governing body shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the governing body shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, who shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, any other emergency services and the general public. This initial board shall serve until its successor board is duly elected and installed in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large, such member to be the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years.

11. Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the first classification with more than two hundred forty thousand three hundred but fewer than two hundred forty thousand four hundred inhabitants, any emergency telephone service 911 board appointed by the county under section 190.309 which is in existence on the date the voters approve a sales tax under this section shall continue to exist and shall have the powers set forth under section 190.339.

12. (1) Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the second classification with more than fifty-four thousand two hundred but fewer than fifty-four thousand three hundred inhabitants that has approved a sales tax under this section, the county commission shall appoint the members of the board to administer the funds and oversee the provision of emergency services in the county.

(2) The board shall consist of seven members appointed without regard to political affiliation. Each member shall be one of the following:

- (a) The head of any of the county's fire protection districts, or a designee;**
- (b) The head of any of the county's ambulance districts, or a designee;**
- (c) The county sheriff, or a designee;**
- (d) The head of any of the police departments in the county, or a designee; and**
- (e) The head of any of the county's emergency management organizations, or a designee.**

(3) Upon the appointment of the board under this subsection, the board shall have the power

provided in section 190.339 and shall exercise all powers and duties exercised by the county commission under this chapter, and the commission shall relinquish all powers and duties relating to the provision of emergency services under this chapter to the board.”; and

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

HOUSE AMENDMENT NO. 8

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 35, Section 246.305, Line 54, by inserting after all of said line the following:

“253.550. **1.** Any person, firm, partnership, trust, estate, or corporation incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, shall be entitled to a credit against the taxes imposed pursuant to chapters 143 and 148, RSMo, except for sections 143.191 to 143.265, RSMo, on that person or entity in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources.

2. For purposes of sections 253.545 to 253.559, any municipal library district and any nonprofit entity to which the municipal library district has transferred a structure shall be deemed a corporation and a for-profit entity, if the nonprofit entity immediately enters into a lease or other agreement that gives the municipal library district the right to use, control, and possess the structure and the structure being rehabilitated was first placed into service before the year 1936. In determining the rehabilitation expenditures for which credits are permitted, Sections 47(c)(2)(B)(v) and 168 of the Internal Revenue Code of 1986, as amended, shall be disregarded.”; and

Further amend said bill, Page 37, Section B, Lines 1 to 7, by deleting all of said lines and inserting in lieu thereof the following:

“Section B. Because immediate action is necessary to protect the economic welfare of the citizens of this state, the repeal and reenactment of section 253.550 and the enactment of section 144.067 of section A 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 the repeal and reenactment of section 253.550 and the enactment of section 144.067 of section A of this act shall be in full force and effect upon its passage and approval.”; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR HOUSE AMENDMENT NO. 9

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Section 32.400, Page 3, Line 9 by inserting after all of said line the following:

“52.290. **1.** In all counties except counties having a charter form of government and any city not within

a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312, RSMo and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo. **In all first class counties not having a charter form of government, three percent of the fees collected by the public administrator shall be paid into a guardian maintenance fund and three percent of the fees paid into funds controlled by elected officials shall be paid into an audit maintenance fund. The guardian maintenance fund shall be administered at the sole discretion of the public administrator and the audit maintenance fund shall be administered at the sole discretion of the county auditor and each fund shall be subject to the same restrictions and conditions as the tax maintenance fund in the same manner as section 52.315, RSMo. The Guardian Maintenance Fund may be used by the public administrator for training, purchasing new or upgrading information technology, salary supplements for existing employees, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of public administrator and anything necessarily pertaining thereto. The Audit Maintenance Fund may also be used by the auditor for training, purchasing new or upgrading information technology, salary supplements for existing employees, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of auditor and anything necessarily pertaining thereto.**

2. In all counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than seven hundred thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector [may] **shall** charge a surcharge for payment by credit card.”; and

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

HOUSE AMENDMENT NO. 10

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 35, Section 321.227, Lines 1 to 73, by deleting all of said lines; and

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

Emergency clause adopted.

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 SBs 1181, 1100, 1262 and 1263**, entitled:

An Act to repeal sections 8.800, 8.810, 8.812, 8.815, 8.837, 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 64.170, 143.121, 393.275, 407.300, 537.340, 660.115, and 660.135, RSMo, and to enact in lieu thereof thirty-six new sections relating to energy regulation, with penalty provisions and an emergency clause for a certain section.

With House Amendment Nos. 1, 2, 3, 4, 5 and 6.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Pages 21 and 22, Section 393.108, Lines 1 to 17, by deleting all of said lines and inserting in lieu thereof the following:

“393.108. For purposes of this section, the hot weather rule shall mean the period of time from June first to September thirtieth, in which the discontinuance of gas and electric service to all residential users, including all residential tenants of apartment buildings, for nonpayment of bills where gas or electricity is used as the source of cooling or to operate the only cooling equipment at the residence, is prohibited in the following situations:

(1) On any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 p.m. for the following twenty-four hours predicts that the temperature shall rise above ninety-five degrees Fahrenheit or that the heat index shall rise above one hundred five degrees Fahrenheit;

(2) On any day when utility personnel are not available to reconnect utility service during the immediately succeeding day or days and the National Weather Service local forecast between 6:00 a.m. and 9:00 p.m. predicts that the temperature during the period of unavailability shall rise above ninety-five degrees Fahrenheit or that the heat index shall rise above one hundred five degrees Fahrenheit; and

(3) In any other applicable situations provided for in rules established and amended by the public service commission.”; and

Further amend said bill, Page 22, Section 393.171, Lines 1 to 16, by deleting all of said lines and inserting in lieu thereof the following:

“393.171. 1. The commission shall have the authority to grant the permission and approval specified in section 393.170, after the construction or acquisition of any electric plant located in a first class county without a charter form of government has been completed if the commission determines that the grant of such permission and approval is necessary or convenient for the public service. Any such permission and approval shall, for all purposes, have the same effect as the permission and approval granted prior to such construction or acquisition. This subsection is enacted to clarify and specify the law in existence at all times since the original enactment of section 393.170.

2. No permission or approval granted for an electric plant by the commission under subsection 1 of this section, nor any special use permit issued for any such electric plant by the governing body of the county in which the electric plant is located, shall extinguish, render moot, or mitigate any suit or claim pending or otherwise allowable by law by any landowner or other legal entity for monetary damages allegedly caused by the operation or existence of such electric plant. Expenses incurred by

an electrical corporation in association with the payment of any such damages shall not be recoverable, in any form at any time, from the rate payers of any such electrical corporation.

3. The commission's authority under subsection 1 of this section shall expire on August 28, 2009.”;
and

Further amend said bill, Pages 22 and 23, Section 393.275, Lines 1 to 40, by deleting all of said lines and inserting in lieu thereof the following:

“393.275. 1. The commission shall notify the governing body of each city or county imposing a business license tax pursuant to section 66.300, 92.045, 94.110, 94.270 or 94.360, RSMo, or a similar tax adopted pursuant to charter provisions in any constitutional charter city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, on gross receipts of any gas corporation, electric corporation, water corporation or sewer corporation of any tariff increases authorized for such firm doing business in that city or county if the approved increase exceeds seven percent. The commission shall include with such notice to any city or county the percentage increase approved for the utility, together with an estimate of the annual increase in gross receipts resulting from the tariff increase on customers residing in that city or county. The provisions of this subsection shall not apply to rate adjustments in the purchase price of natural gas which are approved by the commission.

2. The governing body of each city or county notified of a tariff increase as provided in subsection 1 of this section shall reduce the tax rate of its business license tax on the gross receipts of utility corporations. Within sixty days of the effective date of the tariff increase, the tax rate shall be reduced to the extent necessary so that revenue for the ensuing twelve months will be approximately equal to the revenue received during the preceding twelve months plus a growth factor. The growth factor shall be equal to the average of the additional revenue received in each of the preceding three years. However, a city or county may maintain the tax rate of its business license tax on the gross receipts of utility corporations without reduction if an ordinance to maintain the tax rate is enacted by the governing body of the city or an order to maintain the tax rate is issued by the governing body of the county after September 28, 1985. The provisions of this subsection shall not apply to rate adjustments in the purchase price of natural gas which are approved by the commission **and such purchased gas adjustment rates shall include the gas cost portion of net write-offs incurred by the gas corporation in providing service to system sales customers upon the filing and approval of new rate schedules applicable to such customers. Such rate schedules shall be designed to simultaneously decrease the gas corporation's base rates and increase its purchased gas adjustment rates by like amounts so as to reasonably ensure that the gas cost portion of the net write-offs applicable to such customers, as such portion is determined by the commission, is only being recovered once through the gas corporation's purchased gas adjustment rates. Increases and decreases in the gas cost portion of net write-offs shall thereafter be reflected in the gas corporation's purchased gas adjustment rates pursuant to tariff provisions approved by the commission provided, however, that such tariff provisions shall:**

(1) Limit increases or decreases in the gas cost portion of net write-offs as reflected in purchased gas adjustment rates to once each year;

(2) Require a true-up of the gas cost portion of net write-offs as reflected in purchased gas adjustment rates once each year; and

(3) Require commission review of the gas cost portion of net write-offs as reflected in purchased gas adjustment rates once each year to insure that the gas corporation is prudently pursuing

collection of amounts owed by its customers.

Based on its annual reviews of such collection efforts, the commission shall prepare and submit a report to the general assembly by December 1, 2011, comparing and describing any changes made or experienced in the collection practices, level of utility resources devoted to collection activities, amount and percentage of net write-offs incurred, and regulations affecting collection activities for the period beginning July 1, 2007, and ending July 1, 2011.”; and

Further amend said bill, Pages 24 and 25, Section 407.300, Lines 1 to 36, by deleting all of said lines and inserting in lieu thereof the following:

“407.300. 1. Every **purchaser or collector of, or dealer in, junk, scrap metal, or any secondhand property shall keep a register [which shall contain the name and address of the person from whom] containing a written or electronic record for each purchase or trade in which each type of metal subject to the provisions of this section is obtained for value. There shall be a separate record for each transaction involving any:**

(1) Copper, brass, or bronze;

(2) Aluminum wire [or is purchased,], cable, pipe, tubing, bar, ingot, rod, fitting, or fastener; or

(3) Material containing copper or aluminum that is knowingly used for farming purposes as “farming” is defined in section 350.010, RSMo;

whatever may be the condition or length of such [copper wire or cable] **metal. The record shall contain the following data: A copy of the driver's license or photo identification issued by the state or by the United States government or agency thereof to the person from whom the material is obtained, which shall contain a current address of the person from whom the material is obtained; [the residence or place of business and driver's license number of such person;] and the date, time, and place of and a full description of each such purchase or trade including the quantity by weight thereof[; and shall permit any peace officer to inspect the register at any reasonable time].**

2. The records required under this section shall be maintained for a minimum of twenty-four months from when such material is obtained and shall be available for inspection by any law enforcement officer.

3. Anyone convicted of violating this section shall be [fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both] guilty of a class A misdemeanor.

4. This section shall not apply to any of the following transactions:

(1) Any transaction for which the total amount paid for all regulated scrap metal purchased or sold does not exceed fifty dollars;

(2) Any transaction for which the seller, including a farm or farmer, has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or

(3) 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 electrical power or telecommunications.”; and

Further amend said bill, Page 25, Section 407.301, Lines 1 to 9, by deleting all of said lines and inserting in lieu thereof the following:

“407.301. 1. No scrap metal dealer shall knowingly purchase or possess a metal beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut, or otherwise alter scrap metal except when the purchase is from the brewer or its authorized representative. For purposes of this section, “keg” shall have the same meaning as in section 311.082, RSMo.

2. Anyone who is found guilty of, or pleads guilty to, violating this section shall be guilty of a class A misdemeanor punishable only by fine. Nothing in this section shall be construed to preclude a person violating this section from also being prosecuted for any applicable criminal offense.”; and

Further amend said bill, Page 25, Section 407.302, Lines 1 to 11, by deleting all of said lines and inserting in lieu thereof the following:

“407.302. 1. No scrap yard shall purchase any metal that can be identified as belonging to a public or private cemetery or to a political subdivision or electrical cooperative, municipal utility, or a utility regulated under chapter 386 or 393, RSMo, including bleachers, guardrails, signs, street and traffic lights or signals, and manhole cover or covers, whether broken or unbroken, from anyone other than the cemetery or monument owner, political subdivision, electrical cooperative or utility, or manufacturer of the metal or item described in this section unless such person is authorized in writing by the cemetery or monument owner, political subdivision, electrical cooperative or utility, or manufacturer to sell the metal.

2. Anyone convicted of violating this section shall be guilty of a class B misdemeanor.”; and

Further amend said bill, Page 26, Section 407.303, Lines 1 to 8, by deleting all of said lines and inserting in lieu thereof the following:

“407.303. 1. Any scrap metal dealer paying out an amount that is five hundred dollars or more shall make such payment in the form of a check or shall pay by any method in which a financial institution makes and retains a record of the transaction.

2. This section shall not apply to any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business.”; and

Further amend said bill, Pages 26 to 28, Section 537.340, Lines 1 to 68, by deleting all of said lines; and

Further amend said bill, Page 28, Section 570.055, Lines 1 to 5, by deleting all of said lines and inserting in lieu thereof the following:

“570.055. Any person who steals or appropriates, without consent of the owner, any wire, electrical transformer, metallic wire associated with transmitting telecommunications, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other

combustible fuels shall be guilty of a class C felony.”; and

Further amend said bill, Page 28, Section 570.056, Lines 1 to 4, by deleting all of said lines and inserting in lieu thereof the following:

“570.056. Any person who steals or appropriates, without consent of the owner, any property located on the premises of electrical cooperatives or municipal utilities or utilities regulated under chapter 386, RSMo, shall be guilty of a class D felony.”; and

Further amend said bill, Page 31, Lines 1 to 14, by deleting all of said lines and inserting in lieu thereof the following:

“660.115. 1. For each eligible household, an amount not exceeding [six] **eight** hundred dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary heating source supplier, or both, including suppliers of heating fuels, such as gas, electricity, wood, coal, propane and heating oil. For each eligible household, an amount not exceeding [six] **eight** hundred dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary cooling source supplier, or both; provided that the respective shares of overall funding previously received by primary and secondary heating and cooling source suppliers on behalf of their customers shall be substantially maintained.

2. For an eligible household, other than a household located in publicly owned or subsidized housing, an adult boarding facility, an intermediate care facility, a residential care facility or a skilled nursing facility, whose members rent their dwelling and do not pay a supplier directly for the household's primary or secondary heating or cooling source, utilicare payments shall be paid directly to the head of the household, except that total payments shall not exceed eight percent of the household's annual rent or one hundred dollars, whichever is less.”; and

Further amend said bill, Pages 31 and 32, Section 660.135, Lines 1 to 13, by deleting all of said lines and inserting in lieu thereof the following:

“660.135. 1. Not more than five million dollars from state general revenue shall be appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 for the support of the utilicare program established by sections 660.100 to 660.136 for any fiscal year, except in succeeding years the amount of state funds may be increased by a percentage which reflects the national cost-of-living index or seven percent, whichever is lower.

2. The department of social services [may] **shall**, in coordination with the department of natural resources, apply a portion of the funds appropriated annually by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 to the low income weatherization assistance program of the department of natural resources; provided that any project financed with such funds shall be consistent with federal guidelines for the Weatherization Assistance Program for Low-Income Persons as authorized by 42 U.S.C. 6861.”; and

Further amend said bill, Page 32, Section 660.135, Line 13, by inserting after all of said line the following:

“Section 1. For any electric generation plant unlawfully constructed after August 28, 2008, in any suit or claim brought by any landowner or other legal entity for monetary damages allegedly caused by the operation or existence of such electric plant, the measure of damages shall be treble the actual damages to the plaintiff's real estate proved as determined by a judge or jury, plus court costs and

reasonable attorney fees.”; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1181, 1100, 1262 & 1263, Section 393.275, Page 23, Line 40 by inserting after all of said Section and Line the following:

“Section 393.1045. Any renewable mandate required by law shall not raise the retail rates charged to the customers of electric retail suppliers by an average of more than one percent in any year, and all the costs associated with any such renewable mandate shall be recoverable in the retail rates charged by the electric supplier. Solar rebates shall not exceed twenty-five percent of the cost of the solar panels and are included in the one percent rate cap provided for in 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. 1181, 1100, 1262, & 1263, Section 64.170 by inserting after all of said Section the following:

“135.670. 1. As used in this section, the following terms mean:

(1) “Class 8 truck”, a heavy duty vehicle, as defined in 42 U.S.C. Section 16104, as amended, that has a gross vehicle weight in excess of thirty three thousand pounds;

(2) “Department”, the department of revenue;

(3) “Idle reduction technology”, shall have the same meaning ascribed in 42 U.S.C. Section 16104, as amended;

(4) “State tax liability”, in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, and 153, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

(5) “Taxpayer”, a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. For all tax years beginning on or after January 1, 2008, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the amount such taxpayer paid to purchase and install idle reduction technology on a class 8 truck after January 1, 2008. In no case shall the tax credit exceed thirty five hundred dollars per truck.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax

liability for the taxable year for which the credit is claimed. However, any tax credit that cannot be claimed in the taxable year the purchase and installation was made may be carried over to the next three succeeding taxable years until the full credit has been claimed. The tax credit allowed under this section shall be nontransferable.

4. The cumulative amount of tax credits which may be issued under this section in any one fiscal year shall not exceed ten million dollars, and the total amount of tax credits which may be issued under this section shall not exceed twenty million dollars. If the amount of tax credits claimed under this section exceeds ten million dollars in any one fiscal year, the director of the department of revenue shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all taxpayers allowed a tax credit under this section. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

5. Not less than one hundred and twenty days from the effective date of this act, the department shall promulgate rules necessary for the implementation of the provisions of this act. 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, 2008, shall be invalid and void.

6. The provisions of this section shall automatically sunset two years after August 28, 2008, unless reauthorized.”; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262, and 1263, Section 394.320, Page 23, Lines 1 to 17 by striking all of said section from bill; 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 Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Page 15, Section 64.170, Line 34, by inserting after all of said line the following:

“135.032. 1. This section shall be known and may be cited as the “Green Building Tax Credit”.

2. As used in this section, the following terms mean:

(1) “Applicant”, a taxpayer who is either the owner or builder or contract purchaser of a building, and is applying for a green building tax credit for such building;

(2) “Base building”, all areas of a building not intended for occupancy by a tenant or owner, including, but not limited to, the structural components of the building, exterior walls, floors, windows, roofs, foundations, chimneys and stacks, parking areas, mechanical rooms and mechanical systems, and owner-controlled and/or operated service spaces, sidewalks, main lobby, shafts and vertical transportation mechanisms, stairways, and corridors;

(3) “Commissioning”, the process of verifying and ensuring that the entire building and the systems within are designed, constructed, functionally tested, and calibrated to operate as intended;

(4) “Credit allowance year”, the year as stated on the preliminary credit certificate by the director;

(5) “Department”, the department of natural resources;

(6) “Director”, the director of the department of natural resources;

(7) “Economic development area”, an economic development area as defined under section 99.805, RSMo;

(8) “Eligible building”, a building located within the state, which is:

(a) A residential multi-family building;

(b) A residential, single-family, detached dwelling;

(c) A building used for commercial or industrial purposes; or

(d) Any combination of buildings described in paragraphs (a) to (d) of this subdivision;

(9) “Energy and Atmosphere Credit Number One”, the credit awarded by the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, which requires increased energy performance above the standard as defined in the most current version of the LEED-NC or LEED-EB Rating System;

(10) “Energy and Atmosphere Credit Number Three”, the credit awarded by the LEED Green Building Rating System, which requires additional commissioning above the fundamental commissioning prerequisite as defined in the most current version of the LEED-NC or LEED-EB Rating System;

(11) “Gold rating”, the rating in compliance with, or exceeding, the second highest rating awarded by the USGBC LEED certification process;

(12) “Green base building”, a base building that meets all requirements in the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System for Core and Shell or that meets the most current requirements for at least a three globes rating under Green Globes;

(13) “Green building” or “high-performance building”, a building that is designed to achieve integrated systems design and construction so as to significantly reduce or eliminate the negative impact of the built environment on the following:

(a) Site conservation and sustainable planning;

- (b) Water conservation and efficiency;**
- (c) Energy efficiency and renewable energy;**
- (d) Conservation of materials and resources; and**
- (e) Indoor environmental quality and human health;**

(14) “Green Globes”, an environmental assessment and rating tool for green buildings developed by the Green Building Initiative;

(15) “Green tenant space”, a tenant space as defined under subdivision (24) of this section that meets all requirements in the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System for Commercial Interiors or that meets the most current requirements for at least a three globes rating under Green Globes;

(16) “Green whole building”, a whole building that meets all requirements in the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System for New Building Construction and Major Renovations LEED-NC, as amended from time to time, or that meets all requirements in the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System for Existing Buildings, or that meets the most current requirements for at least a three globes rating under Green Globes;

(17) “LEED-CI” or “LEED Green Building Rating System Version LEED-CI”, the most current Leadership in Energy and Environmental Design Green Building Rating System guidelines developed and the United States Green Building Council for commercial interiors;

(18) “LEED-CS” or “LEED Green Building Rating System Version LEED-CS”, the most current Leadership in Energy and Environmental Design Green Building Rating System guidelines developed and adopted by the United States Green Building Council for the core and shell of buildings otherwise known as the base building;

(19) “LEED-EB” or “LEED Green Building Rating System Version LEED-EB”, the most current Leadership in Energy and Environmental Design Green Building Rating System guidelines developed and adopted by the United States Green Building Council for existing buildings;

(20) “LEED-NC” or “LEED Green Building Rating System Version LEED-NC”, the most current Leadership in Energy and Environmental Design Green Building Rating System developed and adopted by the United States Green Building Council for new buildings and major renovations;

(21) “Platinum rating”, the rating in compliance with, or exceeding, the highest rating awarded by the USGBC LEED certification process;

(22) “Silver rating”, the rating in compliance with, or exceeding, the third highest rating awarded by the USGBC LEED certification process;

(23) “State tax liability”, in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer under the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

(24) “Tenant space”, the portion of a building intended for occupancy by a tenant or occupying

owner;

(25) “United States Green Building Council” or “USGBC”, the specific council which measures and evaluates the energy and environmental performance of a building according to its own Leadership in Energy and Environmental Design Rating system;

(26) “Whole building”, the entire building, as comprised of the base building and tenant space.

3. (1) The green building tax credit shall be available to an applicant for:

(a) Either the construction of a green building or the rehabilitation of a building, which is not a green building, into a green building;

(b) The construction or rehabilitation of a base building which is not a green base building, into a green base building; or

(c) The construction or rehabilitation of a tenant space which is not green tenant space, into green tenant space.

(2) An applicant may apply for a green building tax credit provided that the facility subject to the green building tax credit is located within the state and the applicant will be the owner or contract purchaser of the facility at the time of erection, construction, installation, or acquisition of the proposed facility.

(3) If a credit is allowed to a building owner pursuant to this section with respect to property, and such property or an interest therein is sold, the credit for the period after the sale, which would have been allowable under this section to the prior owner, shall be allowable to the new owner. Credit for the year of sale shall be allocated between the parties on the basis of the number of days during such year that the property or interest was held by each.

(4) In the case of allowance of credit under this section to a successor owner as provided in subdivision (3) of this subsection, the director shall have the authority to reveal to the successor owner any information, with respect to the credit of the prior owner, which is the basis for the denial in whole or in part of the credit claimed by such successor owner.

4. An applicant shall be eligible for a green building tax credit against a state tax liability provided such applicant complies with the requirements of subsection 5 of this section and provided that the building meets the requirements of an eligible building as set forth in subdivision (8) of subsection 2 of this section. The amount of credit shall be determined pursuant to subsection 7 of this section, but the total amount of tax credits issued to a single applicant under this section shall not exceed fifty thousand dollars per tax year.

(1) The credit amount shall be the sum of the following credit components, whichever are applicable:

(a) The green whole-building credit component shall be available to an applicant for either the construction of a green building or the rehabilitation of a building which is not a green whole building into a green whole building. The green whole-building credit component may not be allowed for any taxable year unless all the requirements under subsection 5 of this section are met; and

a. The whole building achieves a Silver, Gold, or Platinum Rating as approved by the LEED-NC Green Building Rating System, as amended from time to time, or the most recent version, for a new

building and for major renovations; or, LEED Green Building Rating System Version LEED-EB, or the most recent version, for an existing building; or

b. The whole building achieves at least a three globes rating under the most current requirements of Green Globes;

(b) The green base building credit component shall be available to an applicant who is the contract owner for either the construction of a green building or the rehabilitation of a building, which is not a green base building, into a green base building. The green base building credit component may not be allowed for any taxable year unless all the requirements under subsection 5 of this section are met; and

a. The base building achieves a Silver, Gold, or Platinum Rating as approved by the LEED-CS Green Building Rating System, or the most recent version thereof; or

b. The base building achieves at least a three globes rating under the most current requirements of Green Globes;

(c) The green tenant space credit component shall be available to an applicant for constructing tenant space or rehabilitating tenant space, which is not green tenant space, into green tenant space. The green tenant space credit component may not be allowed for a taxable year unless all the requirements under subsection 5 of this section are met; and

a. The tenant space achieves a Silver, Gold, or Platinum Rating as approved by the LEED-CI Green Building Rating System, or the most recent version thereof; or

b. The tenant space achieves at least a three globes rating under the most current requirements of Green Globes.

(2) For each component eligible to receive credit such credit component amount shall not exceed the maximum amount specified in the preliminary certificate issued pursuant to subsection 8 of this section.

5. (1) The green building tax credit shall not be allowed for any taxable year unless the following are met:

(a) The applicant has obtained and filed a preliminary credit certificate issued under subsection 8 or 9 of this section;

(b) The building is in service as shown by a certificate of occupancy or other acceptable form of documentation as determined by the department; and

(c) The whole building, base building or tenant space has achieved either:

a. At least a three globes rating under the most current requirements for Green Globes; or

b. A Silver, Gold, or Platinum rating as approved by the applicable and most recent LEED Green Building Rating System as determined under subsection 4 of this section and in achieving its LEED rating, the whole building, base building, or tenant space must earn:

i. At least four LEED points for Energy and Atmosphere Credit Number One, or the equivalent points under any subsequent version of LEED; and

ii. The point for Energy and Atmosphere Credit Number Three, or the equivalent points under

any subsequent version of LEED.

(2) For each component eligible to receive credit under subsection 4 of this section, once construction is complete and an occupancy certificate is received, such credit component amount shall be allowed for each of the next four succeeding taxable years provided that the applicant obtains an eligibility certificate that meets all requirements for an eligibility certificate as described in paragraph (b) of subdivision (3) of subsection 10 of this section.

(3) When filing with the department of revenue, the applicant shall file the eligibility certificate and the preliminary credit component certificate with the claim for credit. Allowable costs in this subsection and for all five years that the credit may be available shall not exceed, in the aggregate, the amount determined under subsections 4, 6, and 7 of this section.

6. For tax years beginning on or after January 1, 2010, the tax credits authorized under this section may be used to satisfy taxes owed under chapters 143, 147, and 148, RSMo, excluding sections 143.191 to 143.265, RSMo, in the tax year the credit is issued. Tax credits issued under this section shall be refundable and may be transferred, sold, or assigned by notarized endorsement, which names the transferee. In no case shall the aggregate amount of all tax credits issued under this section exceed one million dollars per tax year.

7. As soon as practicable, but not later than December 1, 2009, the department shall promulgate rules, in accordance with the provisions of this section, to:

(1) Determine the amount of green building tax credit available to a taxpayer based on the following:

(a) The amount of floor space in the building;

(b) The square footage of the building;

(c) The green globes rating or the level of LEED rating achieved by the building, with higher ratings corresponding to greater tax credits; and

(d) Whether the building is located in an economic development area with a higher tax credit corresponding to those buildings located in an economic development area;

(2) Determine allowable credit for each of:

(a) The whole green building credit component;

(b) The base green building credit component; and

(c) The green tenant space credit component.

The department shall promulgate rules for granting green building tax credits to applicants constructing or owning buildings that achieve National Association of Home Builder Model Green Building Ratings that are substantially similar to the performance standards set forth in this bill. 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, 2008, shall be invalid and void.

8. (1) Prior to construction of a proposed facility an applicant may apply to the department for preliminary certification if the applicant will be the owner or contract purchaser of the facility at the time of construction.

(2) An application for preliminary certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the applicant plans to construct a facility that meets the requirements under subsection 5 of this section;

(b) A detailed description of the proposed facility and its operation and information showing that the facility shall operate as represented in the application;

(c) The estimated start and finish date of the construction of the facility;

(d) Evidence of official registration in the LEED system or green globes rating system; and

(e) Any other information determined by the director to be necessary prior to issuance of a preliminary certificate.

(3) The director may allow an applicant to file the preliminary application after the start of the construction of the facility if the director finds that filing the application before the start of construction is inappropriate because special circumstances render filing earlier unreasonable.

(4) If the director determines that the proposed construction is technically feasible and should operate in accordance with the representations made by the applicant, and is in accordance with the provisions under subsection 5 of this section and any applicable rules or standards adopted by the director, the director shall issue a preliminary credit certificate approving the construction of the facility. The preliminary credit certificate shall state the following:

(a) The first taxable year for which the credit may be applied;

(b) The expiration date of the tax credit. Such expiration date may be extended at the discretion of the director in order to avoid unwarranted hardship; and

(c) The maximum amount of the total credit allowed and the maximum amount of credit allowed in any single tax year.

(5) If the director determines that the construction does not comply with the provisions under subsection 5 of this section and applicable rules and standards, the director shall issue an order denying certification.

9. (1) To change a project that has already received preliminary certification, the applicant shall file a written request to the director which states:

(a) A detailed description of the changes;

(b) The reasons for the changes; and

(c) The effects that the changes will have on the amount of tax credit stated by the preliminary certification.

(2) The director shall make the determination as to whether the changed project complies with

the requirements under subsection 5 of this section.

(a) If the changed project complies with the requirements under subsection 5 of this section, then the director shall issue an amended preliminary certification.

(b) If the changed project fails to comply with the requirements under subsection 5 of this section, then the director shall issue an order that revokes the preliminary certification.

10. (1) No final certification shall be issued by the director under this subsection unless the facility was constructed under a preliminary certificate of approval issued under subsection 8 of this section.

(2) An applicant may apply to the department for final certification of a facility:

(a) If the department issued preliminary certification for the facility under subsection 8 of this section; and

(b) After completion of construction of the proposed facility.

(3) An application for final certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the conditions of the preliminary certification have been complied with;

(b) An eligibility certificate from the project architect or professional engineer licensed to practice in the state of Missouri or from a LEED accredited professional that consists of a certification by either:

a. The Green Building Initiative that the building with respect to which the credit is claimed meets the requirements for a green globes rating; or

b. The United States Green Building Council that the building with respect to which the credit is claimed is LEED certified and that in achieving its LEED rating, the building has earned at least four LEED points for Energy and Atmosphere Credit Number One and the Energy and Atmosphere Credit Number Three;

(c) A statement of the level of Green Globes or LEED performance achieved by the building to permit determination of the proper credit amount under subsection 6 of this section;

(d) A statement that the facility is in operation; and

(e) Any other information determined by the director to be necessary prior to issuance of a final certificate, including inspection of the facility by the department.

11. (1) The director may order the revocation of the final certificate issued under subsection 10 of this section if the director finds that:

(a) The certification was obtained by fraud or misrepresentation; or

(b) The holder of the certificate has failed substantially to construct the facility in compliance with the plans, specification, and procedures in such certificate.

(2) As soon as the order of revocation under this subsection becomes final, the director shall notify the department of revenue of such order.

(3) If the certificate is ordered revoked under paragraph (a) of subdivision (1) of this subsection, all prior tax credits provided to the applicant by virtue of such certificate shall be forfeited, and upon

notification under subdivision (2) of this subsection, the department of revenue immediately shall proceed to collect those taxes not paid by the applicant as a result of the tax credits provided to the applicant under this section.

(4) If the certificate is ordered revoked under this subsection, the applicant shall be denied any tax credit under this section in connection with such facility after the date that the order of revocation becomes final.

12. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The tax credit authorized under this section shall automatically sunset three years after the effective date of this section unless reauthorized by an act of the general assembly; and

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

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.”; and

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

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Page 32, Section 660.135, Line 13, by inserting after all of said Line, the following:

“Section 1. Notwithstanding any other provision of law, any electrical corporation as defined by subdivision 15 of section 386.020, RSMo, which, by January 20, 2009, achieves an amount of eligible renewable energy technology nameplate capacity equal to or greater than fifteen percent of such corporation's total owned fossil-fired generating capacity, shall be exempt thereafter from a requirement to pay any subsidy, fee, or rebate to its customers that install their own solar electric energy system and shall be exempt from meeting any non-federal mandated renewable energy standard requirements. Any disputes or denial of exemptions under this section shall be reviewable by the circuit court of Cole County as prescribed by law.”; and

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

Emergency clause adopted.

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 refuses to adopt **SS** as amended for **HCS** for **HBs 1549, 1771, 1395, and 2366**, as amended and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

PRIVILEGED MOTIONS

Senator Rupp moved that the Senate refuse to recede from its position on **SS** for **HCS** for **HBs 1549, 1771, 1395 and 2366**, as amended, and grant the House a conference thereon, which motion prevailed.

Senator Ridgeway moved that the Senate refuse to concur in **HCS No. 2** for **SB 976**, 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.

President Pro Tem Gibbons assumed the Chair.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **HCS** for **SCS** for **SBs 1034** and **802**, 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.

BILLS DELIVERED TO THE GOVERNOR

HCS for **SCS** for **SBs 1034** and **802**, after having been duly signed by the Speaker of the House of Representatives in open session, was delivered to the Governor by the Secretary of the Senate.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **SS** for **HCS** for **HBs 1549, 1771, 1395** and **2366**, as amended: Senators Rupp, Crowell, Engler, Green and McKenna.

Senator Scott assumed the Chair.

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 No. 2** for **SS** for **SCS** for **SB 718**, entitled:

An Act to repeal sections 32.105, 67.1501, 67.1545, 135.155, 135.535, 135.562, 135.967, 137.115, 137.1018, 144.030, 155.010, 253.550, 447.708, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof twenty-one new sections relating to tax incentives for business development, with an emergency clause for a certain section.

With House Amendment Nos. 1, 2, and 3, House Amendment No. 1 to House Amendment No. 4, House Amendment No. 4, as amended, House Amendments Nos. 5, 6 and 7.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 32.105, Page 2, Line 24 by deleting “5%” and inserting in lieu thereof “35%”; and

Further amend said bill, Section 137.115, Page 15, Line 7 by deleting the word “possessor” from said line and inserting in lieu thereof the following: “[possessor] **possessory**”; and

Further amend said page, Line 9 by deleting the word “**possessor**” and inserting in lieu thereof the word “**possessory**”; and

Further amend said bill, section, page, Line 13, by deleting the word “**possessor**” and inserting in lieu thereof the word “**possessory**”; and

Further amend said bill, section, page, Line 16, by deleting the word “**possessor**” and inserting in lieu thereof the word “**possessory**”; and

Further amend said bill, Section 620.1881, Page 57, Lines 204 and 205 by removing the open “[” and closed “]” brackets from said lines; and

Further amend said Page, Line 205, by inserting an open bracket “[” in front of the word “forty”; and further amend said line by inserting after the word “forty” the following: “] **sixty**”; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Page 1, In the title, Line 4, by inserting after “RSMo,” the following:

“and section 99.825 as enacted by senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session,”; and

Further amend said bill, Page 1, Section A, Line 3, by inserting after “RSMo,” the following:

“senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session,”; and

Further amend said bill, Page 6, Section 67.1545, Line 57, 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 or 3 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, 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, 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. **Members appointed by the county executive or presiding commissioner prior to August 28, 2008, shall continue their service on the commission established in subsection 3 of this section without further appointment unless the county executive or presiding commissioner appoints a new member or members.**

3. [The commission] **Beginning August 28, 2008:**

(1) In lieu of a commission created under subsection 2 of this section, any city, town, or village in a county with a charter form of government and with more than one million inhabitants, in a county with a charter form of government and with more than two hundred fifty thousand but fewer

than three hundred fifty thousand inhabitants, or in a county of the first classification with more than one hundred eighty-five thousand but fewer than two hundred thousand inhabitants shall, prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, create a commission consisting of twelve persons to be appointed as follows:

(a) Six members appointed either by the county executive or presiding commissioner; notwithstanding any provision of law to the contrary, no approval by the county's governing body shall be required;

(b) Three members appointed by the cities, towns, or villages in the county which have tax increment financing districts in a manner in which the chief elected officials of such cities, towns, or villages agree;

(c) Two members appointed by the school boards whose districts are included in the county in a manner in which the school boards agree; and

(d) One member to represent all other districts levying ad valorem taxes in the proposed redevelopment area in a manner in which all such districts agree.

No city, town, or village subject to this subsection shall create or maintain a commission under subsection 2 of this section, except as necessary to complete a public hearing for which notice under section 99.830 has been provided prior to August 28, 2008, and to vote or make recommendations relating to redevelopment plans, redevelopment projects, or designation of redevelopment areas, or amendments thereto that were the subject of such public hearing;

(2) Members appointed to the commission created under this subsection, except those six members appointed by either the county executive or presiding commissioner, shall 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. The six members appointed by either the county executive or the presiding commissioner shall serve on all such commissions until replaced. The city, town, or village that creates a commission under this subsection shall send notice thereof by certified mail to the county executive or presiding commissioner, to the school districts whose boundaries include any portion of the proposed redevelopment area, and to the other taxing districts whose boundaries include any portion of the proposed redevelopment area. The city, town, or village that creates the commission shall also be solely responsible for notifying all other cities, towns, and villages in the county that have tax increment financing districts and shall exercise all administrative functions of the commission. The school districts receiving notice from the city, town, or village shall be solely responsible for notifying the other school districts within the county of the formation of the commission. If the county, school board, or other taxing district fails to appoint members to the commission within thirty days after the city, town, or village sends the written notice, as provided herein, that it has convened such a commission or within thirty days of the expiration of any such member's term, the remaining duly appointed members of the commission may exercise the full powers of the commission.

4. (1) Any commission created under this section, 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]

(2) Any commission created under subsection 2 of this section 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.

(3) Any commission created under subsection 3 of this section shall, within fifteen days of the receipt of a redevelopment plan meeting the minimum requirements of section 99.810, as determined by counsel to the city, town, or village creating the commission and a request by the applicable city, town, or village for a public hearing, fix a time and place for the public hearing referred to in section 99.825. The public hearing shall be held no later than seventy-five days from the commission's receipt of such redevelopment plan and request for public hearing. The commission shall vote and make recommendations to the governing body of the city, town, or village requesting the public hearing on all proposed redevelopment plans, redevelopment projects, and designations of redevelopment areas, and amendments thereto within thirty days following the completion of the public hearing. If the commission fails to vote within thirty days following the completion of the public hearing referred to in section 99.825 concerning the proposed redevelopment plan, redevelopment project, or designation of redevelopment area, or amendments thereto, such plan, project, designation, or amendment thereto shall be deemed rejected by the commission.

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 as required in subsection 4 of section 99.820 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; **provided, if the commission is created under subsection 3 of section 99.820, the hearing shall not be continued for more than thirty days beyond the date on which it is originally opened unless such longer period is requested by the chief elected official of the municipality creating the commission and approved by a majority of the commission.** 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 57, Section 620.1881, Line 261, by inserting after all of said line the following:

[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. 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 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. 718, Section 253.550, Page 30, Line 20 by inserting after all of said line the following:

“313.057. 1. It is unlawful for any person, either as an owner, lessee or employee, to operate, carry on, conduct or maintain any form of manufacturing, selling, leasing or distribution of any bingo equipment or supplies without having first procured and maintained a Missouri bingo equipment and supplies manufacturer or supplier license.

2. The commission shall submit two sets of fingerprints for each key person, as defined in commission rules and regulations, of an entity or organization seeking issuance or renewal of a Missouri bingo equipment and supplies manufacturer or supplier license, for the purpose of checking the person's prior criminal history when the commission determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. The second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the commission of any criminal history information or lack of criminal history information discovered on the individual. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the commission.

3. The holder of a state bingo license may, within two years of cessation of conducting bingo or upon specific approval by the commission, dispose of by sale in a manner approved by the commission, any or all of his bingo equipment and supplies, without a supplier's license. In case of foreclosure of a lien by a bank or other person holding a security interest for which bingo equipment is security in whole or in part for the lien, the commission may authorize the disposition of the bingo equipment without requiring a supplier's license.

4. Any person whom the commission determines to be a suitable person to receive a license pursuant to the provisions of this section may be issued a manufacturer's or supplier's license. The commission may require suppliers to post a bond with the commission in an amount and in the manner prescribed by the commission. The burden of proving his qualification to receive or hold a license pursuant to this section is at all times on the applicant or licensee.

5. The commission shall charge and collect from each applicant for a supplier's license a one-time application fee set by the commission, not to exceed five thousand dollars. The commission shall charge and collect an annual renewal fee for each supplier licensee not to exceed one thousand dollars.

6. The commission shall charge and collect from each applicant for a manufacturer's license a one-time

application fee set by the commission, not to exceed one thousand dollars. The commission shall charge and collect an annual renewal fee for each manufacturer licensee not to exceed five hundred dollars.

7. The commission shall charge and collect from each applicant for a hall provider's license a one-time application fee set by the commission, not to exceed seven hundred fifty dollars. The commission shall charge and collect an annual renewal fee for each hall provider licensee not to exceed five hundred dollars.

8. All licenses issued pursuant to this section shall be issued for the calendar year and shall expire on December thirty-first of each year. Regardless of the date of application or issuance of the license, the fee to be charged and collected pursuant to this section shall be the full annual fee.

9. All license fees collected pursuant to this section shall be paid over immediately to the state treasurer to be deposited to the credit of the gaming commission bingo fund.

10. All licensees pursuant to this section shall maintain for a period of not less than three years full and complete records of all business carried on in this state and shall make same available for inspection to any duly authorized representative of the commission. If a supplier does not receive payment in full from an organization within thirty days of the delivery of bingo supplies, the supplier shall notify the commission in writing, or in a manner specified by the commission in its rules and regulations, of the delinquency. Upon receipt of the notice of delinquency, the commission shall notify all suppliers that until further notice from the commission, all sales of bingo supplies to the delinquent organizations shall be on a cash-only basis. Upon receipt of the notice from the commission, no supplier may extend credit to the delinquent organization until such time as the commission approves credit sales. If a manufacturer does not receive payment in full from a supplier within ninety days of the delivery of bingo supplies, the manufacturer shall notify the commission in writing, or in a manner specified by the commission in its rules and regulations, of the delinquency. Upon receipt of the notice of delinquency, the commission shall notify all manufacturers that until further notice from the commission, all sales of bingo supplies to the delinquent supplier shall be on a cash-only basis. Upon receipt of the notice from the commission, no manufacturer may extend credit to the delinquent supplier until such time as the commission approves credit sales.

11. [Until January 1, 1995, all suppliers shall pay a tax on all pull-tab cards distributed by them in the amount of ten dollars per box when sold by any organization licensed to conduct bingo pursuant to the provisions of sections 313.005 to 313.080. No box sold shall contain more than twenty-four hundred pull-tab cards. Beginning January 1, 1995, a tax is hereby imposed in the amount of two percent of the gross receipts of the retail sales value charged for each pull-tab card sold in Missouri to be paid by the supplier. The taxes, less two percent of the total amount paid which may be retained by the supplier, if timely filed and paid, shall be paid on a monthly basis to the commission by each supplier of pull-tabs and shall be due on the last day of each month following the month in which the pull-tabs were sold. The taxes shall be deposited in the state treasury, credited to the bingo proceeds for education fund.] All pull-tab cards sold by suppliers in this state shall bear on the face thereof the amount for which such pull-tab cards will be sold, and the license number of the supplier shall be printed on the inventory statement commonly called the flare, enclosed in each unit container. Each unit container shall contain cards printed in such a manner as to ensure that at least sixty percent of the gross revenues generated by the ultimate sale of such cards shall be returned to the final purchasers of such cards. [Any supplier who fails to pay the tax imposed pursuant to this subsection shall have his license issued pursuant to this section revoked and shall be guilty of a class A misdemeanor.]; and

Further amend said bill, Section 620.1881, Page 59, Line 260 by inserting after all of said line the

following:

“[313.055. 1. A tax is hereby imposed on each organization conducting the game of bingo which awards to winners of bingo games prizes or merchandise having an aggregate retail value of more than five thousand dollars annually and more than one hundred dollars in any single day. The tax shall be in the amount of two-tenths of one cent upon each bingo card and progressive bingo game card sold in Missouri to be paid by the supplier. The taxes, less two percent of the total amount paid which may be retained by the supplier, shall be paid on a monthly basis to the commission, by each supplier of bingo supplies and shall be due on the last day of the month following the month in which the bingo card was sold, with the date of sale being the date on the invoice evidencing the sale, along with such reports as may be required by the commission. The taxes shall be deposited in the state treasury, credited to the bingo proceeds for education fund.

2. All taxes not paid to the commission by the person or licensee required to remit the same on the date when the same becomes due and payable to the commission under the provisions of sections 313.005 to 313.085 shall bear interest at the rate to be set by the commission not to exceed two percent per calendar month, or fraction thereof, from and after such date until paid. In addition, the commission may impose a penalty not to exceed three times the amount of taxes due for failure to submit the reports required by this section and pay the taxes due.]; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 4

Amend House Committee Substitute #2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 348.274, Page 35, Line 135 by inserting after all of said line the following:

“407.1240. As used in sections 407.1240 to 407.1252, the following terms shall mean:

(1) “Business day”, every day except Sundays and holidays;

(2) “Holiday”, any day that the United States Post Office is closed;

(3) “Membership fee”, the initial or reoccurring fee that is unrelated to actual pass-through costs associated with the use and enjoyment of travel benefits;

(4) “Rescission statement”, a statement that shall be printed on all contracts pertaining to the purchase of travel club memberships from a travel club that shall provide in at least fourteen-point bold type the following statement:

“Assuming you have [not accessed any travel benefits and have] returned to the travel club all materials delivered to the purchaser at closing, you have the right to rescind this transaction for a period of three business days after the date of this agreement. To exercise the right of rescission, you must deliver to the travel club, either in person or by first class mail postmarked within the three-business-day period, at the address referenced in this contract, a written statement of your desire to rescind this transaction, and all materials **of value** that were provided and given to you at the time of the purchase of your travel club membership.”;

(5) “Surety bond”, any surety bond, corporate guaranty, letter of credit, certificate of deposit, or other

bond or financial assurance in the sum of fifty thousand dollars that is required to be delivered by travel clubs which have been adjudged to have violated subsection 4 or 5 of section 407.1252 and in the event that such surety bond is accessed subsequent to posting as a result of the need to reimburse purchasers, the amount of the surety bond shall be increased by ten thousand dollars per reimbursement. All surety bonds shall:

(a) Serve as a source of funds to reimburse purchasers of travel club memberships who validly exercise their rights under the rescission statement in their contract but who are not, after judgment, provided a refund equal to the purchase price of their unused travel club memberships or, after settlement, equal to the terms of the settlement;

(b) Serve as a source of funds to reimburse purchasers of travel club memberships who have been proven to be the subject of fraud;

(c) Remain in full force and effect during the period of time the travel club conducts its business activities; and

(d) Be deemed acceptable to the attorney general if:

a. It is issued by an insurance company that possesses at least a “B+” rating, or its equivalent by A.M. Best or its successors or by any other nationally recognized entity that rates the creditworthiness of insurance companies;

b. It is in the form of a letter of credit that is issued by a banking institution with assets of at least seventy-five million dollars;

c. It is in the form of a certificate of deposit; or

d. It is in a form that otherwise is acceptable to the attorney general;

(6) “Travel benefits”, benefits that are offered to travel club purchasers and customers that include all forms of overnight resort, condominium, time-share, hotel, motel, and other rental housing of every nature; all forms of air travel and rental car access; all forms of cruise line access; and all other forms of discounted travel benefits of every nature;

(7) “Travel club”, any business enterprise that either directly, indirectly, or through the use of a fulfillment company or other third party offers to sell to the public the reoccurring right to purchase travel benefits at prices that are represented as being discounted from prices otherwise not generally available to the public and charges members or customers a membership fee that collectively equals no less than seven hundred fifty dollars.

407.1249. Assuming a purchaser [has not otherwise accessed any travel benefits and] returns to the travel club all materials of value delivered to the purchaser at closing, all purchasers of travel club memberships from a travel club that is registered shall have the nonwaivable right for a period of three business days after the date of their purchase to rescind and cancel their travel club purchase and receive a full refund of all sums otherwise paid to the travel club within fifteen business days of such rescission, minus the actual and reasonable cost of processing the refund, including credit card fees if applicable. **Use of travel club benefits during such rescission period shall not waive the right afforded by this section.** Individuals who purchase travel club memberships from a travel club that is not registered under sections 407.1240 to 407.1252 shall have a nonwaivable right for a period of three years from the date of purchase to rescind and cancel their travel club membership and shall receive a full refund within fifteen business

days of such rescission.”; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 135.682, Page 12, Line 35 by inserting after all of said line the following:

“135.903. 1. To qualify as a rural empowerment zone, an area shall meet all the following criteria:

(1) The area is one of pervasive poverty, unemployment, and general distress;

(2) At least sixty-five percent of the population has earned income below eighty percent of the median income of all residents within the state according to the last decennial census or other appropriate source as approved by the director;

(3) The population of the area is at least four hundred but not more than three thousand five hundred at the time of designation as a rural empowerment zone;

(4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis;

(5) The area is situated more than ten miles from any existing rural empowerment zone;

(6) The area is situated in [a county of the third classification without a township form of government and with more than eight thousand nine hundred twenty-five but less than nine thousand twenty-five] **any county with eighteen thousand or fewer** inhabitants; and

(7) The area is not situated in an existing enterprise zone.

2. The governing body of any county in which an area may be designated a rural empowerment zone shall submit to the department an application showing that the area complies with the requirements of subsection 1 of this section. The department shall declare the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section. If the area is found not to meet the requirements, the governing body shall have the opportunity to submit another application for designation as a rural empowerment zone and the department shall designate the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section.

3. There shall be no more than two rural empowerment zones **per county** as created under sections 135.900 to 135.906 in existence at any time.”; and

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 135.562, Page 11, Line 50, by inserting after all of said line the following:

“135.610. 1. For all tax years beginning on or after January 1, 2008, any taxpayer who is a volunteer firefighter with a registered fire department in this state shall be allowed a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo.

2. The credit authorized in this section shall be claimed as follows:

(1) The taxpayer may claim a credit in the amount of one hundred eighty dollars in the first tax year the taxpayer claims the credit if the taxpayer has completed at least twelve hours of any firefighter training program approved by the office of the state fire marshal in the tax year for which the credit is claimed. The taxpayer may claim the credit authorized in this subdivision in each subsequent tax year if the taxpayer completes at least twelve hours of any firefighter training program approved by the office of the state fire marshal in such subsequent tax year;

(2) After the initial tax credit is claimed under subdivision (1) of this subsection and the taxpayer has completed the Basic Fire Fighter program or been certified after completing the Fire Fighter I or Fire Fighter II program by the division of fire safety for a minimum of thirty-six hours, the taxpayer may claim a credit in the amount of three hundred sixty dollars in each tax year if the taxpayer has completed at least twelve hours of firefighter training program approved by the office of the state fire marshal in the tax year the taxpayer claims the credit under this subdivision.

3. The state fire marshal may develop or approve existing training programs for volunteer firefighters, may establish procedures for providing documentation that the taxpayer is a volunteer firefighter in good standing with a registered fire department, as required in chapter 320, RSMo, and has completed the training requirements in this section, and may promulgate rules to implement the provisions of this section.

4. The tax credit allowed by this section shall be claimed by the qualified taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after all other credits provided by law have been applied. If the amount of the tax credit exceeds the taxpayer's tax liability, the difference shall not be refundable but may be carried forward to any of the taxpayer's four subsequent taxable years.

5. The director of revenue shall establish the procedure by which the tax credit in this section may be claimed, and shall promulgate rules to implement the provisions of this section.

6. 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, 2008, shall be invalid and void.

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

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

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

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.” ; and

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

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 67.1545, Page 6, Line 55 by inserting after all of said Section and Line:

“94.900. 1. The governing body of any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants located at least partly within a county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, **or any city of the fourth classification with more than eight thousand nine hundred but fewer than nine thousand inhabitants**, is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the city submits to the voters of the city, at a county or state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of (city's name) impose a citywide sales tax of (insert amount) for the purpose of improving the public safety of the city?

YES

NO

If you are in favor of the question, place an “X” in the box opposite “Yes”. If you are opposed to the question, place an “X” in the box opposite “No”.

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second **calender** quarter [immediately following the election approving the proposal] **after the director of revenue receives notification of adoption of the local sales tax**. If a proposal receives less than the required majority, then the governing body of the city shall have no power to impose the sales tax herein authorized unless and until the governing body of the city shall again have submitted another proposal to authorize the governing body of the city to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a city from the tax authorized under the provisions of this section shall be

deposited in a special trust fund and shall be used solely for improving the public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for improving the public safety for the city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created [in the state treasury], to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

6. The director of the department of revenue may [authorize the state treasurer to] make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the department of revenue of the action at least ninety days prior to the effective date of the repeal and the director of the department of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of the department of revenue shall remit the balance in the account to the city and close the account of that city. The director of the department of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

94.902. 1. The governing body of any city of the third classification with more than twenty-six thousand three hundred but less than twenty-six thousand seven hundred inhabitants, **or any city of the fourth classification with more than thirty thousand three hundred but fewer than thirty thousand seven hundred inhabitants**, may impose, by order or ordinance, a sales tax on all retail sales made in the city which are subject to taxation under chapter 144, RSMo. The tax authorized in this section may be imposed in an amount of up to one-half of one percent, and shall be imposed solely for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city

employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance imposing a sales tax under this section shall not become effective unless the governing body of the city submits to the voters residing within the city, at a county or state general, primary, or special election, a proposal to authorize the governing body of the city to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall the city of (city's name) impose a citywide sales tax at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

YES

NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments to the order or ordinance shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the sales tax. If a majority of the votes cast on the proposal by the qualified voters voting thereon are opposed to the proposal, then the tax shall not become effective unless the proposal is resubmitted under this section to the qualified voters and such proposal is approved by a majority of the qualified voters voting on the proposal. However, in no event shall a proposal under this section be submitted to the voters sooner than twelve months from the date of the last proposal under this section.

3. Any sales tax imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087, RSMo. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created in the state treasury, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director shall keep accurate records of the amount of money in the trust **fund** and which was collected in each city imposing a sales tax under this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax. Such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The director of the department of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the action at least ninety days before the effective date of the repeal, and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

5. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the sales tax imposed at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

YES

NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.”; and

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

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Page 30, Section 253.550, Line 20, by inserting after all of said line the following:

311.489. 1. A permit for the sale of intoxicating liquor as defined in section 311.020, and nonintoxicating beer as defined in section 312.010, RSMo, for consumption on premises where sold, and to conduct specified festival events, may be issued to any festival district, located in any home rule

city with more than four hundred thousand inhabitants and located in more than one county, that includes three or more businesses that are licensed bars, nightclubs, restaurants, or other entertainment venues and a common area where a pedestrian access is controlled and that is closed to vehicle traffic, provided that the permit is held by a promotional association. A “promotional association” is defined as an entity formed by property owners who own or operate fifty percent or more of the square feet of bars, nightclubs, restaurants, and other entertainment venues located within the proposed district.

2. The promotional association may obtain a permit if the promotional association submits a plan to the governing body of the city containing basic information, which includes the legal description of the district and the common area within which such festivals shall be held, the name, address, and responsible person of each business participating in the promotional association, the specific calendar of events for the district which shall not exceed twenty such events and shall include the dates and times of any such events, a description of the proposed festival activities including any proposed public street closures if applicable, proof of adequate insurance, and a detailed description of security for any proposed festivals. Such permit shall cost three hundred dollars per year. Such plan may be amended during the year subject to governing municipality approval.

3. Prior to submitting a plan to the governing body of the city, the promotional association shall provide notice of its intent to apply for a festival district permit and conduct a public hearing on the plan. If any business owner, property owner, or resident within the boundaries of the common area of the event do not approve in the public hearing of any proposed event, or the proposed plan of events, the promotional association shall obtain written approval of such event or plan from seventy-five percent of the property owners, business owners, and residents within the district. If the plan is approved, the promotional association may conduct the events described in the plan and may sell liquor for consumption within the district common areas between 9:00 a.m. and 1:00 a.m. on Monday through Saturday and between 11:00 a.m. and 12:00 a.m. on Sunday and in accordance with any additional time constraints stated in such plan. Such promotional association may permit customers to leave an establishment within the district after purchasing an alcoholic beverage and consume the beverage in the district common areas or another licensed establishment within the district. No person shall be allowed to take any alcoholic beverage outside the boundaries of the festival district.

4. If participating in a promotional association event, every bar, nightclub, restaurant, promotional association, or other entertainment venue that serves alcoholic beverages within the festival district shall use disposable paper, plastic, or foam cups or other light-weight containers for all alcoholic beverages that the bar, nightclub, restaurant, promotional association, or other entertainment venue sells within the festival district boundaries for consumption in the district common area.

5. If minors are allowed to enter the festival district, which shall be clearly stated in the festival district's approved plan, the applicant shall ensure that such minors are easily distinguished from persons of legal age and any approved plan shall include the method by which this provision shall be satisfied.

6. The holder of the permit is solely responsible for any alcohol violations occurring within the common areas. For any violation of this chapter or of any rule or regulation of the supervisor of alcohol and tobacco control, the promotional association may be assessed a civil fine of not more than

five thousand dollars. If a promotional association is found to be responsible for such violations at three separate events, then such promotional association shall not seek approval for subsequent plans without the prior written consent of the supervisor of alcohol and tobacco control. The promotional association's then current plan shall be deemed terminated, and the businesses participating in the promotional association's events shall not participate in activities permitted by subsection 3 of this section without prior written consent from the supervisor of alcohol and tobacco control.”; and

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

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

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

President Pro Tem Gibbons assumed the Chair.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **SS** for **SCS** for **HCS** for **HB 2393**, 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.

Senator Scott assumed the Chair.

CONFERENCE COMMITTEE REPORTS

Senator Goodman, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SCS** for **SB 765** 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. 765

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765, with Part I and Part III adopted, 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. 765, with Part I and Part III;
2. The Senate recede from its position on Senate Committee Substitute for Senate Bill No. 765;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Jack A. L. Goodman

/s/ John E. Griesheimer

/s/ Chuck Purgason

/s/ Rita Heard Days

/s/ Timothy P. Green

FOR THE HOUSE:

/s/ Vicki Schneider

/s/ Jay Wasson

/s/ Brian Nieves

/s/ Trent Skaggs

/s/ Michael Frame 105

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

At the request of Senator Goodman, 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 **SCS** for **SB 1170**, entitled:

An Act to repeal section 177.088, RSMo, and to enact in lieu thereof two new sections relating to education boards and commissions, with an emergency clause for a certain section.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1170 Section 177.088, Page 6, Line 80 by inserting after all of said line the following:

“12. Notwithstanding provisions of this section to the contrary, the board of education of any school district located within a county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants may enter into agreements with such county, or a city, town, or village wholly or partially located within the boundaries of such school district, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation, and financing of sites, buildings, facilities, furnishings, and equipment for the use of the school district for educational purposes. Such an agreement may provide for the present or future acquisition of an ownership interest in such facilities by the school district, by lease, lease purchase agreement, option to purchase agreement, or similar provisions, and may provide for a joint venture between the school district and other entity or entities that are parties to such an agreement providing for the sharing of the costs of acquisition, construction, repair, maintenance, and operation of such facilities. The school district may wholly own such facilities, or may acquire a partial ownership interest along with the county, city, town, or village with which the agreement was executed. Notwithstanding the provisions of subsection 11 of this section, the school district may expend funds from its general or incidental funds to satisfy its obligations for rent, lease payments, construction, improvements, maintenance, repairs, and operation of such facilities, and may acquire an ownership interest in such facilities, without being subject to the deductions from funds payable to the district under section 163.031, RSMo.”; and

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

Emergency clause adopted.

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 refuses to recede from its position on **HCS No. 2** for **SB 976**, 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 **SS** for **HCS** for **HBs 1549, 1771, 1395** and **2366**, as amended. Representatives: Onder, Nolte, Nieves, Talboy and Wildberger.

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 **SB 976**, as amended. Representatives: Stevenson, Jones (89), Cox, Bringer and Burnett.

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 **SB 976**, as amended: Senators Ridgeway, Bartle, Crowell, Coleman and Justus.

HOUSE BILLS ON THIRD READING

Senator Mayer moved that **HCS** for **HB 1722**, with **SCS**, **SS** for **SCS** and **SA 18** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 18 was again taken up.

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

Senator Coleman offered **SA 19**:

SENATE AMENDMENT NO. 19

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 13, Section 160.261, Line 7 of said page, by inserting immediately after said line the following:

“160.355. The governing board of any urban, metropolitan, or seven director school district may adopt a policy that allows any student who has earned fine arts credit for participation in high school marching band for three or more years to be granted a waiver for one half unit of the physical education graduation requirement. Such a policy may only be adopted after a public hearing is held on the question and a majority of the board votes in favor of the question. Any board that votes to adopt the waiver policy described in this section shall contact appropriate officials at the department of elementary and secondary education within thirty days of the affirmative vote. The state board of education shall make any necessary alterations to bring the state's minimum graduation requirements

into compliance with this section. This section shall not be construed to impact any of the other minimum graduation requirements approved by the state board of education.”; and

Further amend the title and enacting clause accordingly.

Senator Coleman moved that the above amendment be adopted, which motion failed.

Senator Coleman offered SA 20:

SENATE AMENDMENT NO. 20

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 60, Section 167.115, Line 18, by inserting immediately after all of said line the following

“167.131. 1. The board of education of each district in this state that does not maintain an accredited school pursuant to the authority of the state board of education to classify schools as established in section 161.092, RSMo, shall pay the tuition of and provide transportation consistent with the provisions of section 167.241, RSMo, for each pupil resident therein who attends an accredited school in another district of the same or an adjoining county. **This section shall not apply where pursuant to section 162.1100 RSMo the powers of the board of education of the district where the pupil resides have been vested, in whole or in part, in a special administrative board.**

2. The rate of tuition to be charged by the district attended and paid by the sending district is the per pupil cost of maintaining the district's grade level grouping which includes the school attended. The cost of maintaining a grade level grouping shall be determined by the board of education of the district but in no case shall it exceed all amounts spent for teachers' wages, incidental purposes, debt service, maintenance and replacements. The term “debt service”, as used in this section, means expenditures for the retirement of bonded indebtedness and expenditures for interest on bonded indebtedness. Per pupil cost of the grade level grouping shall be determined by dividing the cost of maintaining the grade level grouping by the average daily pupil attendance. If there is disagreement as to the amount of tuition to be paid, the facts shall be submitted to the state board of education, and its decision in the matter shall be final. Subject to the limitations of this section, each pupil shall be free to attend the public school of his or her choice.”; and

Further amend the title and enacting clause accordingly.

Senator Coleman moved that the above amendment be adopted and requested a roll call vote be taken. She was joined in her request by Senators Crowell, Smith, Callahan and Nodler.

SA 20 failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bray	Coleman	Days	Graham	Green	Justus	Kennedy
McKenna	Shoemyer	Wilson—11					

NAYS—Senators

Bartle	Callahan	Clemens	Crowell	Dempsey	Engler	Gibbons	Goodman
Griesheimer	Koster	Lager	Loudon	Mayer	Nodler	Purgason	Ridgeway
Rupp	Scott	Shields	Smith	Stouffer	Vogel—22		

Absent—Senator Champion—1

Absent with leave—Senators—None

Vacancies—None

Senator Dempsey offered **SA 21**:

SENATE AMENDMENT NO. 21

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1722, Page 70, Section 168.133, Line 14 of said page, by inserting after all of said line the following:

“168.173. 1. Beginning in school year 2009-2010, registered professional school nurses employed by a school district shall be paid on the same pay scale as teachers working in the same school district, with nurses and teachers having equivalent work history and working hours receiving the same salary.

2. The salary requirements under this section for registered professional school nurses shall not result in a decrease or loss of any existing school funding or decrease the current number of registered professional school nurse staffing positions in any school district.

3. As used in this section, the following terms shall mean:

(1) “Registered professional school nurse”, a registered professional nurse, as defined in section 335.016, RSMo, employed by a school district to engage in the practice of professional nursing, as defined in section 335.016, RSMo, for such school district;

(2) “Salary”, the salary figure which appears on the registered professional school nurse's contract or employment agreement and as determined by the local school district's basic salary schedule and does not include supplements for extra duties.”; and

Further amend the title and enacting clause accordingly.

Senator Dempsey moved that the above amendment be adopted.

At the request of Senator Mayer, **HCS** for **HB 1722**, with **SCS**, **SS** for **SCS** and **SA 21** (pending), was placed on the Informal Calendar.

PRIVILEGED MOTIONS

Senator Kennedy moved that the Senate refuse to concur in **HCS No. 2** for **SS** for **SCS** for **SB 718**, 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 Mayer moved that **HCS** for **HB 1722**, with **SCS**, **SS** for **SCS** and **SA 21** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 21 was again taken up.

Senator Dempsey moved that the above amendment be adopted.

At the request of Senator Mayer, **HCS** for **HB 1722**, with **SCS**, **SS** for **SCS** and **SA 21** (pending), was placed on the Informal Calendar.

CONFERENCE COMMITTEE REPORTS

Senator Coleman, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SCS** for **SB 720**, 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. 720**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, with House Amendment No. 2 and Parts I, II, III, and IV of House Amendment No. 5, 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. 720, as amended;
2. The Senate recede from its position on Senate Committee Substitute for Senate Bill No. 720;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720 be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Maida J. Coleman

/s/ Kevin Engler

/s/ Tom Dempsey

/s/ Brad Lager

/s/ Frank A. Barnitz

FOR THE HOUSE:

/s/ Jason T. Smith

/s/ Ed Emery

/s/ Shane Schoeller

/s/ Trent Skaggs 31st

/s/ Regina M. Walsh

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

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

Senator Stouffer, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SCS** for **SBs 930** and **947**, 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 BILLS NOS. 930 and 947**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 930 & 947, with House Amendments Nos, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, House Amendment No. 1 to House Amendment No. 11, House Amendment No. 11 as amended, House Amendment No. 12, House Amendment No. 1 to House Amendment No. 13, House Amendment No. 13 as amended, House Amendment No. 14, House Amendment No. 1 to House Amendment No. 15, House Amendment No. 15 as amended, House Amendment Nos. 16, 17, 18, 19, 20, 21, 23, House Amendment No.

2 to House Amendment No 24, House Amendment No. 24, and House Amendment No. 25 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 Bills Nos. 930 & 947, as amended;

2. The Senate recede from its position on Senate Committee Substitute for Senate Bills Nos. 930 & 947,;

3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 930 & 947, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Bill Stouffer

/s/ Scott T. Rupp

/s/ Delbert Scott

/s/ Harry Kennedy

/s/ Wes Shoemyer

FOR THE HOUSE:

/s/ Neal St. Onge

/s/ Steve Hobbs

John Quinn, 7th

/s/ Joe Fallert, Jr.

/s/ Paul Quinn

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

At the request of Senator Stouffer, 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 adopted **SCR 29**.

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 **SCS** for **SB 781**, entitled:

An Act to repeal sections 49.292, 441.065, 441.880, 534.090, 535.030, 535.040, and 535.120, RSMo, and sections 317.006, 317.011, and 317.015 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780 merged with conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, and to enact in lieu thereof eleven new sections relating to real property, with an emergency clause for certain sections.

With House Substitute Amendment No. 1 for House Amendment No. 1.

HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR HOUSE AMENDMENT NO. 1

Amend House Committee Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 781, Page 6, Section 441.065, Line 23, by inserting after the word “**reasonable**”, the following:

“**and good faith**”; and

Further amend said Bill, Page 6, Section 441.645, Line 6, by inserting after the word “**section**”, the following:

“; **however, any contract assigning the duty to pay rent after such residence is destroyed shall not be enforceable if the court determines such contract to be unconscionable**”; and

Further amend said Bill, Page 8, Section 535.030, Lines 1-4, by deleting all of said Lines and inserting in lieu thereof the following:

“535.030. 1. Such summons shall be served as in other civil cases at least four days before the court date in the summons. The summons shall include a court date which shall not be more than twenty-one business days from the date the summons is issued”; and

Further amend said Bill, Page 8, Section 535.030, Lines 7-9, by deleting all of said Lines and inserting in lieu thereof the following:

“2. In addition to attempted personal service, the plaintiff, [may request, and thereupon the clerk of the court shall make an order directing that the] officer, or other person empowered to execute the summons, [shall] **may** also serve the same by securely affixing a copy of such summons”; and

Further amend said Bill, Page 9, Section 535.030, Line 29, by inserting after the word “plaintiff”, the words

“, **officer, or other persons empowered to execute the summons,**”; and

Further amend said Bill, Page 9, Section 535.040, Lines 1-7, by deleting all of said Lines and inserting in lieu thereof the following:

“535.040. **1.** Upon return of the summons executed, the judge shall set the case on the first available court date and”; and

Further amend said Bill, Page 10, Section 535.040, Line 21, by inserting before the word “**Neither**”, the following:

“**Except for willful, wanton, or malicious acts or omissions,**”; and”

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

Emergency clause adopted.

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 refuses to recede from its position on **HCS No. 2** for **SS** for **SCS** for **SB 718**, as amended and grants the Senate a conference thereon.

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 718**, as amended: Senators Kennedy, Griesheimer, Goodman, Engler and Barnitz.

HOUSE BILLS ON THIRD READING

HCS for HBs 1876 and 1877, with SCS, entitled:

An Act to repeal sections 162.961 and 162.963, RSMo, and to enact in lieu thereof two new sections relating to special education due process hearings.

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

SCS for HCS for HBs 1876 and 1877, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 1876 and 1877**

An Act to repeal sections 160.730, 162.720, 162.961 and 162.963, RSMo, and to enact in lieu thereof eight new sections relating to elementary and secondary education.

Was taken up.

Senator Mayer moved that **SCS for HCS for HBs 1876 and 1877** be adopted.

Senator Rupp assumed the Chair.

Senator Justus offered **SA 1:**

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 8, Section 162.963, Line 30, by inserting after all of said line the following:

“167.018. 1. Sections 167.018 and 167.019 shall be known and may be cited as “The Foster Care Education Bill of Rights.”

2. Each school district shall designate a staff person as the educational liaison for foster care children. The liaison shall do all of the following in an advisory capacity:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children;

(2) Assist foster care pupils when transferring from one school to another or from one school district to another, by ensuring proper transfer of credits, records, and grades;

(3) Request school records, as provided in section 167.022, within two business days of placement of a foster care pupil in a school; and

(4) Submit school records of foster care pupils within three business days of receiving a request for school records, under subdivision (3) of this subsection.

167.019. 1. A child placing agency, as defined under section 210.481, RSMo, shall promote educational stability for foster care children by considering the child's school attendance area when making placement decisions. The foster care pupil shall have the right to remain enrolled in and attend his or her school of origin pending resolution of school placement disputes.

2. Each school district shall accept for credit full or partial course work satisfactorily completed by a pupil while attending a public school, nonpublic, or nonsectarian school in accordance with district policies or regulations.

3. If a pupil completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court as described in chapter 211, RSMo, the school district of residence shall issue to the pupil a diploma from the school the pupil last attended before detention or, in the alternative, the superintendent of the school district may issue the diploma.

4. School districts shall ensure that if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or child placing agency, or due to a verified court appearance or related court-ordered activity, the grades and credits of the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades shall occur as a result of the absence of the pupil under these circumstances.

5. School districts shall be authorized to permit access of pupil school records to any child placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile officer or by law and to assist with the school transfer or placement of a pupil.

6. 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, 2008, shall be invalid and void.

210.1050. 1. For purposes of this section, for pupils in foster care or children placed for treatment in a licensed residential care facility by the department of social services, "full school day" shall mean six hours in which the child is under the guidance and direction of teachers in the educational process.

2. Each pupil in foster care or child placed for treatment in a licensed residential care facility by the department of social services shall be entitled to a full school day of education unless the school district determines that fewer hours are warranted.

3. The commissioner of education shall designate an ombudsman to assist the family support team and the school district as they work together to meet the needs of children placed for treatment in a licensed residential care facility by the department of social services. The ombudsman shall have the final decision over discrepancies regarding school day length. A full school day of education shall be provided pending the ombudsman's final decision."; and

Further amend the title and enacting clause accordingly.

Senator Justus moved that the above amendment be adopted, which motion failed.

Senator Green offered SA 2:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 8, Section 162.963, Line 30, by inserting after said line all of the following:

"163.095. For any district in the county with a charter form of government and with more than one million inhabitants that in calendar year 2005 (school year 2005-2006) erroneously set a levy in the capital projects fund rather than the incidental fund and reported the capital projects amount to the county for which the county issued tax notices and the district received taxes for calendar year

2005, the department of elementary and secondary education shall calculate the amount the district would have received in state school aid for fiscal year 2006 had the district placed the levy in the incidental fund rather than the capital projects fund and use this revised 2005-2006 calculated funding amount in the distribution of state school aid for fiscal year 2007 and subsequent years. The calculation shall not change the actual funding due the district for the 2005-2006 year.”; and

Further amend the title and enacting clause accordingly.

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

Senator Days offered SA 3:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 4, Section 160.820, Line 11, by inserting after all of said line the following:

“162.204. Notwithstanding any provision of law to the contrary, a school district may fulfill its statutory responsibility to maintain permanent records by maintaining or storing such records in a digital or electronic format. A school district that maintains or stores records in a digital or electronic format shall follow all guidelines, suggestions, or recommendations set forth by the manufacturer of the digital or electronic storage media. A school district shall not use or maintain digital or electronic storage media beyond the manufacturer suggested or recommended period of time.”; and

Further amend the title and enacting clause accordingly.

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

Senator Champion offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 8, Section 162.963, Line 30, by inserting after all of said line the following:

“Section 1. The department of health and senior services shall work to increase influenza vaccination awareness and participation among parents of children aged six months to five years in child care facilities. The official website of the department shall have information on the benefits of annual vaccination against influenza for children and its programs offered for the children. The department shall cooperate with the department of social services and department of elementary and secondary education in order to distribute the information to the parents and child care facilities effectively in August or September in every year.”; and

Further amend the title and enacting clause accordingly.

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

Senator Ridgeway offered SA 5:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 8, Section 162.193, Line 30 of said page, by inserting after all of said line the following:

“Section 1. Any person who knowingly provides false information to an employee of the

retirement system created under sections 169.010 to 169.141, RSMo, or the retirement system created under sections 169.600 to 169.715, RSMo, for the purpose of obtaining retirement benefits contrary to law shall be guilty of a class D felony.”; and

Further amend the title and enacting clause accordingly.

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

Senator Justus offered SA 6:

SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 8, Section 162.963, Line 30, by inserting after all of said line the following:

“167.018. 1. Sections 167.018 and 167.019 shall be known and may be cited as “The Foster Care Education Bill of Rights.”

2. Each school district shall designate a staff person as the educational liaison for foster care children. The liaison shall do all of the following in an advisory capacity:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children;

(2) Assist foster care pupils when transferring from one school to another or from one school district to another, by ensuring proper transfer of credits, records, and grades;

(3) Request school records, as provided in section 167.022, within two business days of placement of a foster care pupil in a school; and

(4) Submit school records of foster care pupils within three business days of receiving a request for school records, under subdivision (3) of this subsection.

167.019. 1. A child placing agency, as defined under section 210.481, RSMo, shall promote educational stability for foster care children by considering the child's school attendance area when making placement decisions. The foster care pupil shall have the right to remain enrolled in and attend his or her school of origin pending resolution of school placement disputes.

2. Each school district shall accept for credit full or partial course work satisfactorily completed by a pupil while attending a public school, nonpublic, or nonsectarian school in accordance with district policies or regulations.

3. If a pupil completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court as described in chapter 211, RSMo, the school district of residence shall issue to the pupil a diploma from the school the pupil last attended before detention or, in the alternative, the superintendent of the school district may issue the diploma.

4. School districts shall ensure that if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or child placing agency, or due to a verified court appearance or related court-ordered activity, the grades and credits of the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades shall occur as a result of the absence of the pupil under these circumstances.

5. School districts shall be authorized to permit access of pupil school records to any child placing

agency for the purpose of fulfilling educational case management responsibilities required by the juvenile officer or by law and to assist with the school transfer or placement of a pupil.

6. 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, 2008, shall be invalid and void.

210.1050. 1. For purposes of this section, for pupils in foster care or children placed for treatment in a licensed residential care facility by the department of social services, “full school day” shall mean six hours in which the child is under the guidance and direction of teachers in the educational process.

2. Each pupil in foster care or child placed for treatment in a licensed residential care facility by the department of social services shall be entitled to a full school day of education unless the school district determines that fewer hours are warranted.

3. The commissioner of education shall be an ombudsman to assist the family support team and the school district as they work together to meet the needs of children placed for treatment in a licensed residential care facility by the department of social services. The ombudsman shall have the final decision over discrepancies regarding school day length. A full school day of education shall be provided pending the ombudsman's final decision.”; and

Further amend the title and enacting clause accordingly.

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

Senator Kennedy offered SA 7, which was read:

SENATE AMENDMENT NO. 7

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 8, Section 162.963, Line 30, by inserting after said line all of the following:

“170.132. All public elementary, secondary and postsecondary schools [shall preferentially procure] **have the right to transcribe, reproduce, modify, and distribute** educational materials, including textbooks and collateral materials, [from vendors who make the materials available in either Braille format or electronic format which is computer-readable in a form approved by the department of elementary and secondary education, or both, at no greater cost than for regular materials] **in specialized formats solely for use by students with disabilities who are entitled to such formats under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973, 20 U.S.C. 794.**”; and

Further amend the title and enacting clause accordingly.

Senator Kennedy moved that the above amendment be adopted.

At the request of Senator Kennedy, SA 7 was withdrawn.

Senator Loudon offered SA 8:

SENATE AMENDMENT NO. 8

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 8, Section 162.963, Line 30, by inserting immediately after said line the following:

“170.256. 1. Each school district shall provide age-appropriate instruction for all students in grades kindergarten through twelve regarding appropriate internet usage. The goal of such instruction shall be to teach students to safely use the internet and protect themselves on the internet. Such instruction shall include when age-appropriate, but not be limited to:

(1) How to protect personal and private information from others, including passwords;

(2) Provide guidance on the safe use of email and other electronic communication methods, including but not limited to, text messages and instant messaging;

(3) The dangers of online predators and cyber harassment and current best practices for protecting children who use electronic communication methods, including but not limited to, the internet, cell phones, text messages, chat rooms, email, and instant messaging programs;

(4) How to protect oneself from, and not participate in, cyber-bullying, which, for purposes of this section, shall be defined to include, but not be limited to, the use of computers, websites, the internet, cellphones, text messaging, chat rooms, and instant messages to intimidate, humiliate, or otherwise bully a student or another person;

(5) How to behave responsibly on the internet and the importance of having open communication with responsible adults and reporting any inappropriate situation, activity or abuse to a responsible adult, and depending on intent and content, to local law enforcement, the FBI, or the CyberTipLine.

2. The department of elementary and secondary education shall propose model curriculum, including best practices, for educating children regarding child online safety. Topics shall include, but not be limited to, safe online communications, privacy protection, cyber-bullying, viewing inappropriate material, file sharing, and the importance of open communication with responsible adults.

3. The department of elementary and secondary education shall make available on its website the following information in an easy to access format:

(1) Educational materials for parents regarding internet safety for children; and

(2) Contact information and website addresses or links of reputable organizations that seek to educate individuals on internet safety for children.

The department of elementary and secondary education may consult with the department of public safety as needed to fulfill the requirements of this subsection.”; and

Further amend the title and enacting clause accordingly.

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

Senator Coleman offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Committee Substitute for House Committee Substitute for House Bills Nos. 1876 and 1877, Page 8, Section 162.963, Line 30 of said page, by inserting after all of said line the following:

“167.131. 1. The board of education of each district in this state that does not maintain an accredited school pursuant to the authority of the state board of education to classify schools as established in section 161.092, RSMo, shall pay the tuition of and provide transportation consistent with the provisions of section 167.241, RSMo, for each pupil resident therein who attends an accredited school in another district of the same or an adjoining county.

2. The rate of tuition to be charged by the district attended and paid by the sending district is the per pupil cost of maintaining the district's grade level grouping which includes the school attended. The cost of maintaining a grade level grouping shall be determined by the board of education of the district but in no case shall it exceed all amounts spent for teachers' wages, incidental purposes, debt service, maintenance and replacements. The term “debt service”, as used in this section, means expenditures for the retirement of bonded indebtedness and expenditures for interest on bonded indebtedness. Per pupil cost of the grade level grouping shall be determined by dividing the cost of maintaining the grade level grouping by the average daily pupil attendance. If there is disagreement as to the amount of tuition to be paid, the facts shall be submitted to the state board of education, and its decision in the matter shall be final. Subject to the limitations of this section, each pupil shall be free to attend the public school of his or her choice.

3. This section shall not apply where pursuant to section 162.1100, RSMo, the powers of the board of education of the district where the pupil resides have been vested, in whole or in part, in a special administrative board.”; and

Further amend the title and enacting clause accordingly.

Senator Coleman moved that the above amendment be adopted.

At the request of Senator Mayer, **HCS** for **HBs 1876** and **1877**, with **SCS** and **SA 9** (pending), was placed on the Informal Calendar.

PRIVILEGED MOTIONS

Senator Engler moved that the Senate refuse to concur in **HCS** for **SCS** for **SBs 1181, 1100, 1262** and **1263**, 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.

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 **SB 885**, entitled:

With House Amendments Nos. 1, 2, 3 and 4.

HOUSE AMENDMENT NO. 1

Amend Senate Bill No. 885, Section 210.861, Page 3, Line 73 by inserting after all of said Line the following:

“Section 1. 1. There is hereby created within the department of social services the “Missouri State Foster Care and Adoption Advisory Board”, which shall provide an independent review of policies and procedures related to the provision of foster care and adoption in Missouri and make recommendations to improve the provision of foster care and adoption services to children statewide. The board will be comprised of a minimum of fourteen foster, adoptive, and career foster parents as

follows:

(1) Two of the members shall represent each other of the seven children's division areas of the state of Missouri delineated as follows:

- (a) The northwest region;**
- (b) The northeast region;**
- (c) The southeast region;**
- (d) The southwest region;**
- (e) The Kansas City region;**
- (f) The St. Louis area region;**
- (g) The St. Louis City region;**

(2) Area members will be selected by local foster care and adoption advisory boards or similar entities in a manner of their choosing.

2. Foster care and adoption association representatives will be voting members of the board as approved by the board.

3. All members of the board shall serve for a term of at least two years. Members may be re-selected to the board by their entities for consecutive terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

4. Each member of the board may be reimbursed for actual and necessary expenses incurred by the member in performance of his or her official duties. All reimbursements made pursuant to this subsection shall be made from funds within the children's division budget.

5. All business transaction of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030, RSMo.

6. The board shall elect officers from the membership consisting of a chairperson, co-chairperson, and secretary. Officers shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

7. The board shall establish such procedures necessary to review children's division proposed policy and provide written responses to the children's division indicating any comments or concerns within thirty days of receipt of the proposed policy.

8. The board shall establish such communication procedures necessary to provide written suggestions to the children's division for improvements in foster care or adoption practice, and to respond to requests from the children's division for assistance with such problems.

9. The board shall provide upon request of the director of the department of social services, the Governor, or the legislature, a written report of annual activities conducted and recommendations made.

10. The board shall exercise its powers and duties independently of the department of social services children's division except that budgetary, procurement, accounting, and other related

management functions shall be performed by the children's division.”; and

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

HOUSE AMENDMENT NO. 2

Amend Senate Bill No. 885, Section 210.891, Page 3, Line 73 by inserting after all of said Line the following:

“210.890. 1. The community children's services fund and any other state family services agency established in Missouri shall operate with the understanding that it is the natural fundamental right of the parents and legal guardians of unemancipated minors to determine and direct the care, health care, teaching, and education of their children.

2. A parent or legal guardian of an unemancipated minor shall have the right to make all health care decisions for such unemancipated minor; except that, such right shall not be construed to supersede or otherwise infringe upon any applicable restrictions imposed by state law.

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

HOUSE AMENDMENT NO. 3

Amend Senate Bill No. 885, Page 1, In the Title, Line 2, by deleting the words “one new section” and inserting in lieu thereof the words “two new sections”; and

Further amend said bill, Page 1, Section A, Line 1, by deleting the words “one new section” and inserting in lieu thereof the words “two new sections”; and

Further amend said bill, Page 1, Section A, Line 2, by deleting the word and the number “section 210.861,” and inserting in lieu thereof the following: “sections 210.861 and 491.725”; and

Further amend said bill, Page 193, Section 490.715, Line 33, by inserting after all of said line the following:

“491.725. 1. This section shall be known and may be cited as the “Children's Bill of Courtroom Rights”.

2. As used in this section, the following terms shall mean:

(1) “Child”, a person seventeen years of age or under who is a witness in any judicial proceeding under chapters 452 or 453, RSMo, or the alleged victim or witness in any judicial proceeding under chapters 455, 565, 566, or 568, RSMo. “Victim” or “witness” shall not include any child accused of committing a felony; however, these terms may, in the court's discretion, include:

(a) A child where such child's participation in a felony appears to have been induced, coerced, or unwilling; or

(b) A child who has participated in the felony, but who has subsequently and voluntarily agreed to testify on behalf of the state.

(2) “Comfort item”, a favorite toy, stuffed animal, blanket, or any other object whose presence helps the child calm himself or herself;

(3) “Support person”, an adult who is known to the child victim or witness and with whom the child feels comfortable, whose purpose will be to provide emotional support to the child and to promote the child's feelings of security and safety.

3. In order to facilitate testimony that is fair and accurate, and in order to protect children from confusing practices while testifying in court, the following children's bill of courtroom rights shall apply to all children testifying in court:

(1) A child victim or witness testifying at a judicial proceeding has the right to understand the oath which is being administered to such child. Whether at a competency hearing or trial itself, the judge shall ensure that any oath that is required of a child shall be administered in a developmentally appropriate manner;

(2) A child victim or witness testifying at a judicial proceeding has the right to understand all the questions asked of such child. Accordingly, the court shall take special care to ensure that questions are stated in a form which is appropriate to the age of the child. The court shall explain to the child that if he or she does not understand a question, the child has the right to say that he or she does not understand the question;

(3) A child victim or witness has a right to testify at a time of day when such child is best able to understand the questions and otherwise handle the stresses of testifying. Accordingly, in the court's discretion, the taking of testimony may be limited in duration or limited to normal school hours. The court may order a recess when the energy, comfort, or attention span of the child warrants;

(4) A child victim or witness testifying at or attending a judicial proceeding has a right to a comfort item. The court, at its discretion, may place any reasonable limitations on the size or type of comfort item;

(5) A child victim or witness testifying at or attending a judicial proceeding has a right to the presence of a support person designated by the child victim or witness and approved by the court. The court, at its discretion, may allow the support person to remain in close physical proximity to or in contact with the child while the child testifies, provided such person shall not obscure the child from the view of the defendant or the trier of fact. A support person shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child. If the support person attempts to influence or affect in any manner the testimony of the child victim or witness during the giving of testimony or at any other time, the court shall exclude that support person and allow the child victim or witness to designate another attendant;

(6) A child victim or witness testifying at a judicial proceeding has a right to be questioned in a manner that is neither intimidating nor frightening. Accordingly, the attorneys shall ask questions or pose objections in a manner which is not intimidating to the child and shall not engage in conduct that a child may interpret as an angry confrontation. The court shall take every reasonable means necessary to prevent intimidation or harassment of the child by the parties or their attorneys. The judge may rephrase any question so that the child is not intimidated; and

(7) A child victim or witness testifying at a judicial proceeding has a right to be comfortable when testifying. Accordingly, upon its own motion or the motion of a party, the court may order such accommodations as are appropriate under the circumstances to ensure the comfort of the child victim or witness, including the following measures:

- (a) **Adjusting the layout of the courtroom;**
- (b) **Conducting the proceedings outside the normal courtroom; or**
- (c) **Relaxing the formalities of the proceedings.”; and**

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

HOUSE AMENDMENT NO. 4

Amend Senate Bill No. 885, Page 1, In the Title, Line 2, by deleting the phrase “one new section” and inserting in lieu thereof the phrase “two new sections”; and

Further amend said bill, Page 1, Section A, Line 1, by deleting the phrase “one new section” and inserting in lieu thereof the phrase “two new sections”; and

Further amend said bill, Page 1, Section A, Line 2, by deleting the word and number “section 210.861” and inserting in lieu thereof the following: “sections 210.861 and 210.862”; and

Further amend said bill, Page 3, Section 210.861, Line 71, by inserting after the number “6.” the following: **“In addition to the authorized expenditures under subsection 5 of this section, the board may authorize that moneys in the fund be used to fund the tuition and fee waivers awarded under section 210.862.**

7.”; and

Further amend said bill, Page 3, Section 210.861, Line 73, by inserting after all of said line the following:

“210.862. 1. The coordinating board for higher education shall make provisions for institutions under the board's jurisdiction to award a tuition and fee waiver for undergraduate courses at state institutions of higher education for any student, beginning with incoming freshmen in the 2009 fall semester or term, who:

(1) Is a resident of this state;

(2) Has graduated within the previous three years from high school or passed the GED examination; and

(3) Has been in foster care or other residential care under the department of social services on or after:

(a) The day preceding the student's eighteenth birthday;

(b) The day of the student's fourteenth birthday, if the student was also eligible for adoption on or after that day; or

(c) The day the student graduated from high school or received a GED.

2. To be eligible for a waiver award, a student shall:

(1) Apply to and be accepted at the institution not later than:

(a) The third anniversary of the date the student was discharged from foster or other residential care, the date the student graduated from high school, or the date the student received a GED, whichever is earliest; or

(b) The student's twenty-first birthday;

(2) Apply for other student financial assistance, other than student loans, in compliance with federal financial aid rules, including the federal Pell grant;

(3) Apply to the coordinating board for higher education for a determination of eligibility. Application shall be on forms and in a manner prescribed by rule of the coordinating board; and

(4) Complete a minimum of one hundred hours of community service or public internship within a twelve-month period beginning September first for each year in which the student is receiving a tuition and fee waiver award under this section. The department of higher education, in collaboration with participating state institutions of higher education, shall by rule determine the community service and public internships that students may participate in to meet the requirements of this subdivision. A student may fulfill this requirement by completing the necessary community service or public internship hours during the summer.

3. The tuition and fee waiver provided by this section shall be awarded on an annual basis, subject to appropriation and the availability of funds under subsection 6 of section 210.861, and shall continue to be available, if the student is otherwise eligible under this section, as long as the student remains in good academic standing at the state institution of higher education. The institution shall monitor compliance with subdivision (4) of subsection 2 of this section and report it to the department of higher education.

4. The waiver provided by this section for each eligible student may be used for no more than four years of undergraduate study and may only be used after other sources of financial aid that are dedicated solely to tuition and fees are exhausted.

5. No student who is enrolled in an institution of higher education as of the effective date of this section shall be eligible for a waiver award under this section.

6. 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, 2008, shall be invalid and void.”; and

Further amend said 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 1081**, entitled:

An Act to repeal sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 537.037, 630.045, 630.050, 630.140, 630.165, 630.167, 630.170, 630.175, 632.005, 632.440, and 633.005, RSMo, and to enact in lieu thereof twenty-three new sections relating to quality assurance and safety in the division of mental retardation and developmental disabilities community programs, with penalty provisions and an emergency clause for a certain section.

Emergency clause adopted.

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 **SCS** for **SB 1040**.

Bill ordered enrolled.

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 718**, as amended. Representatives: Pearce, Richard, Flook, Storch and Brown (50).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SJR 45**.

Joint Resolution ordered enrolled.

PRIVILEGED MOTIONS

Senator Graham moved that the Senate refuse to concur in House Amendment Nos. 1, 2, 3 and 4 to **SB 885** and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Kennedy moved that the Senate conferees be allowed to exceed the differences on **HCS No. 2** for **SS** for **SCS** for **SB 718**, as amended, which motion prevailed.

Senator Coleman moved that the Senate request the House of Representatives grant further conference on **HCS** for **SCS** for **SB 720**, as amended, which motion prevailed.

CONFERENCE COMMITTEE REPORTS

Senator Stouffer moved that the **CCR** on **HCS** for **SCS** for **SBs 930** and **947** be taken up, which motion prevailed.

Senator Stouffer moved the adoption of the **CCR**, which motion prevailed by the following vote:

YEAS—Senators

Barnitz	Callahan	Champion	Clemens	Coleman	Crowell	Days	Dempsey
Engler	Gibbons	Goodman	Graham	Green	Griesheimer	Justus	Kennedy
Koster	Loudon	Mayer	McKenna	Nodler	Ridgeway	Rupp	Scott
Shields	Shoemyer	Smith	Stouffer	Vogel	Wilson—30		

NAYS—Senators

Bartle	Bray	Lager	Purgason—4
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Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Stouffer, **CCS** for **HCS** for **SCS** for **SBs 930** and **947**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 930 and 947

An Act to repeal sections 144.030, 144.805, 155.010, 233.155, 238.202, 238.207, 238.210, 301.010, 301.130, 302.010, 302.060, 302.177, 302.304, 302.309, 302.341, 302.525, 302.720, 302.735, 304.015, 304.130, 304.180, 304.230, 305.230, 577.023, 577.041, 577.600, 577.602, 577.612, and 590.050, RSMo, and to enact in lieu thereof fifty-two new sections relating to transportation, with penalty provisions and an effective date for certain sections.

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

YEAS—Senators

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

NAYS—Senators

Bartle	Bray	Callahan	Lager	Purgason—5
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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.

President Pro Tem Gibbons assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Scott, Chairman of the Committee on Financial and Governmental Organizations and Elections, submitted the following report:

Mr. President: Your Committee on Financial and Governmental Organizations and Elections, to which was referred **HB 2590**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

REFERRALS

President Pro Tem Gibbons referred **HCS** for **HJR 70** to the Committee on Governmental Accountability and Fiscal Oversight.

Senator Rupp assumed the Chair.

HOUSE BILLS ON THIRD READING

Senator Engler moved that **HCS** for **HB 1763**, with **SS, SA 5** and **SA 2 to SA 5** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 2 to SA 5 was again taken up.

Senator Smith moved that the above amendment be adopted, which motion failed.

SA 5 was again taken up.

Senator Loudon offered **SSA 1** for **SA 5**, which was read:

**SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 5**

Amend Senate Substitute for House Committee Substitute for House Bill No. 1763, Page 4, Section 116.190, Line 16, by inserting after “dollars or both.” the following:

“4. Any petition circulator who intentionally and maliciously misrepresents a petition to a potential signer shall, upon conviction thereof, be guilty of an offense relating to forgery under subsection 1 of this section and a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both.”

Senator Loudon moved that the above substitute amendment be adopted.

At the request of Senator Engler, **HCS** for **HB 1763**, with **SS, SA 5** and **SSA 1** for **SA 5** (pending), was placed on the Informal Calendar.

CONFERENCE COMMITTEE REPORTS

Senator Goodman moved that the **CCR** on **HCS** for **SCS** for **SB 765** be taken up, which motion prevailed.

Senator Goodman moved the adoption of the **CCR**.

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

Senator Lager assumed the Chair.

PRIVILEGED MOTIONS

Senator Callahan moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 1209**, 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.

CONFERENCE COMMITTEE REPORTS

Senator Goodman moved that **CCR** on **HCS** for **SCS** for **SB 765** be taken up, which motion prevailed.

Senator Goodman moved the adoption of the **CCR**.

At the request of Senator Goodman, 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 refuses to recede from its position on **SB 885**, 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 House has taken up and adopted the Conference Committee Report on **HCS** for **SS** for **SCS** for **SB 931**, as amended and has taken up and passed **CCS** for **HCS** for **SS** for **SCS** for **SB 931**.

Bill ordered enrolled.

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** for **SCS** for **SBs 1181, 1100, 1262 and 1263**, as amended and grants the Senate a conference thereon and the conferees be allowed to exceed the differences.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **SS** as amended for **HB 1678** and has taken up and passed **SS** for **HB 1678**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** as amended for **HCS** for **HB 2034** and has taken up and passed **SCS** for **HCS** for **HB 2034**, 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 **SBs 1181, 1100, 1262 and 1263**, as amended. Representatives: Wright, Schoeller, Emery, Walsh and Skaggs.

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 **SB 885**, as amended. Representatives: Cooper (120), Franz, Davis, Yaeger and Baker (25).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House conferees on **HCS No. 2** for **SS** for **SCS** for **SB 718**, as amended are allowed to exceed the differences.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House grants the Senate further conference on **HCS** for **SCS** for **SB 720** as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has reappointed the following conference committee to act with a like committee from the Senate on **HCS** for **SCS** for **SB 720**, as amended. Representatives: Smith (150), Schoeler, Emery, Skaggs and Walsh.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS** for **SCS** for **SBs 1181, 1100, 1262 and 1263**, as amended: Senators Engler, Clemens, Goodman, Bray and Coleman.

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS** for **SCS** for **SB 720**, as amended: Senators Engler, Dempsey, Lager, Coleman and Barnitz.

CONFERENCE COMMITTEE REPORTS

Senator Goodman moved that **CCR** on **HCS** for **SCS** for **SB 765** be taken up, which motion prevailed.

Senator Goodman moved the adoption of the **CCR**, which motion prevailed by the following vote:

YEAS—Senators

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

Wilson—33

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Vogel—1

Vacancies—None

On motion of Senator Goodman, **CCS** for **HCS** for **SCS** for **SB 765**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 765

An Act to repeal section 72.080, RSMo, and to enact in lieu thereof one new section relating to incorporation of municipalities, with an emergency clause.

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

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Vogel—1

Vacancies—None

The President declared the bill passed.

The emergency clause failed to receive the necessary two-thirds majority by the following vote:

YEAS—Senators

Bartle	Green	Purgason—3
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NAYS—Senators

Barnitz	Bray	Callahan	Champion	Clemens	Coleman	Crowell	Days
Dempsey	Engler	Gibbons	Goodman	Graham	Griesheimer	Justus	Kennedy
Koster	Lager	Loudon	Mayer	McKenna	Nodler	Ridgeway	Rupp
Scott	Shields	Shoemyer	Smith	Stouffer	Wilson—30		

Absent—Senators—None

Absent with leave—Senator Vogel—1

Vacancies—None

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

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

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

RESOLUTIONS

Senator Shoemyer offered Senate Resolution No. 2759, regarding Kristin Jacobs, Kirksville, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Loudon introduced to the Senate, Tom Fiala, and his son Cal, Chesterfield; Denny Dirksen and his son Alex, Fenton; and Tyler Bealke and Harley Sorkin; and Cal, Alex, Tyler and Harley were made

honorary pages.

On motion of Senator Shields, the Senate adjourned under the rules.

SENATE CALENDAR

SEVENTIETH DAY—FRIDAY, MAY 16, 2008

FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SS for SCS for SB 898-Clemens
(In Fiscal Oversight)

SB 1099-Graham
SS#2 for SCS for SBs 1021 & 870-Loudon

HOUSE BILLS ON THIRD READING

HCS for HJR 48 (Scott)
HCS for HB 2321, with SCS (Crowell)
HCS for HJR 41, with SCS (Rupp)
HB 1320-Brown (50) (Dempsey)

HCS for HB 1332, with SCS (Goodman)
HCS for HJR 70 (In Fiscal Oversight)
HB 2590-Moore, et al, with SCS (Goodman)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SBs 712 & 882-Gibbons and Rupp, with SCS
SB 713-Gibbons, with SCS
SB 716-Loudon, et al
SB 717-Kennedy and Shields
SB 729-Griesheimer, with SCS
SB 749-Ridgeway, with SCS
SB 756-Engler and Rupp, with SCS
(pending)
SB 776-Justus and Koster, with SCS
SB 809-Stouffer, with SCS, SS for SCS &
SA 1 (pending)
SB 811-Stouffer, with SCS, SA 1 & point
of order (pending)

SB 815-Goodman
SB 821-Shoemyer, with SCS (pending)
SBs 840 & 857-Engler, with SCS & SS for
SCS (pending)
SB 861-Shoemyer, with SCS
SB 874-Graham, with SCS
SB 877-Mayer
SB 881-Green
SB 904-Griesheimer, with SCS
SBs 909, 954, 934 & 1003-Engler, with SCS
SB 915-Ridgeway
SB 917-Goodman, et al
SB 929-Green and Callahan, with SCS

SB 957-Goodman	SB 1093-Loudon, et al
SBs 982, 834 & 819-Purgason, with SCS	SB 1094-Loudon, with SCS
SB 990-Champion	SB 1101-Bray, et al
SBs 993 & 770-Crowell, with SCS, SS for SCS, SA 4 & SSA 1 for SA 4 (pending)	SB 1103-Gibbons
SB 996-Crowell, with SCS	SB 1138-McKenna, with SCS
SB 997-Crowell	SB 1158-Mayer, with SCS
SB 1000-Justus	SB 1164-Loudon
SB 1007-Loudon, with SA 2 (pending)	SB 1180-Crowell
SB 1035-Scott, with SCS	SB 1183-Bray, with SCS
SB 1046-Mayer, with SA 1 & SSA 1 for SA 1 (pending)	SB 1194-Goodman
SB 1052-Rupp	SB 1197-Crowell
SB 1054-Dempsey, with SCS	SBs 1234 & 1270-Shields, with SCS & SS#2 for SCS (pending)
SB 1057-Scott, with SCS	SB 1240-Dempsey
SB 1058-Mayer	SB 1244-Barnitz and Purgason
SB 1067-Ridgeway, et al	SB 1275-Vogel
SB 1077-Goodman, with SS (pending)	SB 1278-Shields
	SJR 43-Loudon

HOUSE BILLS ON THIRD READING

HCS for HB 1314, with SCS (Callahan)	HCS for HB 1763, with SS, SA 5 & SSA 1 for SA 5 (pending) (Engler)
HCS for HBs 1321 & 1695, with SCS (Gibbons)	HCS for HBs 1788 & 1882 (Crowell)
HB 1358-Flook, et al (Mayer)	HB 1805-Schaaf, et al (Purgason)
HCS for HB 1393 (Ridgeway)	HCS for HBs 1831 & 1472 (Mayer)
HCS#2 for HB 1423, with SCS (Goodman)	HCS for HBs 1876 & 1877, with SCS & SA 9 (pending) (Mayer)
HCS#2 for HB 1463, with SCS	HCS for HB 1904, with SCS (Goodman)
HCS for HB 1474, with SCS (Scott)	HB 1923-Jones (117) and Pratt (Barnitz)
HCS for HB 1516, with SCS (Goodman)	HB 1937-Pearce, et al, with SCS (Scott)
HB 1532-Davis, with SCS (Rupp)	HB 1973-Franz, with SCS (Engler)
HCS for HB 1546 (Purgason)	HB 1983-Pratt, with SCS (Goodman)
HCS for HBs 1595 & 1668 (Mayer)	HB 1995-Schieffer, et al (Rupp)
HB 1617-Cunningham (86), et al (Dempsey)	HCS for HB 2041, with SCS (Scott)
HCS for HB 1626 (Ridgeway)	HCS for HBs 2062 & 1518, with SCS (Stouffer)
HB 1656-Nance and Cooper (155), with SCS (Stouffer)	HCS for HB 2068 (Scott)
HB 1661-LeVota, et al (Ridgeway)	SS for SCS for HB 2081-Dougherty (Callahan) (In Fiscal Oversight)
HCS for HB 1700, with SCS (Scott)	HCS for HB 2104, HB 1574, HB 1706, HCS for HB 1774, HB 2055 & HCS for HB 2056, with SCS (Crowell)
HB 1711-Weter, et al, with SCS, SS#2 for SCS & SA 10 (pending) (Clemens)	
HB 1716-Guest, et al (Purgason)	
HCS for HB 1722, with SCS, SS for SCS & SA 21 (pending) (Mayer)	

HB 2226-Muschany (Rupp)
HCS for HJR 43, with SCS (Gibbons)

HCS for HJR 55 (Crowell)

CONSENT CALENDAR

House Bills

Reported 4/10

HB 1628-Cooper (120) (Scott)
HB 1670-Cooper (120) (Dempsey)
HB 1828-Sutherland (Vogel)
HB 1410-Flook, et al (Ridgeway)
HCS for HB 1888 (Clemens)
HB 1368-Thomson (Lager)
HB 1869-Wilson (130), et al (Goodman)

HB 2213-Kraus, et al (Shields)
HB 1354-Wilson (119), et al (Scott)
HCS for HB 1575 (Vogel)
HB 1952-Loehner, et al (Barnitz)
HB 1887-Parson (Scott)
HCS for HB 2360 (Lager)
HB 1426-Kraus (Green)

Reported 4/14

HB 1608-Ervin (Ridgeway)
HB 2233-Page, et al (Shields)

HB 1419-Portwood (Loudon)
HB 1791-Cooper (155), et al (Barnitz)

Reported 4/15

HCS for HB 1380 (Goodman)
HCS for HB 2036 (Stouffer)
HB 1849-Pratt and Curls (Justus)
HB 1469-Pratt (Goodman)
HB 1710-Flook (Ridgeway)

HCS for HB 1783 (Engler)
HB 1784-Meadows, et al (McKenna)
HB 1313-Wright, et al (Mayer)
HCS for HB 1893 (Dempsey)
HB 1881-Schlottach (Kennedy)

SENATE BILLS WITH HOUSE AMENDMENTS

SB 723-Scott, with HCS
SB 733-Champion and Gibbons, with HCS
SCS for SBs 753, 728, 906 & 1026-Mayer,
with HCS
SCS for SB 781-Smith, with HCS#2, as
amended
SB 797-Bray, with HCS, as amended
SB 820-Rupp, with HCS

SB 856-Engler, with HCS
SB 932-Loudon, with HCS, as amended
SB 943-Clemens, with HCS
SB 978-Griesheimer, with HCS
SB 1002-Justus, et al, with HCS
SCS for SB 1008-Loudon, with HCS
SCS for SB 1033-Griesheimer, with HCS
SCS for SB 1039-Clemens, with HCS

SCS for SB 1081-Nodler and Green, with HCS
SCS for SB 1131-Wilson, with HCS
SB 1135-Callahan, with HCS

SCS for SBs 1153, 1154, 1155 &
1156-Crowell, with HCS
SCS for SB 1170-Mayer, with HCS, as amended

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

SS for SCS for SB 711-Gibbons, et al,
with HCS, as amended (Senate adopted
CCR and passed CCS)
SS for SCS for SB 718-Kennedy, with HCS#2,
as amended
SCS for SB 720-Coleman, with HCS, as
amended (Further conference granted)
SCS for SB 765-Goodman, et al, with HCS
(Senate adopted CCR and passed CCS)
SB 841-Stouffer, with HCS, as amended
SB 885-Graham, with HA 1, HA 2, HA 3, & HA 4
SCS for SBs 930 & 947-Stouffer, with
HCS, as amended (Senate adopted CCR
and passed CCS)

SB 976-Ridgeway, with HCS#2, as amended
SB 1068-Mayer, with HA 1 & HA 3
SB 1074-Dempsey, with HCS, as amended
SCS for SBs 1181, 1100, 1262 &
1263-Engler, with HCS, as amended
SB 1288-Shields, with HCS, as amended
HCS for HBs 1549, 1771, 1395 & 2366,
with SS, as amended (Rupp)
HB 2224-Jones (117), with SS for SCS
(Griesheimer)
HCS for HB 2279, with SCS, as amended
(Engler)

Requests to Recede or Grant Conference

SCS for SB 901-Loudon, et al, with HSA 1
for HA 1 (Senate requests House
recede and pass bill)

SCS for SB 1209-Callahan, with HCS, as
amended (Senate requests House
recede or grant conference)

RESOLUTIONS

Reported from Committee

SCR 27-Champion
SCR 32-Purgason
SCR 33-Bray
HCR 7-Pearce, et al (Rupp)
HCR 23-Dixon, et al, with SCA 1 (Loudon)
HCR 4-Wright, et al (Mayer)
HCR 5-Smith, et al
HCR 16-Bivins, et al (Stouffer)

HCR 18-Fisher, et al (Scott)
HCR 19-Sander, et al (Rupp)
HCS for HCR 21 (Rupp)
HCR 25-Pratt, et al (Ridgeway)
HCR 26-Dixon, et al (Clemens)
HCR 34-Sutherland
HCR 35-Sutherland
HCS for HCRs 43 & 46 (Rupp)