

# Journal of the Senate

FIRST REGULAR SESSION

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**SIXTY-FIFTH DAY—MONDAY, MAY 9, 2011**

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The Senate met pursuant to adjournment.

Senator Pearce in the Chair.

Reverend Carl Gauck offered the following prayer:

“Those of steadfast mind you keep in peace - in peace because they trust in you.” (Isaiah 26:3)

O loving God we trust in You and desire to continue to learn of You. As we deal with each other this day may Your peace and love be communicated in and through us as we continue to be part of the work that is required of us. May we walk in righteousness and trust wholly in You. You have watched our going out and coming in bringing us safely here so we give You thanks. 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 for Thursday, May 5, 2011 was read and approved.

Senator Dempsey announced that photographers from Missouri News Horizon, were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

## RESOLUTIONS

Senator Mayer offered Senate Resolution No. 1036, regarding Rhonda June Meloy, Naylor, which was

adopted.

Senator Purgason offered Senate Resolution No. 1037, regarding Kathyne Jean Hodits, Camdenton, which was adopted.

Senator Lager offered Senate Resolution No. 1038, regarding Sharon L. Smith, Osborn, which was adopted.

Senator Lager offered Senate Resolution No. 1039, regarding Colby Harrison Scroggins, which was adopted.

Senator Lager offered Senate Resolution No. 1040, regarding Phillip Roy Fish, Cameron, which was adopted.

Senator McKenna offered Senate Resolution No. 1041, regarding Kayla Reece, Festus, which was adopted.

Senators Kehoe and Green offered Senate Resolution No. 1042, regarding Maurice R. Schulte, Jefferson City, which was adopted.

Senator Kraus offered Senate Resolution No. 1043, regarding Dr. Keith Gurley, Kansas City, which was adopted.

Senator Engler offered Senate Resolution No. 1044, regarding Sandra “Sandy” Whitby, Cadet, which was adopted.

Senator Rupp offered Senate Resolution No. 1045, regarding Discovery Ridge Elementary School, Wentzville, which was adopted.

Senator Chappelle-Nadal offered Senate Resolution No. 1046, regarding the International Association of Workforce Professionals, which was adopted.

Senator Lager offered Senate Resolution No. 1047, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Clark Peterson, Chillicothe, which was adopted.

Senator Lager offered Senate Resolution No. 1048, regarding the Fortieth Wedding Anniversary of Mr. and Mrs. Frank Woodruff, Gallatin, which was adopted.

Senator Lager offered Senate Resolution No. 1049, regarding the Seventieth Wedding Anniversary of Mr. and Mrs. Eugene Poynter, Mound City, which was adopted.

Senator Kehoe offered Senate Resolution No. 1050, regarding Layne E. Kempker, Jefferson City, which was adopted.

Senator Munzlinger offered Senate Resolution No. 1051, regarding Daniel Blake, Clark, which was adopted.

#### **CONFERENCE COMMITTEE APPOINTMENTS**

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **HCS** for **SB 220**, as amended: Senators Wasson, Richard, Parson, Callahan and Justus.

#### **PRIVILEGED MOTIONS**

Senator Cunningham moved that the Senate refuse to recede from its position on **SCS** for **HB 101**, as

amended, and grant the House a conference thereon and further that the conferees be allowed to exceed the differences on Section 311.088 and 311.486, which motion prevailed.

Senator Dempsey moved that the Senate refuse to concur in **HCS** for **SB 145**, 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 adopted **SCS**, as amended, for **HCS** for **HB 17** and has taken up and passed **SCS** for **HCS** for **HB 17**, 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 18** and has taken up and passed **SCS** for **HCS** for **HB 18**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HCS** for **HB 21** and has taken up and passed **SCS** for **HCS** for **HB 21**.

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 22** and has taken up and passed **SCS** for **HCS** for **HB 22**, as amended.

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 **HB 999**, entitled:

An Act to repeal sections 43.650, 589.400, 589.402, 589.403, 589.405, 589.407, and 589.414, RSMo, and to enact in lieu thereof ten new sections relating to sexual offender registration, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 61**, entitled:

An Act to repeal sections 50.535, 51.050, 52.010, 54.033, 54.330, 67.1521, 84.010, 84.220, 86.200, 86.213, 115.342, 140.410, 140.660, 301.130, and 523.040, RSMo, and to enact in lieu thereof twenty-three new sections relating to local government, with penalty provisions.

With House Amendment Nos. 1, 2 and 3.

## HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 61, Page 5, Section 67.1521, Line 57 by inserting after all of said section and line the following:

“72.401. 1. If a commission has been established pursuant to [section] **sections 72.400 to 72.423** in any county with a charter form of government where fifty or more cities, towns and villages have been established, any boundary change within the county shall proceed solely and exclusively in the manner provided for by sections 72.400 to 72.423, notwithstanding any statutory provisions to the contrary concerning such boundary changes.

2. In any county with a charter form of government where fifty or more cities, towns and villages have been established, if the governing body of such county has by ordinance established a boundary commission, as provided in sections 72.400 to 72.423, then boundary changes in such county shall proceed only as provided in sections 72.400 to 72.423.

3. The commission shall be composed of eleven members as provided in this subsection. No member, employee or contractor of the commission shall be an elective official, employee or contractor of the county or of any political subdivision within the county or of any organization representing political subdivisions or officers or employees of political subdivisions. Each of the appointing authorities described in subdivisions (1) to (3) of this subsection shall appoint persons who shall be residents of their respective locality so described. The appointing authority making the appointments shall be:

(1) The chief elected officials of all municipalities wholly within the county which have a population of more than twenty thousand persons, who shall name two members to the commission as prescribed in this subsection each of whom is a resident of a municipality within the county of more than twenty thousand persons;

(2) The chief elected officials of all municipalities wholly within the county which have a population of twenty thousand or less but more than ten thousand persons, who shall name one member to the commission as prescribed in this subsection who is a resident of a municipality within the county with a population of twenty thousand or less but more than ten thousand persons;

(3) The chief elected officials of all municipalities wholly within the county which have a population of ten thousand persons or less, who shall name one member to the commission as prescribed in this subsection who is a resident of a municipality within the county with a population of ten thousand persons or less;

(4) An appointive body consisting of the director of the county department of planning, the president of the municipal league of the county, one additional person designated by the county executive, and one additional person named by the board of the municipal league of the county, which appointive body, acting by a majority of all of its members, shall name three members of the commission who are residents of the county; and

(5) The county executive of the county, who shall name four members of the commission, three of whom shall be from the unincorporated area of the county and one of whom shall be from the incorporated area of the county. The seat of a commissioner shall be automatically vacated when the commissioner changes his or her residence so as to no longer conform to the terms of the requirements of the commissioner’s appointment. The commission shall promptly notify the appointing authority of such change of residence.

4. Upon the passage of an ordinance by the governing body of the county establishing a boundary commission, the governing body of the county shall, within ten days, send by United States mail written notice of the passage of the ordinance to the chief elected official of each municipality wholly or partly in the county.

5. Each of the appointing authorities described in subdivisions (1) to (4) of subsection 3 of this section shall meet within thirty days of the passage of the ordinance establishing the commission to compile its list of appointees. Each list shall be delivered to the county executive within forty-one days of the passage of such ordinance. The county executive shall appoint members within forty-five days of the passage of the ordinance. If a list is not submitted by the time specified, the county executive shall appoint the members using the criteria of subsection 3 of this section before the sixtieth day from the passage of the ordinance. At the first meeting of the commission appointed after the effective date of the ordinance, the commissioners shall choose by lot the length of their terms. Three shall serve for one year, two for two years, two for three years, two for four years, and two for five years. All succeeding commissioners shall serve for five years. Terms shall end on December thirty-first of the respective year. No commissioner shall serve more than two consecutive full terms. Full terms shall include any term longer than two years.

6. When a member's term expires, or if a member is for any reason unable to complete his term, the respective appointing authority shall appoint such member's successor. Each appointing authority shall act to ensure that each appointee is secured accurately and in a timely manner, when a member's term expires or as soon as possible when a member is unable to complete his term. A member whose term has expired shall continue to serve until his successor is appointed and qualified.

7. The commission, its employees and subcontractors shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to [105.498] **105.496** and to the requirements for open meetings and records under chapter 610.

8. Notwithstanding any provisions of law to the contrary, any boundary adjustment approved by the residential property owners and the governing bodies of the affected municipalities or the county, if involved, shall not be subject to commission review. Such a boundary adjustment is not prohibited by the existence of an established unincorporated area.

**9. Notwithstanding any provisions of law to the contrary, any voluntary annexation approved by ordinance of any municipality that is a service provider for both water and sewer service within the municipality shall be effective as provided in such annexation ordinance and shall not be subject to boundary commission review. Such an annexation is not prohibited by the existence of an established unincorporated area.”; and**

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Bill No. 61, Page 6, Section 84.344, Line 1, by deleting the word “**department**” and inserting in lieu thereof the following: “**force**”; and

Further amend said bill, Page 6, Section 84.344, Line 9, by deleting all of said line and inserting in lieu thereof the following: “**the discharge of the official duties of said force;**”; and

Further amend said bill, Page 6, Section 84.344, Line 13, by deleting all of said line and inserting in lieu thereof the following: “**force; or**”; and

Further amend said bill, Page 6, Section 84.344, Line 15, by deleting the word “**department**” and inserting in lieu thereof the following: “**force**”; and

Further amend said bill, Page 6, Section 84.344, Line 17, by deleting the word “**department**” and inserting in lieu thereof the following: “**force**”; and

Further amend said bill, Page 7, Section 84.345, Line 1, by deleting the number “**1.**”; and

Further amend said bill, Page 7, Section 84.345, Line 9, by deleting the word “**cities**” and inserting in lieu thereof the following: “**city**”; and

Further amend said bill, Page 7, Section 84.345, Lines 14 to 28, by deleting all of said lines; and

Further amend said bill, Page 7, Section 84.346, Lines 2 and 3, by deleting all of said lines and inserting in lieu thereof the following: “**not within a county may establish a municipal police force on or after January 1, 2012, according to the procedures and**”; and

Further amend said bill, Page 7, Section 84.346, Line 7, by deleting all of said line and inserting in lieu thereof the following:

**“2. Before the establishment of a municipal police force by a city under sections 84.345 to 84.348, the board of police commissioners shall convey, assign, and otherwise transfer to the city title and ownership of all indebtedness and assets, including, but not limited to, all funds and real and personal property held in the name of or controlled by the board of police commissioners created under sections 84.020 and 84.030. The board of police commissioners shall execute all documents reasonably required to accomplish such transfer of ownership and obligations.**

**3. Upon the completion of the transfer described in subsection 2 of this section, the city shall appropriate the necessary funds for the maintenance of the municipal police force, however, in no event shall the city be required to appropriate funds for pensions or retirement plans for any fiscal year in excess of any limitation imposed by section 21, article X, of the Missouri Constitution. Such city may appropriate, by ordinance, a sum in excess of such limitation for any fiscal year. Nothing in sections 84.345 to 84.348 shall be construed as requiring a new activity or service, or an increase in the level of any activity or service, beyond that required by existing law if the city elects to establish a police force under sections 84.345 to 84.348.**

**4. Before a city not within a county may establish a municipal police force under this section, the city shall adopt an ordinance accepting responsibility, ownership, and liability as successor-in-interest for contractual obligations, indebtedness, and other lawful obligations of the board of police commissioners.**

**5. A city not within a county that establishes a municipal police force shall initially”** and renumber all remaining subsections accordingly; and

Further amend said bill, Page 8, Section 84.346, Lines 14 to 16, by deleting all of said lines and inserting in lieu thereof the following: “**to as employees of the board of police commissioners.**”; and

Further amend said bill, Page 8, Section 84.346, Line 27, by deleting “**8 of section 84.346.**” and inserting in lieu thereof the following: “**6 of this section.**”; and

Further amend said bill, Page 8, Section 84.346, Lines 43 to 71, by deleting all of said lines; and

Further amend said bill, Page 10, Section 84.346, Line 80, by deleting the semicolon; and

Further amend said bill, Page 10, Section 84.346, Line 84, by deleting the semicolon; and

Further amend said bill, Page 10, Section 84.346, Line 92, by deleting the words “**purpose of coordinating**” and inserting in lieu thereof the following: “**purpose of: coordinating**”; and

Further amend said bill, Page 10, Section 84.347, Line 7, by deleting number “**84.345**” and inserting in lieu thereof the following: “**84.346**”; and

Further amend said bill, Page 10, Section 84.347, Line 13, by deleting the words “**section 84.345, and state shall continue**” and inserting in lieu thereof the following: “**section 84.346, and state shall not continue**”; and

Further amend said bill, Page 11, Section 84.347, Line 14, by deleting the words “**shall continue**” and inserting in lieu thereof the following: “**shall not continue**”; and

Further amend said bill, Page 11, Section 84.347, Line 16, by deleting the words “**collective bargaining agreement,**”; and

Further amend said bill, Page 11, Section 84.347, Line 19, by deleting the number “**5**” and inserting in lieu thereof the following: “**8**”; and

Further amend said bill, Page 15, Section 86.213, Line 33, by inserting after all of said line the following:

**“86.371. In the event that the state or any state official is ordered to provide state funds to any city not within a county to satisfy pension obligations to any member of the system provided for in sections 86.200 to 86.366, the amount of state funds ordered shall constitute a first lien on the funds of such city. The state is authorized to certify such amount to the state treasurer and the director of the department of revenue. The state treasurer and the director of the department of revenue shall withhold all moneys due the city not within a county from the state until such amount, together with regular interest, is satisfied.”; and**

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

### HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Bill No. 61, Page 6, Section 84.344, Line 20, by inserting after all of said line the following:

**“3. The chief, or any manager of the highest rank regardless of that person’s title, of a municipal police force established under section 84.346 shall not:**

**(1) Solicit orally, by letter, or otherwise any assessment, contribution, or payment for any political purpose whatsoever;**

**(2) Directly or indirectly give, pay, lend, or contribute any of his or her salary, compensation, money, or other valuable thing to any person on account of, or to be applied to, the promotion of any political party, political club, or any political purpose whatsoever;**

**(3) Use his or her official authority or influence for the purpose of interfering with any election, nomination for office, or result thereof;**

**(4) Be a member or official of any committee of any political party or board of aldermen;**

**(5) Solicit any person to vote for or against any candidate for public office, poll precincts, or be connected with other political work of similar character on behalf of any political organization, party, or candidate;**

**(6) Affix any sign, bumper sticker, or other device, which either supports or opposes any ballot measure or political candidate, to any property or vehicle under the control of the police force;**

**(7) Publicly endorse a candidate for any public office;**

**(8) Work for, or provide any service to, on a paid or voluntary basis, a candidate for any public office or a campaign for or against any ballot initiative.**

**All such persons shall, however, retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. Any person who violates this subsection shall immediately forfeit and vacate his or her office.”; and**

Further amend said bill, Page 8, Section 84.346, Line 36, by deleting all of said line and inserting in lieu thereof the following: **“the rules and regulations. Unless otherwise provided for,”**; and

Further amend said bill, Page 8, Section 84.346, Line 39, by deleting the word **“may”** and inserting in lieu thereof the following: **“shall”**; and

Further amend said bill, Page 8, Section 84.346, Line 40, by inserting immediately after the word **“appeals”** the following: **“that involve discipline resulting in a suspension of greater than fifteen days, demotion, or termination”**; and

Further amend said bill, Page 10, Section 84.346, Line 80, by deleting the word **“retired”** and inserting in lieu thereof the following: **“retire”**; and

Further amend said bill, Page 10, Section 84.346, Lines 101 and 102, by deleting said lines and inserting in lieu thereof the following: **“enforcement officers. The remaining members of the committee shall include the police chief of the municipal police force, the city’s director of public safety, and a person who has retired from service with the board of police commissioners or the municipal police who shall be appointed to the committee by a law enforcement association that represents a majority of members of the municipal police force. The committee shall elect a chair by majority vote.”**; and

Further amend said bill, Page 11, Section 84.349, Line 4, by inserting at the end of said line the following: **“The nonseverability provision in this section shall not apply to subsection 3 of section 84.344.”**; and

Further amend said bill, Page 15, Section 86.213, Lines 13 and 14, by deleting all of said lines and inserting in lieu thereof the following:

**“[(3) Three] (2) Two members to be appointed by the mayor of the city to serve for a term of two years, except the mayor shall not appoint the police chief of the municipal police force, the city’s director**

**of public safety, or the president of the board of police commissioners of the city;”**; and

Further amend said bill, Page 15, Section 86.213, Line 23, by deleting all of said line and inserting in lieu thereof the following:

“~~[(5) Two]~~ **(4) Three** members who shall be retired members of the retirement system to be”; and

Further amend said bill, Page 21, Section 2, Line 4, by inserting after all of said line the following:

**“Section 3. No elected or appointed official of the state or any political subdivision thereof shall act or refrain from acting in any manner to impede, obstruct, hinder, or otherwise interfere with any member of a municipal police force established under section 84.346 in the performance of his or her job duties, or with any aspect of any investigation arising from the performance of such job duties. This section shall not be construed to prevent such officials from acting within the normal course and scope of their employment or from acting to implement sections 84.345 to 84.348. Any person who shall violate this section shall be liable for a penalty of two thousand five hundred dollars for each offense and shall forever be disqualified from holding any office or employment whatsoever with the governmental entity the person served at the time of the violation. The penalty shall not be paid by the funds of any committee as the term “committee” is defined in section 130.011. This section shall not be construed to interfere with the punishment, under any laws of this state, of a criminal offense committed by such officials, nor shall this section apply to duly appointed members of the municipal police force, or their appointing authorities, whose conduct is otherwise provided for by law.**

**Section 4. 1. It shall be an unlawful employment practice for an official, employee, or agent of a municipal police force established under section 84.346 to discharge, demote, reduce the pay of, or otherwise retaliate against an employee of the municipal police force for reporting to any superior, government agency, or the press the conduct of another employee that the reporting employee believes, in good faith, is illegal.**

**2. Any employee of the municipal police force may bring a cause of action for general or special damages based on a violation of this section.”**; 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 SB 187**, entitled:

An Act to repeal sections 67.402, 226.720, and 537.296, RSMo, and to enact in lieu thereof three new sections relating to nuisance actions, 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 **HCS for SS for SB 226**, entitled:

An Act to repeal sections 143.790, 190.015, 190.035, 190.040, and 321.120, RSMo, and to enact in lieu thereof seven new sections relating to emergency services.

With House Amendment Nos. 1, 2, 3 and 4.

#### HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 226, Page 1, Section 143.789, Lines 4-10, by deleting all of said lines and inserting in lieu thereof the following:

**“(1) Delinquent taxes owed by the taxpayer to the state of Missouri;**

**(2) Debts owed by such taxpayer to any state agency or support obligation owed by such taxpayer which are enforced by the division of family services on behalf of a person who is receiving support enforcement services under section 454.425;**

**(3) Collection assistance fees authorized under section 143.790;**

**(4) Eligible claims under section 143.790; and**

**(5) Delinquent taxes owed by the taxpayer to the United States.”; and**

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

#### HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 226, Section 143.790, Page 8, Line 245, by inserting after all of said section and line the following:

**“143.1016. 1. For all tax years beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that two dollars or any amount in excess of two dollars on a single return, and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the organ donor program fund established in section 194.297. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the organ donor program fund, such individual may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, clearly designated for the organ donor program fund, the amount the individual wishes to contribute. The department of revenue shall deposit such amount to the organ donor program fund as provided in subsection 2 of this section.**

**2. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section, less an amount sufficient to cover the cost of collecting and handling by the department of revenue which shall not exceed five percent of the transferred contributions, to the state treasurer for deposit in the state treasury to the credit of the organ donor program fund. A contribution designated under this section shall only be transferred and deposited in the organ donor program fund after all other claims against the refund from which such contribution is to be made have been satisfied.**

**3. All moneys transferred to the fund shall be distributed as provided in this section and sections 194.297 and 194.299.**

**4. Under section 23.253 of the Missouri sunset act:**

**(1) The provisions of the new program authorized under this section shall automatically sunset**

**on December thirty-first 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 on December thirty-first 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. 3

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 226, Page 1, Section A, Line 3, by inserting after all of said line the following:

“66.620. 1. All county sales taxes collected by the director of revenue under sections 66.600 to 66.630 on behalf of any county, 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, shall be deposited in a special trust fund, which is hereby created, to be known as the “County Sales Tax Trust Fund”. The moneys in the county sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each county imposing a county sales tax, and the records shall be open to the inspection of officers of the county and the public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county which levied the tax; such funds shall be deposited with the county treasurer of the county and all expenditures of funds arising from the county sales tax trust fund shall be by an appropriation act to be enacted by the legislative council of the county, and to the cities, towns and villages located wholly or partly within the county which levied the tax in the manner as set forth in sections 66.600 to 66.630.

2. In any county not adopting an additional sales tax and alternate distribution system as provided in section 67.581, for the purposes of distributing the county sales tax, the county shall be divided into two groups, “Group A” and “Group B”. Group A shall consist of all cities, towns and villages which are located wholly or partly within the county which levied the tax and which had a city sales tax in effect under the provisions of sections 94.500 to 94.550 on the day prior to the adoption of the county sales tax ordinance, except that beginning January 1, 1980, group A shall consist of all cities, towns and villages which are located wholly or partly within the county which levied the tax and which had a city sales tax approved by the voters of such city under the provisions of sections 94.500 to 94.550 on the day prior to the effective date of the county sales tax. **Notwithstanding provisions of this section to contrary, for the period beginning August 28, 2011, and ending August 28, 2013, group A shall include all portions of any city of the fourth classification with more than four thousand three hundred but fewer than four thousand four hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants and where such city includes a dormant manufacturing plant that was used for manufacturing or assembly and employed not less than three thousand persons but has ceased such manufacturing and assembly activity.** For the purposes of determining the location of consummation of sales for distribution of funds to cities, towns and villages in group A, the boundaries of any such city, town or village shall be the boundary of that city, town or village as it existed on March 19,

1984. Group B shall consist of all cities, towns and villages which are located wholly or partly within the county which levied the tax and which did not have a city sales tax in effect under the provisions of sections 94.500 to 94.550 on the day prior to the adoption of the county sales tax ordinance, and shall also include all unincorporated areas of the county which levied the tax; except that, beginning January 1, 1980, group B shall consist of all cities, towns and villages which are located wholly or partly within the county which levied the tax and which did not have a city sales tax approved by the voters of such city under the provisions of sections 94.500 to 94.550 on the day prior to the effective date of the county sales tax and shall also include all unincorporated areas of the county which levied the tax. **Notwithstanding provisions of this section to contrary, for the period beginning August 28, 2011, and ending August 28, 2013, group B shall not include any portion of any city of the fourth classification with more than four thousand three hundred but fewer than four thousand four hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants and where such city includes a dormant manufacturing plant that was used for manufacturing or assembly and employed not less than three thousand persons but has ceased such manufacturing and assembly activity.**

3. Until January 1, 1994, the director of revenue shall distribute to the cities, towns and villages in group A the taxes based on the location in which the sales were deemed consummated under section 66.630 and subsection 12 of section 32.087. Except for distribution governed by section 66.630, after deducting the distribution to the cities, towns and villages in group A, the director of revenue shall distribute the remaining funds in the county sales tax trust fund to the cities, towns and villages and the county in group B as follows: To the county which levied the tax, a percentage of the distributable revenue equal to the percentage ratio that the population of the unincorporated areas of the county bears to the total population of group B; and to each city, town or village in group B located wholly within the taxing county, a percentage of the distributable revenue equal to the percentage ratio that the population of such city, town or village bears to the total population of group B; and to each city, town or village located partly within the taxing county, a percentage of the distributable revenue equal to the percentage ratio that the population of that part of the city, town or village located within the taxing county bears to the total population of group B.

4. From and after January 1, 1994, the director of revenue shall distribute to the cities, towns and villages in group A a portion of the taxes based on the location in which the sales were deemed consummated under section 66.630 and subsection 12 of section 32.087 in accordance with the formula described in this subsection. After deducting the distribution to the cities, towns and villages in group A, the director of revenue shall distribute funds in the county sales tax trust fund to the cities, towns and villages and the county in group B as follows: To the county which levied the tax, ten percent multiplied by the percentage of the population of unincorporated county which has been annexed or incorporated since April 1, 1993, multiplied by the total of all sales tax revenues countywide, and a percentage of the remaining distributable revenue equal to the percentage ratio that the population of unincorporated areas of the county bears to the total population of group B; and to each city, town or village in group B located wholly within the taxing county, a percentage of the remaining distributable revenue equal to the percentage ratio that the population of such city, town or village bears to the total population of group B; and to each city, town or village located partly within the taxing county, a percentage of the remaining distributable revenue equal to the percentage ratio that the population of that part of the city, town or village located within the taxing county bears to the total population of group B.

5. (1) For purposes of administering the distribution formula of subsection 4 of this section, the revenues arising each year from sales occurring within each group A city, town or village shall be distributed as

follows: Until such revenues reach the adjusted county average, as hereinafter defined, there shall be distributed to the city, town or village all of such revenues reduced by the percentage which is equal to ten percent multiplied by the percentage of the population of unincorporated county which has been annexed or incorporated after April 1, 1993; and once revenues exceed the adjusted county average, total revenues shall be shared in accordance with the redistribution formula as defined in this subsection.

(2) For purposes of this subsection, the “adjusted county average” is the per capita countywide average of all sales tax distributions during the prior calendar year reduced by the percentage which is equal to ten percent multiplied by the percentage of the population of unincorporated county which has been annexed or incorporated after April 1, 1993; the “redistribution formula” is as follows: During 1994, each group A city, town and village shall receive that portion of the revenues arising from sales occurring within the municipality that remains after deducting therefrom an amount equal to the cumulative sales tax revenues arising from sales within the municipality multiplied by the percentage which is the sum of ten percent multiplied by the percentage of the population of unincorporated county which has been annexed or incorporated after April 1, 1993, and the percentage, if greater than zero, equal to the product of 8.5 multiplied by the logarithm (to base 10) of the product of 0.035 multiplied by the total of cumulative per capita sales taxes arising from sales within the municipality less the adjusted county average. During 1995, each group A city, town and village shall receive that portion of the revenues arising from sales occurring within the municipality that remains after deducting therefrom an amount equal to the cumulative sales tax revenues arising from sales within the municipality multiplied by the percentage which is the sum of ten percent multiplied by the percentage of the population of unincorporated county which has been annexed or incorporated after April 1, 1993, and the percentage, if greater than zero, equal to the product of seventeen multiplied by the logarithm (to base 10) of the product of 0.035 multiplied by the total of cumulative per capita sales taxes arising from sales within the municipality less the adjusted county average. From January 1, 1996, until January 1, 2000, each group A city, town and village shall receive that portion of the revenues arising from sales occurring within the municipality that remains after deducting therefrom an amount equal to the cumulative sales tax revenues arising from sales within the municipality multiplied by the percentage which is the sum of ten percent multiplied by the percentage of the population of unincorporated county which has been annexed or incorporated after April 1, 1993, and the percentage, if greater than zero, equal to the product of 25.5 multiplied by the logarithm (to base 10) of the product of 0.035 multiplied by the total of cumulative per capita sales taxes arising from sales within the municipality less the adjusted county average. From and after January 1, 2000, the distribution formula covering the period from January 1, 1996, until January 1, 2000, shall continue to apply, except that the percentage computed for sales arising within the municipalities shall be not less than 7.5 percent for municipalities within which sales tax revenues exceed the adjusted county average, nor less than 12.5 percent for municipalities within which sales tax revenues exceed the adjusted county average by at least twenty-five percent.

(3) For purposes of applying the redistribution formula to a municipality which is partly within the county levying the tax, the distribution shall be calculated alternately for the municipality as a whole, except that the factor for annexed portion of the county shall not be applied to the portion of the municipality which is not within the county levying the tax, and for the portion of the municipality within the county levying the tax. Whichever calculation results in the larger distribution to the municipality shall be used.

(4) Notwithstanding any other provision of this section, the fifty percent of additional sales taxes as described in section 99.845 arising from economic activities within the area of a redevelopment project

established after July 12, 1990, pursuant to sections 99.800 to 99.865, while tax increment financing remains in effect shall be deducted from all calculations of countywide sales taxes, shall be distributed directly to the municipality involved, and shall be disregarded in calculating the amounts distributed or distributable to the municipality. Further, any agreement, contract or covenant entered into prior to July 12, 1990, between a municipality and any other political subdivision which provides for an appropriation of incremental sales tax revenues to the special allocation fund of a tax increment financing project while tax increment financing remains in effect shall continue to be in full force and effect and the sales taxes so appropriated shall be deducted from all calculations of countywide sales taxes, shall be distributed directly to the municipality involved, and shall be disregarded in calculating the amounts distributed or distributable to the municipality. In addition, and notwithstanding any other provision of this chapter to the contrary, economic development funds shall be distributed in full to the municipality in which the sales producing them were deemed consummated. Additionally, economic development funds shall be deducted from all calculations of countywide sales taxes and shall be disregarded in calculating the amounts distributed or distributable to the municipality. As used in this subdivision, the term “economic development funds” means the amount of sales tax revenue generated in any fiscal year by projects authorized pursuant to chapter 99 or chapter 100 in connection with which such sales tax revenue was pledged as security for, or was guaranteed by a developer to be sufficient to pay, outstanding obligations under any agreement authorized by chapter 100, entered into or adopted prior to September 1, 1993, between a municipality and another public body. The cumulative amount of economic development funds allowed under this provision shall not exceed the total amount necessary to amortize the obligations involved.

6. If the qualified voters of any city, town or village vote to change or alter its boundaries by annexing any unincorporated territory included in group B or if the qualified voters of one or more city, town or village in group A and the qualified voters of one or more city, town or village in group B vote to consolidate, the area annexed or the area consolidated which had been a part of group B shall remain a part of group B after annexation or consolidation. After the effective date of the annexation or consolidation, the annexing or consolidated city, town or village shall receive a percentage of the group B distributable revenue equal to the percentage ratio that the population of the annexed or consolidated area bears to the total population of group B and such annexed area shall not be classified as unincorporated area for determination of the percentage allocable to the county. If the qualified voters of any two or more cities, towns or villages in group A each vote to consolidate such cities, towns or villages, then such consolidated cities, towns or villages shall remain a part of group A. For the purpose of sections 66.600 to 66.630, population shall be as determined by the last federal decennial census or the latest census that determines the total population of the county and all political subdivisions therein. For the purpose of calculating the adjustment based on the percentage of unincorporated county population which is annexed after April 1, 1993, the accumulated percentage immediately before each census shall be used as the new percentage base after such census. After any annexation, incorporation or other municipal boundary change affecting the unincorporated area of the county, the chief elected official of the county shall certify the new population of the unincorporated area of the county and the percentage of the population which has been annexed or incorporated since April 1, 1993, to the director of revenue. After the adoption of the county sales tax ordinance, any city, town or village in group A may by adoption of an ordinance by its governing body cease to be a part of group A and become a part of group B. Within ten days after the adoption of the ordinance transferring the city, town or village from one group to the other, the clerk of the transferring city, town or village shall forward to the director of revenue, by registered mail, a certified copy of the ordinance. Distribution to such city as a part of its former group shall cease and as a part of its new group shall begin

on the first day of January of the year following notification to the director of revenue, provided such notification is received by the director of revenue on or before the first day of July of the year in which the transferring ordinance is adopted. If such notification is received by the director of revenue after the first day of July of the year in which the transferring ordinance is adopted, then distribution to such city as a part of its former group shall cease and as a part of its new group shall begin the first day of July of the year following such notification to the director of revenue. Once a group A city, town or village becomes a part of group B, such city may not transfer back to group A.

7. If any city, town or village shall hereafter change or alter its boundaries, the city clerk of the municipality shall forward to the director of revenue, by registered mail, a certified copy of the ordinance adding or detaching territory from the municipality. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the municipality clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 66.600 to 66.630 shall be redistributed and allocated in accordance with the provisions of this section on the effective date of the change of the municipal boundary so that the proper percentage of group B distributable revenue is allocated to the municipality in proportion to any annexed territory. If any area of the unincorporated county elects to incorporate subsequent to the effective date of the county sales tax as set forth in sections 66.600 to 66.630, the newly incorporated municipality shall remain a part of group B. The city clerk of such newly incorporated municipality shall forward to the director of revenue, by registered mail, a certified copy of the incorporation election returns and a map of the municipality clearly showing the boundaries thereof.

The certified copy of the incorporation election returns shall reflect the effective date of the incorporation. Upon receipt of the incorporation election returns and map, the tax imposed by sections 66.600 to 66.630 shall be distributed and allocated in accordance with the provisions of this section on the effective date of the incorporation.

8. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director 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 county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

9. Except as modified in sections 66.600 to 66.630, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed under sections 66.600 to 66.630.”; and

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

#### HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 226, Page 8, Section 143.790, Line 245, by inserting after all of said section the following:

**“170.310. 1. Each school district that operates a high school, and each charter school that**

contains grades 9 to 12, shall provide instruction in cardiopulmonary resuscitation. Instruction may be embedded in any health education course in grades 9 to 12.

2. Instruction shall include hands-on practicing and skills testing to support cognitive learning. Instruction shall be through a program developed by the American Heart Association or the American Red Cross, or through a nationally recognized program based on the most current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation.

3. The teacher of the health education course shall not be required to be a certified trainer of cardiopulmonary resuscitation if the instruction is not designed to result in certification of students. Instruction that is designed to result in certification being earned shall be required to be taught by an authorized cardiopulmonary instructor. Schools may develop agreements with any local chapter of a voluntary organization of first responders to provide the required hands-on practice and skills testing.

4. Instruction as required under this section shall become a requirement for high school graduation for students graduating in the 2014-2015 school year and subsequent school years.

5. The department of elementary and secondary education may promulgate rules to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.”; and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SB 322**, entitled:

An Act to repeal sections 190.839, 198.439, 208.437, 208.480, 208.798, 338.550, and 633.401, RSMo, and to enact in lieu thereof seven new sections relating to certain provider taxes.

With House Amendment Nos. 1 and 2.

#### HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 322, Page 1, In the title, Line 3, by deleting the words, “certain provider taxes” and inserting in lieu thereof the words, “the collection and distribution of public money”; and

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

#### HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Bill No. 322, Section A, Page 1, Line 3, by inserting the following after all of said Line:

“32.028. 1. There is hereby created a department of revenue in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall collect all taxes and fees payable to the state as provided by law, **and may collect, upon referral by a state agency, debts owed to any state agency subject to section 32.420.**

2. The powers, duties and functions of the department of revenue, chapter 32 and others, are transferred by type I transfer to the department of revenue. All powers, duties and function of the collector of revenue are transferred to the director of the department by type I transfer and the position of collector of revenue is abolished.

3. The powers, duties and functions of the state tax commission, chapter 138 and others, are transferred by type III transfer to the department of revenue.

4. All of the powers, duties and functions of the state tax commission relating to administration of the corporation franchise tax, chapter 152, and others, are transferred by type I transfer to the department of revenue; provided, however, that the provision of section 138.430 relating to appeals from decisions of the director of revenue shall apply to these taxes.

5. All the powers, duties and functions of the highway reciprocity commission, chapter 301, are transferred by type II transfer to the department of revenue.

**32.058. For all years beginning after January 1, 2012, notwithstanding the certified mail provisions contained in chapters 32, 140, 142, 143, 144, 147, 148, 149, and 302, the director of revenue may choose to mail any document by first class mail.**

32.087. 1. Within ten days after the adoption of any ordinance or order in favor of adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing entity, the governing body or official of such taxing entity shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance or order. The ordinance or order shall reflect the effective date thereof.

2. Any local sales tax so adopted shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the local sales tax, except as provided in subsection 18 of this section.

3. Every retailer within the jurisdiction of one or more taxing entities which has imposed one or more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of the sale.

4. The brackets required to be established by the director of revenue under the provisions of section 144.285 shall be based upon the sum of the combined rate of the state sales tax and all local sales taxes imposed under the provisions of the local sales tax law.

5. The ordinance or order imposing a local sales tax under the local sales tax law shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall

be the sum of the combined rate of the state sales tax or state highway use tax and all local sales taxes imposed under the provisions of the local sales tax law.

6. On and after the effective date of any local sales tax imposed under the provisions of the local sales tax law, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the director of revenue shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes authorized under the authority of the local sales tax law. **The director shall retain one percent of the amount of any local sales or use tax collected for cost of collection.** All local sales taxes imposed under the local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue.

7. All applicable provisions contained in sections 144.010 to 144.525 governing the state sales tax and section 32.057, the uniform confidentiality provision, shall apply to the collection of any local sales tax imposed under the local sales tax law except as modified by the local sales tax law.

8. All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services under the provisions of sections 144.010 to 144.525, as these sections now read and as they may hereafter be amended, it being the intent of this general assembly to ensure that the same sales tax exemptions granted from the state sales tax law also be granted under the local sales tax law, are hereby made applicable to the imposition and collection of all local sales taxes imposed under the local sales tax law.

9. The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525 for the administration and collection of the state sales tax shall satisfy the requirements of the local sales tax law, and no additional permit or exemption certificate or retail certificate shall be required; except that the director of revenue may prescribe a form of exemption certificate for an exemption from any local sales tax imposed by the local sales tax law.

10. All discounts allowed the retailer under the provisions of the state sales tax law for the collection of and for payment of taxes under the provisions of the state sales tax law are hereby allowed and made applicable to any local sales tax collected under the provisions of the local sales tax law.

11. The penalties provided in section 32.057 and sections 144.010 to 144.525 for a violation of the provisions of those sections are hereby made applicable to violations of the provisions of the local sales tax law.

12. (1) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard motors, shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's agent or employee shall be deemed to be consummated at the place of business from which he works.

(2) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales of motor vehicles, trailers, boats, and outboard motors shall be deemed to be consummated

at the residence of the purchaser and not at the place of business of the retailer, or the place of business from which the retailer's agent or employee works.

(3) For the purposes of any local tax imposed by an ordinance or under the local sales tax law on charges for mobile telecommunications services, all taxes of mobile telecommunications service shall be imposed as provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

13. Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the seller, but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a taxing entity imposing a local sales tax under the local sales tax law.

14. The director of revenue and any of his **or her** deputies, assistants and employees who have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the director of revenue under the provisions of the local sales tax law shall enter a surety bond or bonds payable to any and all taxing entities in whose behalf such funds have been collected under the local sales tax law in the amount of one hundred thousand dollars for each such tax; but the director of revenue may enter into a blanket bond covering himself **or herself** and all such deputies, assistants and employees. The cost of any premium for such bonds shall be paid by the director of revenue from the share of the collections under the sales tax law retained by the director of revenue for the benefit of the state.

15. The director of revenue shall annually report on his **or her** management of each trust fund which is created under the local sales tax law and administration of each local sales tax imposed under the local sales tax law. He **or she** shall provide each taxing entity imposing one or more local sales taxes authorized by the local sales tax law with a detailed accounting of the source of all funds received by him for the taxing entity. Notwithstanding any other provisions of law, the state auditor shall annually audit each trust fund. A copy of the director's report and annual audit shall be forwarded to each taxing entity imposing one or more local sales taxes.

16. Within the boundaries of any taxing entity where one or more local sales taxes have been imposed, if any person is delinquent in the payment of the amount required to be paid by him **or her** under the local sales tax law or in the event a determination has been made against him **or her** for taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525. Where the director of revenue has determined that suit must be filed against any person for the collection of delinquent taxes due the state under the state sales tax law, and where such person is also delinquent in payment of taxes under the local sales tax law, the director of revenue shall notify the taxing entity in the event any person fails or refuses to pay the amount of any local sales tax due so that appropriate action may be taken by the taxing entity.

17. Where property is seized by the director of revenue under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

18. If a local sales tax has been in effect for at least one year under the provisions of the local sales tax law and voters approve reimposition of the same local sales tax at the same rate at an election as provided for in the local sales tax law prior to the date such tax is due to expire, the tax so reimposed shall become effective the first day of the first calendar quarter after the director receives a certified copy of the ordinance, order or resolution accompanied by a map clearly showing the boundaries thereof and the results of such election, provided that such ordinance, order or resolution and all necessary accompanying materials are received by the director at least thirty days prior to the expiration of such tax. Any administrative cost or expense incurred by the state as a result of the provisions of this subsection shall be paid by the city or county reimposing such tax.

**32.088. 1. Beginning January 1, 2012, the possession of a statement from the department of revenue stating no tax is due under chapters 142, 143, 144, 147, and 149, and that no fees are due under sections 260.262 or 260.273, shall be a prerequisite to the issuance or renewal of any city or county occupation license or any state license required for conducting any business. The statement of no tax due shall be dated no longer than ninety days before the date of submission for application or renewal of the city or county license.**

**2. Beginning January 1, 2012, in lieu of subsection 1 of this section, the director may enter into an agreement with any state agency responsible for issuing any state license for conducting any business requiring the agency to provide the director of revenue with the name and Missouri tax identification number of each applicant for licensure within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent on any taxes under chapters 142, 143, 144, 147, and 149, or fees under sections 260.262 or 260.273, the director shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. The director of revenue shall, within ten business days of notification to the governmental entity issuing the license that the delinquency has been remedied or arrangements have been made to remedy such delinquency, send written notification to the licensee that the delinquency has been remedied. Tax liability paid in protest or reasonably founded disputes with such liability shall be considered paid for the purposes of this section.**

**32.383. 1. Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue and imposed in chapters 143 and 144, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to unpaid taxes or taxes due and owing reported and paid in full from August 1, 2011, to October 31, 2011, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before August 1, 2011. The amnesty shall apply only to state tax liabilities due or due but unpaid on or before December 31, 2010, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by this state.**

**2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest that may be applicable. The department of revenue shall not**

seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted, unless subsequent investigation or audit shows that the taxpayer engaged in fraudulent or criminal conduct in applying for amnesty.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with state tax laws for the next eight years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest under this section unless full payment of the tax due is made in accordance with rules established by the director of revenue.

4. All taxpayers granted amnesty under this section shall comply with this state's tax laws for the eight years following the date of the amnesty agreement. If any such taxpayer fails to comply with all of this state's tax laws at any time during the eight years following the date of the agreement, all penalties, additions to tax, and interest that were waived under the amnesty agreement shall become due and owing immediately.

5. If a taxpayer elects to participate in the amnesty program established in this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received under this section shall be eligible for refund or credit.

6. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a taxpayer's tax return as a result of any state or federal audit.

7. All tax payments received as a result of the amnesty program established in this section, other than revenues earmarked by the Constitution of Missouri or this state's statutes, shall be deposited in the state general revenue fund.

8. The department may promulgate rules or issue administrative guidelines as are necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 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 July 1, 2011, shall be invalid and void.

32.385. 1. The director of revenue and the commissioner of administration may jointly enter into a reciprocal collection and offset of indebtedness agreement with the federal government, under which the State will offset from state tax refunds and from payments otherwise due to vendors and contractors providing goods or services to state departments, agencies, or other state agencies non-tax debt owed to the federal government; and the federal government will offset from federal payments to vendors, contractors, and taxpayers debt owed to the state of Missouri.

2. When used in this section, the following words, terms, and phrases are defined as set forth herein:

(1) "Federal official" means a unit or official of the federal government charged with the collection

of non-tax liabilities payable to the federal government under 31 U.S.C. section 3716.

(2) “State agency” means any department, division, board, commission, office, or other agency of the state of Missouri.

(3) “Non-tax liability due the state” means a liability certified to the director of revenue by a state agency and shall include, but shall not be limited to, fines, fees, penalties, and other non-tax assessments imposed by or payable to any state agency that is finally determined to be due and owing.

(4) “Person” means an individual, partnership, society, association, joint stock company, corporation, public corporation, or any public authority, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise, and any combination of the foregoing.

(5) “Refund” means an amount described as a refund of tax under the provisions of the state tax law that authorized its payment.

(6) “Vendor payment” means any payment, other than a refund, made by the state to any person or entity, and shall include but shall not be limited to any expense reimbursement to an employee of the state; but shall not include a person’s salary, wages, or pension.

(7) “Offset agreement” is the agreement authorized by this section.

3. Under the offset agreement, a federal official may:

(1) Certify to the state of Missouri the existence of a person’s delinquent non-tax liability owed by the person to the federal government; and

(2) Request that the state of Missouri withhold any refund and vendor payment to which the person is entitled.

(3) Certify and request the state of Missouri to withhold a refund or vendor payment only if the laws of the United States:

(a) Allow the state of Missouri to enter into a reciprocal agreement with the United States, under which the federal official would be authorized to offset federal payments to collect delinquent tax and non-tax debts owed to the state; and

(b) Provide for the payment of the amount withheld to the state.

(4) Retain a portion of the proceeds of any collection setoff as provided under the setoff agreement.

4. Under the offset agreement, a certification by a federal official to the state of Missouri shall include:

(1) the full name of the person and any other names known to be used by the person;

(2) the social security number or federal tax identification number;

(3) the amount of the non-tax liability; and

(4) a statement that the debt is past due and legally enforceable in the amount certified.

5. If a person for whom a certification is received from a federal official is due a refund of Missouri tax or a vendor payment, the agreement may provide that the state of Missouri shall:

(1) withhold a refund or vendor payment that is due a person whose name has been certified by a federal official;

(2) in accordance with the provisions of the offset agreement, notify the person of the amount withheld in satisfaction of a liability certified by a federal official;

(3) pay to the federal official the lesser of:

(a) the entire refund or vendor payment; or

(b) the amount certified; and

(4) pay any refund or vendor payment in excess of the certified amount to the person.

6. Under the agreement, the director of revenue shall:

(1) certify to a federal official the existence of a person's delinquent tax or non-tax liability due the state owed by the person to any state agency;

(2) request that the federal official withhold any eligible vendor payment to which the person is entitled; and

(3) provide for the payment of the amount withheld to the state.

7. A certification by a state agency to the director of revenue and by the director of revenue to the federal official under the offset agreement shall include:

(1) the full name and address of the person and any other names known to be used by the person;

(2) the social security number or tax identification number;

(3) the amount of the tax or non-tax liability;

(4) a statement that the debt is past due and legally enforceable in the amount certified; and

(5) any other information required by federal statute or regulation applicable to the collection of the debt by offset of federal payments.

8. Any other provisions of law to the contrary notwithstanding, the director of revenue and the commissioner of administration shall have the authority to enter into reciprocal agreements with any other state which extends a like comity to this state to set off offset from state tax refunds and from payments otherwise due to vendors and contractors providing goods or services to state departments, agencies, or other state agencies non-tax debt for debts due the other state that extends a like comity to this state.

32.410. As used in sections 32.410 to 32.460, the following terms shall mean:

(1) "Debt", an amount owed to the state directly or through a state agency, on account of a fee, duty, lease, direct loan, loan insured or guaranteed by the state, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond, forfeiture, reimbursement, liability owed, an assignment, recovery of costs incurred by the state, or any other source of indebtedness to the state;

(2) "Debtor", an individual, a corporation, a partnership, an unincorporated association, a limited liability company, a trust, an estate, or any other public or private entity, including a state, local, or federal government, or an Indian tribe, that is liable for a debt or against whom there is a claim for

a debt;

(3) “Department”, the department of revenue;

(4) “State agency”, any division, board, commission, office, or other agency of the state of Missouri, including public community college districts and any state or municipal court.

**32.420. 1.** Notwithstanding any other provision of law to the contrary, all state agencies may refer to the department for collection debts owed to them. The department may provide collection services on debts referred to the department by a state agency. This authority shall not supersede the authority granted to the attorney general under section 27.060 or any other statute.

2. A referring agency may refer the debt to the department for collection at any time after a debt becomes delinquent and uncontested and the debtor shall have no further administrative appeal of the amount of the debt. Methods and procedures for referral shall be governed by an agreement between the referring agency and the department.

3. The collection procedures and remedies under this chapter are in addition to any other procedure or remedy available by law. If the state agency’s applicable state or federal law requires the use of a particular remedy or procedure for the collection of a debt, that particular remedy or procedure shall govern the collection of that debt to the extent the procedure or remedy is inconsistent with this chapter.

4. The state agency shall send notice to the debtor by United States regular mail at the debtor’s last known address at least twenty days before the debt is referred to the department. The notice shall state the nature and amount of the debt, identify to whom the debt is owed, and inform the debtor of the remedies available under this chapter or the state agency’s own procedures.

**32.430. 1.** Except as otherwise provided in this section, the department shall have the authority to use all general remedies afforded creditors of this state in collection of debt as well as any remedies afforded the state agency referring the debt and to the state in general as a creditor. The department shall not have authority to prosecute or defend civil actions on behalf of any other state agency, except as necessary to defend any challenges made to actions under section 143.902 or section 140.910 for a debt referred by a state agency or to prosecute an action under subsection 10 of section 140.910.

2. In addition to the remedies identified in sections 32.410 to 32.460, the department may use the collection remedies afforded under section 143.902 and section 140.910 in the collection of any state debt referred to the department.

3. The department may employ department staff and attorneys, and at the department’s discretion, prosecuting attorneys and private collection agencies as authorized in sections 136.150 and 140.850 in seeking collection of debts referred to the department by a state agency.

**32.440. 1.** The department shall add to the amount of debt referred to the department by a state agency the cost of collection which shall be ten percent of the total debt referred by the state agency. The department shall have the same authority to collect the cost of collection as the department has in collecting the debt referred by the state agency.

2. The cost of collection shall only be waived when:

(1) Within thirty days after the initial notice to the debtor by the department, the debtor establishes to the department reasonable cause for the failure to pay the debt prior to referral of the

**debt to the department, enters into an agreement satisfactory to the department to pay the debt in full, and fully abides by the terms of that agreement;**

**(2) A good faith dispute as to the legitimacy or the amount of the debt exists, and payment is remitted or an agreement satisfactory to the department to pay the debt in full is entered into within thirty days after resolution of the dispute, and the debtor fully abides by the terms of that agreement;**  
**or**

**(3) Collection costs have been added by the state agency and are included in the amount of the referred debt.**

**3. If the department collects an amount less than the total due, the payment shall be applied proportionally to collection costs and the underlying debt unless the department has waived this requirement for certain categories of debt. Collection costs collected by the department under this section shall be deposited in the general revenue fund.**

**32.450. The department may compromise state debt referred to the department in accordance with section 32.378 and any agreement with the referring agency.**

**32.460. The department and state agencies, including the judiciary, may exchange information, including the debtor's Social Security number, as is necessary for the successful collection of the state debt referred. The referring state agency shall follow all applicable federal and state laws regarding the confidentiality of information and records regarding the debtor. The confidentiality laws applicable to the particular information received and retained by each agency shall apply to the employees of the state agency and to the department when the information has been forwarded to the department.**

105.716. 1. Any investigation, defense, negotiation, or compromise of any claim covered by sections 105.711 to 105.726 shall be conducted by the attorney general; provided, that in the case of any claim against the department of conservation, the department of transportation or a public institution which awards baccalaureate degrees, or any officer or employee of such department or such institution, any investigation, defense, negotiation, or compromise of any claim covered by sections 105.711 to 105.726 shall be conducted by legal counsel provided by the respective entity against which the claim is made or which employs the person against whom the claim is made. In the case of any payment from the state legal expense fund based upon a claim or judgment against the department of conservation, the department of transportation or any officer or employee thereof, the department so affected shall immediately transfer to the state legal expense fund from the department funds a sum equal to the amount expended from the state legal expense fund on its behalf.

2. All persons and entities protected by the state legal expense fund shall cooperate with the attorneys conducting any investigation and preparing any defense under the provisions of sections 105.711 to 105.726 by assisting such attorneys in all respects, including the making of settlements, the securing and giving of evidence, and the attending and obtaining witness to attend hearings and trials. Funds in the state legal expense fund shall not be used to pay claims and judgments against those persons and entities who do not cooperate as required by this subsection.

3. The provisions of sections 105.711 to 105.726 notwithstanding, the attorney general may investigate, defend, negotiate, or compromise any claim covered by sections 105.711 to 105.726 against any public institution which awards baccalaureate degrees whose governing body has declared a state of financial

exigency.

4. Notwithstanding the provisions of subsection 2 of section 105.711, funds in the state legal expense fund may be expended prior to the payment of any claim or any final judgment to pay costs of defense, including reasonable attorney's fees for retention of legal counsel, when the attorney general determines that a conflict exists or particular expertise is required, and also to pay for related legal expenses including medical examination fees, expert witness fees, court reporter expenses, travel costs and ancillary legal expenses incurred prior to the payment of a claim or any final judgment.

**5. Notwithstanding any other provision of law to the contrary, except for payments of less than ten thousand dollars for property damage, no funds shall be expended from the state legal expense fund for settlement of any liability claim except upon the production of a no tax due statement from the department of revenue by the party making claim or having judgment under section 105.711, which shall be satisfied from such fund. If the party is found by the director of revenue to owe a delinquent tax debt to the state of Missouri under the revenue laws of this state, after the payment of attorneys fees and expenses associated with creating the liability of the fund to the party, any remaining funds to be paid to the party from the state legal expense fund shall be offset to satisfy such tax debt before payment is made to the party making claim or having judgment.**

136.055. 1. Any person who is selected or appointed by the state director of revenue as provided in subsection 2 of this section to act as an agent of the department of revenue, whose duties shall be the processing of motor vehicle title and registration transactions and the collection of sales and use taxes when required under sections 144.070 and 144.440, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer registration issued, renewed or transferred--three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147;

(2) For each application or transfer of title--two dollars and fifty cents;

(3) For each instruction permit, nondriver license, chauffeur's, operator's or driver's license issued for a period of three years or less--two dollars and fifty cents and five dollars for licenses or instruction permits issued or renewed for a period exceeding three years;

(4) For each notice of lien processed--two dollars and fifty cents;

(5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception--two dollars.

2. The director of revenue shall award fee office contracts under this section through a competitive bidding process. The competitive bidding process shall give priority to organizations and entities that are exempt from taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code of 1986, as amended, and political subdivisions, including but not limited to, municipalities, counties, and fire protection districts. The director of the department of revenue may promulgate rules and regulations necessary to carry out the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2009, shall be invalid and void.

3. All fees collected by a tax-exempt organization may be retained and used by the organization.

4. All fees charged shall not exceed those in this section. The fees imposed by this section shall be collected by all permanent offices and all full-time or temporary offices maintained by the department of revenue.

5. Any person acting as agent of the department of revenue for the sale and issuance of registrations, licenses, and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

**6. Any person acting as agent of the department of revenue for the collection of sales and use tax when required under sections 144.070 and 144.440 shall be entitled to deduct and retain an amount equal to two percent of the motor vehicle sales tax under section 144.140 to offset the actual cost incurred by such person, on behalf of the department of revenue, in the collection of such taxes in accordance with the provisions of Article IV, Section 30(b) of the Missouri Constitution.**

7. The fees authorized by this section shall not be collected by motor vehicle dealers acting as agents of the department of revenue under section 32.095 or those motor vehicle dealers authorized to collect and remit sales tax under subsection 8 of section 144.070.

[7.] **8.** Notwithstanding any other provision of law to the contrary, the state auditor may audit all records maintained and established by the fee office in the same manner as the auditor may audit any agency of the state, and the department shall ensure that this audit requirement is a necessary condition for the award of all fee office contracts. No confidential records shall be divulged in such a way to reveal personally identifiable information.

**140.910. 1. In addition to any other remedy provided by law for the collection of delinquent taxes due the state of Missouri, if the director has filed a certificate of lien in the circuit court as provided by section 143.902, 144.380, or 144.690, the director or his or her designee may issue an order directing any person to withhold and pay over to the department assets belonging to, due, or to become due the taxpayer. The director or his or her designee shall not issue the administrative garnishment if the taxpayer has entered into a written agreement with the department for an alternative payment arrangement and the taxpayer is in compliance with the agreement.**

**2. An order entered under this section shall be served on the person or other legal entity either by regular mail or by certified mail, return receipt requested, or may be issued through electronic means, and shall be binding on the employer or other payor two weeks after mailing or electronic issuance of such service. The person or other entity in possession of assets belonging to, due, or to become due the taxpayer may deduct an additional sum not to exceed six dollars per month as reimbursement for costs, except that the total amount withheld shall not exceed the limitations contained in the federal Consumer Credit Protection Act, 15 U.S.C. 1673.**

**3. A copy of the order shall be mailed to the taxpayer at the taxpayer's last known address. The notice shall advise the taxpayer that the administrative garnishment has commenced and the procedures to contest such garnishment on the grounds that such garnishment is improper due to a mistake of fact by requesting a hearing within thirty days from mailing or electronic issuance of the notice. At such a hearing the certified records of the department shall constitute prima facie evidence**

that the director's order is valid and enforceable. If a prima facie case is established, the obligor may only assert as a defense mistake as to the identity of the taxpayer, mistake as to payments made, or existence of an alternative payment agreement for which no default has occurred. The taxpayer shall have the burden of proof on such issues. The taxpayer may obtain relief from the garnishment by paying the amount owed.

4. An employer or other payor shall withhold from the earnings or other income of each taxpayer the amount specified in the order. The employer or other payor shall transmit the payments as directed in the order within ten business days of the date the earnings, money due, or other income was payable to the taxpayer. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payor shall, along with the amounts transmitted, provide the date the amount was withheld from the taxpayer.

5. An order issued under subsection 1 of this section shall be a continuing order and shall remain in effect and be binding upon any employer or other payor upon whom it is directed until a further order of the director. The director shall notify an employer or other payor upon whom such an order has been directed whenever the deficiency is paid in full.

6. If the order is served on a person other than an employer or other payor, it shall be a lien against any money belonging to the taxpayer that is in the possession of the person on the date of service. The person other than an employer or other payor shall pay over any assets within ten business days of the service date of the order. A financial institution ordered to surrender an account shall be entitled to collect its normally scheduled account activity surcharges to maintain the account during the period of time the account is garnished. For purposes of this section, the interest of the taxpayer in any joint financial accounts shall be presumed to be equal to all other joint owners.

7. An order issued under subsection 1 of this section shall have priority over any other legal process under state law against the same income or other asset, except that where the other legal process is an order issued under section 452.350, 454.505, or 454.507, the withholding for child support shall have priority.

8. No person who complies with an order entered under this section shall be liable to the taxpayer, or to any other person claiming rights derived from the taxpayer, for wrongful withholding. A person who fails or refuses to withhold or pay the amounts as ordered under this section shall be liable to the state in a sum equal to the value of the wages or property not surrendered, but not to exceed the amount of tax deficiency. The director is hereby authorized to bring an action in circuit court to determine the liability of a person for failure to withhold or pay the amounts as ordered. If a court finds that a violation has occurred, the court may fine the person in an amount not to exceed five hundred dollars. The court may also enter a judgment against the person or other legal entity for the amounts to be withheld or paid, court costs, and reasonable attorney's surcharges.

9. The remedy provided by this section shall be available where the state or any of its political subdivisions is the employer or other payor of the taxpayer in the same manner and to the same extent as where the employer or other payor is a private party.

10. An employer shall not discharge, or refuse to hire or otherwise discipline, an employee as a result of an order to withhold and pay over certain money authorized by this section. If any such employee is discharged within thirty days of the date upon which an order to withhold and pay over certain money is to take effect, there shall arise a rebuttable presumption that such discharge was a

result of such order. This presumption shall be overcome only by clear, cogent and convincing evidence produced by the employer that the employee was not terminated because of the order to withhold and pay over certain money. The director or his or her designee is hereby authorized to bring an action in circuit court to determine whether the discharge constitutes a violation of this subsection. If the court finds that a violation has occurred, the court may enter an order against the employer requiring reinstatement of the employee and may fine the employer in an amount not to exceed five hundred dollars. Further, the court may enter judgment against the employer for the back wages, costs, attorney's surcharges, and for the amount of taxes that should have been withheld and paid over during the period of time the employee was wrongfully discharged.

11. If a taxpayer for whom an order to withhold has been issued under subsection 1 of this section terminates the taxpayer's employment, the employer shall, within ten days of the termination, notify the department of the termination, shall provide to the department the last known address of the taxpayer, if known to the employer, and shall provide to the department the name and address of the taxpayer's new employer, if known. The director or his or her designee may issue an order to the new employer as provided in subsection 1 of this section.

12. For purposes of this section, "assets" include, but are not limited to, currency, any financial account or other liquid asset, and any income or other periodic form of payment due to a taxpayer regardless of source, including, but not limited to, wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a retirement program, and interest.

144.083. 1. The director of revenue shall require all persons who are responsible for the collection of taxes under the provisions of section 144.080 to procure a retail sales license at no cost to the licensee which shall be prominently displayed at the licensee's place of business, and the license is valid until revoked by the director or surrendered by the person to whom issued when sales are discontinued. The director shall issue the retail sales license within ten working days following the receipt of a properly completed application. Any person applying for a retail sales license or reinstatement of a revoked sales tax license who owes any tax under sections 144.010 to 144.510 or sections 143.191 to 143.261 must pay the amount due plus interest and penalties before the department may issue the applicant a license or reinstate the revoked license. All persons beginning business subsequent to August 13, 1986, and who are required to collect the sales tax shall secure a retail sales license prior to making sales at retail. Such license may, after ten days' notice, be revoked by the director of revenue only in the event the licensee shall be in default for a period of sixty days in the payment of any taxes levied under section 144.020 or sections 143.191 to 143.261. Notwithstanding the provisions of section 32.057 in the event of revocation, the director of revenue may publish the status of the business account including the date of revocation in a manner as determined by the director.

2. The possession of a retail sales license and a statement from the department of revenue that the licensee owes no tax due under [sections 144.010 to 144.510 or sections 143.191 to 143.261] **section 32.088** shall be a prerequisite to the issuance or renewal of any city or county occupation license or any state license which is required for conducting any business [where goods are sold at retail]. The date of issuance on the statement that the licensee owes no tax due shall be no more than ninety days before the date of submission for application or renewal of the local license. The revocation of a retailer's license by the director shall render the occupational license or the state license null and void.

3. No person responsible for the collection of taxes under section 144.080 shall make sales at retail unless such person is the holder of a valid retail sales license. After all appeals have been exhausted, the director of revenue may notify the county or city law enforcement agency representing the area in which the former licensee's business is located that the retail sales license of such person has been revoked, and that any county or city occupation license of such person is also revoked. The county or city may enforce the provisions of this section, and may prohibit further sales at retail by such person.

4. In addition to the provisions of subsection 2 of this section, beginning January 1, 2009, **and until December 31, 2011**, the possession of a statement from the department of revenue stating no tax is due under sections 143.191 to 143.265 or sections 144.010 to 144.510 shall also be a prerequisite to the issuance or renewal of any city or county occupation license or any state license required for conducting any business where goods are sold at retail. The statement of no tax due shall be dated no longer than ninety days before the date of submission for application or renewal of the city or county license.

5. Notwithstanding any law or rule to the contrary, sales tax shall only apply to the sale price paid by the final purchaser and not to any off-invoice discounts or other pricing discounts or mechanisms negotiated between manufacturers, wholesalers, and retailers.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:

(1) A certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud, deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

(4) A certificate holder has been subject to disciplinary action relating to certification issued by another state, territory, federal agency, or country upon grounds for which discipline is authorized in this section; [or]

(5) If charges are filed by the local board of education, based upon the annulling of a written contract with the local board of education, for reasons other than election to the general assembly, without the consent of the majority of the members of the board that is a party to the contract; **or**

**(6) Beginning, January 1, 2012, the government entity issuing a valid certificate of license to teach in Missouri under section 168.011, shall at least one time each year provide the name and Social Security number of each certificate holder or applicant for certificate of a license to teach in Missouri to the director of revenue. The director of revenue shall at least one time each year check the status of each certificate holder or applicant for certificate of a license to teach in Missouri against a database developed by the director to determine if all state income tax returns have been filed and all state income taxes owed have been paid. If such certificate holder or applicant for certificate of a license to teach in Missouri is delinquent on any state taxes, or has failed to file state income tax returns in the last three years, the director shall then send notice to the certificate holder or applicant for certificate of a license to teach in Missouri and the department of elementary and secondary education. In the case of such delinquency or failure to file, the certificate holder's license shall be suspended within ninety days after notice of such delinquency or failure to file, and the applicant for certificate's license shall not be issued unless the director of revenue verifies that such certificate**

**holder or applicant for certificate has remedied such delinquency or failure or has made arrangements to achieve such remedy. The director of revenue shall, within ten business days of notification to the government entity issuing the certificate of license to teach, that the delinquency has been remedied or arrangements have been made to remedy such delinquency, and send written notification to the certificate holder or applicant for certificate that the delinquency has been remedied. Tax liability paid in protest or reasonably founded disputes with such liability shall be considered paid for the purposes of this section.**

2. A public school district may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, including annulment of a written contract. Charges shall be in writing, specify the basis for the charges, and be signed by the chief administrative officer of the district, or by the president of the board of education as authorized by a majority of the board of education. The board of education may also petition the office of the attorney general to file charges on behalf of the school district for any cause other than annulment of contract, with acceptance of the petition at the discretion of the attorney general.

3. The department of elementary and secondary education may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall be in writing, specify the basis for the charges, and be signed by legal counsel representing the department of elementary and secondary education.

4. If the underlying conduct or actions which are the basis for charges filed pursuant to this section are also the subject of a pending criminal charge against the person holding such certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel under the fifth amendment of the Constitution of the United States. Based upon such a request, no hearing shall be held until after a trial has been completed on this criminal charge.

5. The certificate holder shall be given not less than thirty days' notice of any hearing held pursuant to this section.

6. Other provisions of this section notwithstanding, the certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061 or murder in the first degree;

(2) Any of the following sexual offenses: rape; statutory rape in the first degree; statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first degree; statutory sodomy in the second degree; child molestation in the first degree; child molestation in the second degree; deviate sexual assault; sexual misconduct involving a child; sexual misconduct in the first degree; sexual abuse; enticement of a child; or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest; abandonment of child in the first degree; abandonment of child in the second degree; endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual performance; promoting sexual performance by a child; or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree; promoting obscenity in the second degree when the penalty is enhanced to a class D felony; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography in the first degree; possession of child pornography in the second degree; furnishing child pornography to a minor; furnishing pornographic materials to minors; or coercing acceptance of obscene material.

7. When a certificate holder pleads guilty or is found guilty of any offense that would authorize the state board of education to seek discipline against that holder's certificate of license to teach, the local board of education or the department of elementary and secondary education shall immediately provide written notice to the state board of education and the attorney general regarding the plea of guilty or finding of guilty.

8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this section may appeal such revocation to the state board of education. Notice of this appeal must be received by the commissioner of education within ninety days of notice of revocation pursuant to this subsection. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

9. In the case of any certificate holder who has surrendered or failed to renew his or her certificate of license to teach, the state board of education may refuse to issue or renew, or may suspend or revoke, such certificate for any of the reasons contained in this section.

10. In those cases where the charges filed pursuant to this section are based upon an allegation of misconduct involving a minor child, the hearing officer may accept into the record the sworn testimony of the minor child relating to the misconduct received in any court or administrative hearing.

11. Hearings, appeals or other matters involving certificate holders, licensees or applicants pursuant to this section may be informally resolved by consent agreement or agreed settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated by the state board of education.

12. The final decision of the state board of education is subject to judicial review pursuant to sections 536.100 to 536.140.

13. A certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.” ; and

Further amend said bill, Page 5, Section 633.401, Line 94, by inserting after all of said section and line the following:

“Section B. Because immediate action is necessary to secure adequate state revenue, the enactment of section 32.383 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 enactment of section 32.383 of section A of this act shall be in full force and effect upon its passage and approval.”; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.  
Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.  
In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SS No. 2** for **SCS** for **SB 320**.

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 59**, entitled:

An Act to repeal sections 404.710, 456.3-301, 456.5-505, 456.8-813, 469.411, 469.437, 469.459, 475.060, 475.061, and 475.115, RSMo, and to enact in lieu thereof thirty-seven new sections relating to judicial procedures.

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

#### HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 59, Page 4, Section 404.710, Lines 91-92 by deleting from said lines the words “, **including, but not limited to exercising and giving consent to a do-not-resuscitate order on behalf on the principal**”; and

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

#### HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Bill No. 59, Page 3, Section 404.710, Lines 65-69 by deleting all of said lines and inserting in lieu thereof the following:

“(1) To execute, amend or revoke any trust agreement;”; and

Further amend said bill and page and section, Line 85 by deleting all of said line and inserting in lieu thereof the following:

“(8) To make [a] **an anatomical** gift of, or [decline to make a] **prohibit [a] an anatomical** gift of, **all**”; and

Further amend said bill and section, Page 4, Lines 91-92 by deleting all of said lines and inserting in lieu thereof the following:

“procedure to the extent authorized by sections 404.800 to 404.865;”; 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 Bill No. 59, Page 18, Section 475.115, Lines 9 and 10, by deleting the phrase “**and the ward does not file an answer opposing the petition for transfer**”; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Bill No. 59, Page 27, Section 475.555, Line 5 by inserting after all of said section and line the following:

“[490.660. Sections 490.660 to 490.690 may be cited as “The Uniform Business Records as Evidence Law”.]

[490.670. The term “business” shall include every kind of business, profession, occupation, calling or operation of institutions, whether carried on for profit or not.]

[490.680. A record of an act, condition or event, shall, insofar as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.]

[490.690. Sections 490.660 to 490.690 shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.]

[490.692. 1. Any records or copies of records reproduced in the ordinary course of business by any photographic, photostatic, microfilm, microcard, miniature photographic, optical disk imaging, or other process which accurately reproduces or forms a durable medium for so reproducing the original that would be admissible under sections 490.660 to 490.690 shall be admissible as a business record, subject to other substantive or procedural objections, in any court in this state upon the affidavit of the person who would otherwise provide the prerequisites of sections 490.660 to 490.690, that the records attached to the affidavit were kept as required by section 490.680.

2. No party shall be permitted to offer such business records into evidence pursuant to this section unless all other parties to the action have been served with copies of such records and such affidavit at least seven days prior to the day upon which trial of the cause commences.

3. The affidavit permitted by this section may be in form and content substantially as follows:

THE STATE OF..... COUNTY OF..... AFFIDAVIT

Before me, the undersigned authority, personally appeared ....., who, being by me duly sworn, deposed as follows:

My name is ....., I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of ..... . Attached hereto are ..... pages of records from ..... . These ..... pages of records are kept by ..... in the regular course of business, and it was the regular course of business of ..... for an employee or representative of ..... with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time of the act, event, condition, opinion or diagnosis. The records attached hereto are the original or exact duplicates of the original.

.....

Affiant

In witness whereof I have hereunto subscribed my name and affixed my official seal this .....  
day of ....., 20... ..

(Signed)

(Seal)]

**490.660. Sections 490.660 to 490.699 may be cited as “The Records of Regularly Conducted Activity as Evidence Law.”**

**490.670. The term “business” includes business, institution, association, profession, occupation and calling of every kind, whether or not conducted for profit.**

**490.680. The following is not excluded by any hearsay rule, even though the declarant is available as a witness: A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record or data compilation.**

**490.690. Sections 490.660 to 490.699 shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states with such laws and/or rules of evidence regarding the admissibility of third party business records.**

**490.692. Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the original or a duplicate of a record of regularly conducted activity if accompanied by a written certification of its custodian or other qualified person that the record**

**(A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of these matters;**

**(B) was kept in the course of the regularly conducted activity; and**

**(C) was made by the regularly conducted activity as a regular practice.**

**The word “certification” as used in this subsection means with respect to a domestic record, a written declaration under oath subject to the penalty of perjury and, with respect to a record maintained or located in a foreign country, or written declaration signed in a country which, if falsely made, would subject the maker to criminal penalty under the laws of the country. A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and certification available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.”;**  
and

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

**HOUSE AMENDMENT NO. 5**

Amend House Committee Substitute for Senate Bill No. 59, Page 27, Section 475.555, Line 5, by inserting after all of said section and line, the following:

“482.305. When sitting as a small claims court, the judge shall have original jurisdiction of all civil

cases, whether tort or contract, where the amount in controversy does not exceed [three] **five** thousand dollars, exclusive of interest or costs, or as provided in this chapter.

482.315. 1. If the amount in controversy in an action exceeds [three] **five** thousand dollars, a plaintiff may file and prosecute a small claims action for recovery of money, but such plaintiff waives any claim for any sum in excess of [three] **five** thousand dollars in that or in any subsequent proceeding involving the same parties and issues.

2. In an action transferred under section 482.325, the plaintiff or defendant may amend the claim or counterclaim to a dollar amount not to exceed the jurisdictional limit of the division of the circuit court to which the action was transferred.”; and

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

#### HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Bill No. 59, Page 27, Section 475.555, Line 5, by inserting after all of said section and line the following:

“568.040. 1. A person commits the crime of nonsupport if such person knowingly fails to provide, without good cause, adequate support for his or her spouse; a parent commits the crime of nonsupport if such parent knowingly fails to provide, without good cause, adequate support which such parent is legally obligated to provide for his or her child or stepchild who is not otherwise emancipated by operation of law.

2. For purposes of this section:

(1) **“Arrearage”, includes any reduction or abatement of a support obligation for the period of time from the filing of a modification until such modification is awarded if a reduction or abatement of the support obligation is applied to such time period. Arrearage also includes any amount waived by the custodial parent under an order of support issued by a court of competent jurisdiction or any authorized administrative agency;**

(2) **“Child”** means any biological or adoptive child, or any child whose paternity has been established under chapter 454, or chapter 210, or any child whose relationship to the defendant has been determined, by a court of law in a proceeding for dissolution or legal separation, to be that of child to parent;

[(2)] (3) **“Good cause”** means any substantial reason why the defendant is unable to provide adequate support. Good cause does not exist if the defendant purposely maintains his **or her** inability to support;

[(3)] (4) **“Support”** means food, clothing, lodging, and medical or surgical attention;

[(4)] (5) It shall not constitute a failure to provide medical and surgical attention, if nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

3. Inability to provide support for good cause shall be an affirmative defense under this section. A person who raises such affirmative defense has the burden of proving the defense by a preponderance of the evidence.

4. The defendant shall have the burden of injecting the issues raised by subdivisions (2) and (4) of subsection 2 and subsection 3 of this section.

5. Criminal nonsupport is a class A misdemeanor, unless the total arrearage is in excess of an aggregate of [twelve] **eighteen** monthly payments due under any order of support issued by any court of competent

jurisdiction or any authorized administrative agency, in which case it is a class D felony. **In the event that the revisor of statutes is notified by the director of economic development that the Missouri unemployment rate has remained at six percent or lower for six consecutive months, the limit on the aggregate of eighteen monthly payments shall become twelve monthly payments effective on the July first immediately following such notification.**

6. (1) If at any time a defendant **who is** convicted of criminal nonsupport **or who pleads guilty or nolo contendere to a charge of criminal nonsupport** is placed on probation or parole, there may be ordered as a condition of probation or parole that the defendant commence payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first by making such lump sum payment as the defendant is capable of paying, if any, as may be shown after examination of defendant's financial resources or assets, both real, personal, and mixed, and second by making periodic payments. Periodic payments toward satisfaction of arrears when added to current payments due [may] **shall** be in such aggregate sums as is not greater than fifty percent of the defendant's adjusted gross income after deduction of payroll taxes, medical insurance that also covers a dependent spouse or children, and any other court or administrative ordered support, only.

(2) If the defendant fails to pay the [current] support and arrearages [as ordered] **under the terms of his or her probation**, the court may revoke probation or parole and then impose an appropriate sentence within the range for the class of offense that the defendant was convicted of as provided by law, unless the defendant proves good cause for the failure to pay as required under subsection 3 of this section.

(3) **If the defendant satisfies all current child support obligations as well as all periodic payments toward satisfaction of arrears for an additional twenty-four consecutive months after completion of probation or parole, any conviction of the defendant under this section may be expunged from the defendant's record.**

7. During any period that a nonviolent defendant is incarcerated for criminal nonsupport, if the defendant is ready, willing, and able to be gainfully employed during said period of incarceration, the defendant, if he or she meets the criteria established by the department of corrections, may be placed on work release to allow the defendant to satisfy defendant's obligation to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

8. Beginning August 28, 2009, every nonviolent first- and second-time offender then incarcerated for criminal nonsupport, who has not been previously placed on probation or parole for conviction of criminal nonsupport, may be considered for parole, under the conditions set forth in subsection 6 of this section, or work release, under the conditions set forth in subsection 7 of this section.

9. Beginning January 1, 1991, every prosecuting attorney in any county which has entered into a cooperative agreement with the **child support enforcement service of the family support** division [of child support enforcement] shall report to the division on a quarterly basis the number of charges filed and the number of convictions obtained under this section by the prosecuting attorney's office on all IV-D cases. The division shall consolidate the reported information into a statewide report by county and make the report available to the general public.

10. Persons accused of committing the offense of nonsupport of the child shall be prosecuted:

(1) In any county in which the child resided during the period of time for which the defendant is charged; or

(2) In any county in which the defendant resided during the period of time for which the defendant is charged.” ; and

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

HOUSE AMENDMENT NO. 1 TO  
HOUSE AMENDMENT NO. 7

Amend House Amendment No. 7 to House Committee Substitute for Senate Bill No. 59, Page 1, Line 26, by inserting after all of said line the following:

“Further amend said Bill, Section A, Page 1, Line 7 by inserting after all of said section and line the following:

**“34.376. 1. Sections 34.376 to 34.380 may be known as the “Transparency in Private Attorney Contracts Act”.**

**2. As used in sections 34.376 to 34.380, the following terms shall mean:**

**(1) “Government attorney”, an attorney employed by the state as an assistant attorney general;**

**(2) “Private attorney”, any private attorney or law firm;**

**(3) “State”, the state of Missouri, in any action instituted by the attorney general pursuant to section 27.060.**

**34.378. 1. The state shall not enter into a contingency fee contract with a private attorney unless the attorney general makes a written determination prior to entering into such a contract that contingency fee representation is both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:**

**(1) Whether there exists sufficient and appropriate legal and financial resources within the attorney general’s office to handle the matter;**

**(2) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly;**

**(3) The geographic area where the attorney services are to be provided; and**

**(4) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the private attorney’s experience with similar issues or cases.**

**2. If the attorney general makes the determination described in subsection 1 of this section, the attorney general shall request written proposals from private attorneys to represent the state, unless the attorney general determines that requesting proposals is not feasible under the circumstances and sets forth the basis for this determination in writing. If a request for proposals is issued, the attorney general shall choose the lowest and best bid or request the office of administration establish an independent panel to evaluate the proposals and choose the lowest and best bid.**

**3. The state may not enter into a contingency fee contract that provides for the private attorney to receive an aggregate contingency fee in excess of twenty-five percent of the net recovery to the state.**

**4. The state shall not enter into a contract for contingency fee attorney services unless the following requirements are met throughout the contract period and any extensions to the contract:**

**(1) The government attorneys shall retain complete control over the course and conduct of the case;**

**(2) A government attorney with supervisory authority shall oversee the litigation;**

**(3) The government attorneys shall retain veto power over any decisions made by outside counsel;**

**(4) A government attorney with supervisory authority for the case shall attend all settlement conferences; and**

**(5) Decisions regarding settlement of the case shall be reserved exclusively to the discretion of the attorney general.**

**5. The attorney general shall develop a standard addendum to every contract for contingent fee attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the state, including, without limitation, the requirements listed in subsection 4 of this section.**

**6. Copies of any executed contingency fee contract and the attorney general's written determination to enter into a contingency fee contract with the private attorney shall be posted on the attorney general's website for public inspection within five business days after the date the contract is executed and shall remain posted on the website for the duration of the contingency fee contract, including any extensions or amendments to the contract. Any payment of contingency fees shall be posted on the attorney general's website within fifteen days after the payment of such contingency fees to the private attorney and shall remain posted on the website for at least three hundred sixty-five days.**

**7. Any private attorney under contract to provide services to the state on a contingency fee basis shall, from the inception of the contract until at least four years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one tenth of an hour and shall promptly provide these records to the attorney general, upon request. Any request under chapter 610 for inspection and copying of such records shall be served upon and responded to by the attorney general's office.**

**8. By February first of each year, the attorney general shall submit a report to the president pro tem of the senate and the speaker of the house of representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year. At a minimum, the report shall:**

**(1) Identify all new contingency fee contracts entered into during the year and all previously executed contingency fee contracts that remain current during any part of the year, and for each contract describe:**

**(a) The name of the private attorney with whom the department has contracted, including the name of the attorney's law firm;**

**(b) The nature and status of the legal matter;**

**(c) The name of the parties to the legal matter;**

**(d) The amount of any recovery; and**

**(e) The amount of any contingency fee paid.**

**(2) Include copies of any written determinations made under subsections 1 and 2 of this section.**

**34.380. Nothing in sections 34.376 to 34.380 shall be construed to expand the authority of any state agency or state agent to enter into contracts where no such authority previously existed.”; and”;** 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 Bill No. 59, Page 1, Section A, Line 7, by inserting after all of said section and line the following:

“11.010. The official manual, commonly known as the “Blue Book”, compiled and electronically published by the secretary of state on its official website is the official manual of this state, and it is unlawful for any officer or employee of this state **except the secretary of state**, or any board, or department or any officer or employee thereof, to cause to be printed, at state expense, any duplication or rearrangement of any part of the manual. It is also unlawful for the secretary of state to publish, or permit to be published in the manual any duplication, or rearrangement of any part of any report, or other document, required to be printed at the expense of the state which has been submitted to and rejected by him or her as not suitable for publication in the manual.

**11.025. Notwithstanding any other provision of law, the secretary of state may enter into an agreement directly with a nonprofit organization for such nonprofit organization to print and distribute copies of the official manual. The secretary of state shall provide to the organization the electronic version of the official manual prepared and published under this chapter. The nonprofit organization shall not alter, add, or delete any information provided by the secretary of state. Information published about the organization in the official manual shall be limited to the name of the organization and its contact information. The official manual shall not contain advertising or information promoting any entity or individual. The organization shall charge a fee for a copy of the official manual to cover the cost of production and distribution. The nonprofit organization shall be subject to an independent audit, ordered by the state and paid for by the nonprofit organization, to account for income and expenses for the sale, production, and distribution of the official manual. After such audit, any surplus funds generated by the nonprofit organization through the sale of the manual shall be transferred to the state treasurer for deposit in the state’s general revenue fund.”;** and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 732**, entitled:

An Act to repeal sections 324.043, 334.040, 334.070, 334.090, 334.100, 334.102, 334.103, 334.715, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, RSMo, and to enact in lieu thereof twenty-nine new sections relating to licensure of certain professions, with penalty provisions and an effective date for

certain sections.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

**REFERRALS**

President Pro Tem Mayer referred **HCS** for **HB 431**, with **SCS**; **HB 151**; **HB 139**; **HCS** for **HB 366**; and **HCS** for **HJR 3** to the Committee on Ways and Means and Fiscal Oversight.

**PRIVILEGED MOTIONS**

Senator Stouffer moved that **SJR 2**, with **HCS No. 2**, be taken up for 3rd reading and final passage, which motion prevailed.

**HCS No. 2** for **SJR 2**, entitled:

HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR  
SENATE JOINT RESOLUTION NO. 2

Joint Resolution submitting to the qualified voters of Missouri, an amendment to article VIII of the Constitution of Missouri, and adopting four new sections relating to elections.

Was taken up.

Senator Stouffer moved that **HCS No. 2** for **SJR 2** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Brown	Crowell	Cunningham	Dempsey	Dixon	Engler	Goodman	Kehoe
Lager	Lamping	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Richard	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson—23	

NAYS—Senators

Callahan	Chappelle-Nadal	Curls	Green	Justus	Keaveny	Lembke	Purgason
Ridgeway	Wright-Jones—10						

Absent—Senator Kraus—1

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Stouffer, **HCS No. 2** for **SJR 2** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Crowell	Cunningham	Dempsey	Dixon	Engler	Goodman	Kehoe
Kraus	Lager	Lamping	Mayer	McKenna	Munzlinger	Nieves	Parson
Pearce	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson—25							

NAYS—Senators

Callahan      Chappelle-Nadal      Curls                      Green              Justus                      Keaveny              Lembke              Purgason  
Wright-Jones—9

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the joint resolution passed.

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

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

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

Joint Resolution ordered enrolled.

Senator Stouffer moved that **SB 3**, with **HCS No. 2**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

**HCS No. 2** for **SB 3**, as amended, entitled:

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

An Act to repeal section 115.427, RSMo, and to enact in lieu thereof two new sections relating to elections, with a contingent effective date.

Was taken up.

Senator Stouffer moved that **HCS No. 2** for **SB 3**, as amended, be adopted.

At the request of Senator Stouffer, the above motion was withdrawn, which placed the bill back on the Calendar.

Senator Schaefer moved that the Senate refuse to concur in **HCS** for **SB 322**, 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.

Senator Schmitt assumed the Chair.

Senator Engler moved that the Senate refuse to concur in **HCS** for **SS** for **SB 226**, 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.

Senator Keaveny moved that the Senate refuse to concur in **HCS** for **SB 59**, 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.

Senator Keaveny moved that the Senate refuse to concur in **HCS** for **SB 61**, 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.

Senator Ridgeway assumed the Chair.

**HOUSE BILLS ON THIRD READING**

**HB 71**, introduced by Representative Nasheed, et al, entitled:

An Act to repeal section 84.010, RSMo, and to enact in lieu thereof eight new sections relating to the St. Louis police force with penalty provisions.

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

Senator Engler offered **SS** for **HB 71**, entitled:

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 71**

An Act to repeal sections 84.010, 84.220, 86.200, and 86.213, RSMo, and to enact in lieu thereof ten new sections relating to the St. Louis police force, with penalty provisions.

Senator Engler moved that **SS** for **HB 71** be adopted.

Senator Chappelle-Nadal offered **SA 1**:

**SENATE AMENDMENT NO. 1**

Amend Senate Substitute for House Bill No. 71, Page 3, Section 84.344, Line 13 of said page, by inserting immediately after said line the following:

**“3. The chief, or any manager of the highest rank regardless of that person’s title, of a municipal police force established under section 84.346 shall not:**

**(1) Solicit orally, by letter, or otherwise any assessment, contribution, or payment for any political purpose whatsoever;**

**(2) Directly or indirectly give, pay, lend, or contribute any of his or her salary, compensation, money, or other valuable thing to any person on account of, or to be applied to, the promotion of any political party, political club, or any political purpose whatsoever;**

**(3) Use his or her official authority or influence for the purpose of interfering with any election, nomination for office, or result thereof;**

**(4) Be a member or official of any committee of any political party or board of aldermen;**

**(5) Solicit any person to vote for or against any candidate for public office, “poll precincts”, or be connected with other political work of similar character on behalf of any political organization, party, or candidate;**

**(6) Affix any sign, bumper sticker, or other device, which either supports or opposes any ballot measure or political candidate, to any property or vehicle under the control of the police force;**

**(7) Publicly endorse a candidate for any public office;**

**(8) Work for, or provide any service to, on a paid or voluntary basis, a candidate for any public office or a campaign for or against any ballot initiative.**

**All such persons shall, however, retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. Any person who shall violate this subsection shall**

**be liable for a penalty of five thousand dollars for each offense. The penalty shall not be paid for by the funds of the municipality.**

**4. Any person who violates subsection 3 of this section shall immediately forfeit and vacate his or her office.”; and**

Further amend said bill, Page 4, Section 84.346, Line 5 of said page, by striking “January” and inserting in lieu thereof the following: “**July**”; and further amend Line 12 of said page, by striking “pursuant to” and inserting in lieu thereof the following: “**under**”; and further amend line 17 of said page, by striking “pursuant to” and inserting in lieu thereof the following: “**under**”; and

Further amend said bill and section, Page 5, line 4 of said page, by striking “pursuant to” and inserting in lieu thereof the following: “**under**”; and

Further amend said bill, Page 6, Section 84.346, Line 23 of said page, by striking all of said line and inserting in lieu thereof the following: “**Unless otherwise provided for,**”; and further amend line 27 of said page, by striking the word “may” and inserting in lieu thereof the following: “**shall**”; and further amend line 28 of said page, by inserting immediately after the word “appeals” the following: “**that involve discipline resulting in a suspension of greater than fifteen days, demotion, or termination**”; and

Further amend said bill and section, Page 7, Line 15 of said page, by striking the word “retired” and inserting in lieu thereof the following: “**retire**”; and

Further amend said bill and section, Page 8, lines 15-17 of said page, by striking all of said lines and inserting in lieu thereof the following: “**enforcement officers. The remaining members of the committee shall include the police chief of the municipal police force, the city’s director of public safety, and a person who has retired from service with the board of police commissioners or the municipal police appointed to the committee by a law enforcement association that represents a majority of members of the municipal police force.**”; and

Further amend said bill, Page 10, Section 84.349, Lines 11-14 of said page, by striking all of said lines and inserting in lieu thereof the following: “**the contrary, the provisions of this act shall be nonseverable, except for section 84.343 and subsection 4 of section 84.344, which shall be severable. If any provision, except for section 84.343 and subsection 4 of section 84.344, is for any reason held to be invalid, such decision shall invalidate all of the remaining provisions of sections 84.344 to 84.348 of this act except for section 84.343 and subsection 4 of section 84.344.**”; and

Further amend said bill, Page 16, Section 86.213, Line 15 of said page, by striking “Three” and inserting in lieu thereof the following: “**Two**”; and further amend line 16 of said page, by inserting immediately after the word “years” the following: “**, except the mayor shall not appoint the police chief of the municipal police force, the city’s director of public safety, or the president of the board of police commissioners of the city**”; and

Further amend said bill and section, page 16, line 28 of said page, by striking the word “Two” and inserting in lieu thereof the following: “**Three**”; and

Further amend said bill, Page 17, section 86.371, line 25 of said page, by inserting immediately after said line the following:

105.483. Each of the following persons shall be required to file a financial interest statement:

(1) Associate circuit judges, circuit court judges, judges of the courts of appeals and of the supreme

court, and candidates for any such office;

(2) Persons holding an elective office of the state, whether by election or appointment, and candidates for such elective office, except those running for or serving as county committee members for a political party pursuant to section 115.609 or section 115.611;

(3) The principal administrative or deputy officers or assistants serving the governor, lieutenant governor, secretary of state, state treasurer, state auditor and attorney general, which officers shall be designated by the respective elected state official;

(4) The members of each board or commission and the chief executive officer of each public entity created pursuant to the constitution or interstate compact or agreement and the members of each board of regents or curators and the chancellor or president of each state institution of higher education;

(5) The director and each assistant deputy director and the general counsel and the chief purchasing officer of each department, division and agency of state government;

(6) Any official or employee of the state authorized by law to promulgate rules and regulations or authorized by law to vote on the adoption of rules and regulations;

(7) Any member of a board or commission created by interstate compact or agreement, including the executive director and any Missouri resident who is a member of the bi-state development agency created pursuant to sections 70.370 to 70.440;

(8) Any board member of a metropolitan sewer district authorized under section 30(a) of article VI of the state constitution;

(9) Any member of a commission appointed or operating pursuant to sections 64.650 to 64.950, sections 67.650 to 67.658, or sections 70.840 to 70.859;

(10) The members, the chief executive officer and the chief purchasing officer of each board or commission which enters into or approves contracts for the expenditure of state funds;

(11) Each elected official, candidate for elective office, the chief administrative officer, the chief purchasing officer and the general counsel, if employed full time, of each political subdivision with an annual operating budget in excess of one million dollars, and each official or employee of a political subdivision who is authorized by the governing body of the political subdivision to promulgate rules and regulations with the force of law or to vote on the adoption of rules and regulations with the force of law; unless the political subdivision adopts an ordinance, order or resolution pursuant to subsection 4 of section 105.485;

(12) Any person who is designated as a decision-making public servant by any of the officials or entities listed in subdivision (6) of section 105.450;

**(13) The police chief of a municipal police force established under section 84.346 by any city not within a county, and such city's director of public safety.**

**Section 1. 1. No elected or appointed official of the state or any political subdivision thereof shall act or refrain from acting in any manner to impede, obstruct, hinder, or otherwise interfere with any member of a municipal police force established under section 84.346 in the performance of his or her job duties, or with any aspect of any investigation arising from the performance of such job duties. This section shall not be construed to prevent such officials from acting within the normal course and**

scope of their employment or from acting to implement sections 84.345 to 84.348. Any person who shall violate this section shall be liable for a penalty of two thousand five hundred dollars for each offense and shall forever be disqualified from holding any office or employment whatsoever with the governmental entity the person served at the time of the violation. The penalty shall not be paid by the funds of any committee as the term “committee” is defined in section 130.011. This section shall not be construed to interfere with the punishment, under any laws of this state, of a criminal offense committed by such officials, nor shall this section apply to duly appointed members of the municipal police force, or their appointing authorities, whose conduct is otherwise provided for by law.

**Section 2. 1. It shall be an unlawful employment practice for an official, employee, or agent of a municipal police force established under section 84.346 to discharge, demote, reduce the pay of, or otherwise retaliate against an employee of the municipal police force for reporting to any superior, government agency, or the press the conduct of another employee that the reporting employee believes, in good faith, is illegal.**

**2. Any employee of the municipal police force may bring a cause of action for general or special damages based on a violation of this section.”; and**

Further amend the title and enacting clause accordingly.

Senator Chappelle-Nadal moved that the above amendment be adopted.

At the request of Senator Engler, **HB 71**, with **SS** and **SA 1** (pending), was placed on the Informal Calendar.

President Kinder assumed the Chair.

### 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 **HBs 504, 505** and **874**, entitled:

An Act to repeal sections 43.545, 211.031, 452.375, 455.010, 455.020, 455.027, 455.035, 455.038, 455.040, 455.050, 455.060, 455.085, 455.200, 455.501, 455.505, 455.513, 455.516, 455.520, 455.523, 455.538, 455.540, 455.543, 527.290, 565.074, 589.683, 595.100, and 595.220, RSMo, and to enact in lieu thereof twenty-seven new sections relating to domestic violence, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 658**, entitled:

An Act to repeal sections 195.017 and 195.417, RSMo, and to enact in lieu thereof two new sections relating to the meth lab elimination act, with existing penalty provisions and an expiration date.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 **HB 707**, entitled:

An Act to repeal sections 141.210, 141.220, 141.250, 141.290, 141.300, 141.320, 141.410, 141.420, 141.430, 141.450, 141.480, 141.520, 141.540 141.560, 141.570, 141.580, 141.720, 141.770, and 141.790, RSMo, section 141.530 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 141.530 as enacted by conference committee substitute no. 2 for house committee substitute for senate bill no. 778, eighty-ninth general assembly, second regular session, section 141.550 as enacted by conference committee substitute for senate committee substitute for house substitute for house bill no. 1238, ninetieth general assembly, second regular session, and section 141.550 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, and to enact in lieu thereof twenty-four new sections relating to land tax collection, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 138**, entitled:

An Act to amend chapter 290, RSMo, by adding thereto one new section relating to wages for work done on behalf of a school.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

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 **SCS** for **HB 101**, as amended. Representatives: Loehner, Fitzwater, Johnson, Quinn, and Talboy.

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 **SB 145**, as amended and grants the Senate a conference there.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 71**, entitled:

An Act to repeal section 339.1115, RSMo, and to enact in lieu thereof one new section relating to certain notices required by the Missouri appraisal management company registration and regulation act.

With House Amendment No. 1 to House Substitute Amendment No. 1 for House Amendment No. 1, House Substitute Amendment No. 1 for House Amendment No. 1, as amended, and House Amendment

No. 2.

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

Amend House Substitute Amendment No. 1 for House Amendment No. 1 to Senate Bill No. 71, Page 2, Section 6, Line 29, by adding the following:

“The operating budget of the M.H.D.C. shall be subject to annual appropriation”.

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

Amend Senate Bill No. 71, Page 1, In the Title, Line 2, by deleting all of said line and inserting in lieu thereof the following:

“To repeal sections 215.020 and 339.1115, RSMo, and to enact in lieu thereof two new sections”; and

Further amend said bill, Page 1, Section A, Lines 1 and 2, by deleting all of said lines and inserting in lieu thereof the following:

“Section A. Sections 215.020 and 339.1115, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 215.020 and 339.1115, to read as follows:

215.020. 1. There is hereby created and established as a governmental instrumentality of the state of Missouri the “Missouri Housing Development Commission” which shall constitute a body corporate and politic.

2. The commission shall consist of the governor, lieutenant governor, the state treasurer, the state attorney general, and six members to be selected by the governor, with the advice and consent of the senate. The persons to be selected by the governor shall be individuals knowledgeable in the areas of housing, finance or construction. Not more than four of the members appointed by the governor shall be from the same political party. The members of the commission appointed by the governor shall serve the following terms: Two shall serve two years, two shall serve three years, and two shall serve four years, respectively. Thereafter, each appointment shall be for a term of four years. If for any reason a vacancy occurs, the governor, with the advice and consent of the senate, shall appoint a new member to fill the unexpired term. Members are eligible for reappointment.

3. Six members of the commission shall constitute a quorum. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission. No action shall be taken by the commission except upon the affirmative vote of at least six of the members of the commission.

4. Each member of the commission appointed by the governor is entitled to compensation of fifty dollars per diem plus his reasonable and necessary expenses actually incurred in discharging his duties under sections 215.010 to 215.250.

**5. The department staff shall report to an executive director who shall be appointed by the governor and such executive director shall implement only those policies which are presented by the executive director and approved by the commission.**

**6. The employment of the executive director, including the executive director serving in such**

**capacity on the effective date of this section, shall be subject to the advice and consent of the senate in the same manner as an appointment subject to the provisions of article IV, section 51 of the Missouri Constitution and shall be for a term of three years subject to reappointment for additional terms. Each additional term shall be subject to the advice and consent of the senate.”; and**

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

HOUSE AMENDMENT NO. 2

Amend Senate Bill No. 71, Page 2, Section 339.1115, Line 22, by inserting after all of said line the following:

“523.040. 1. The court, or judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be residents of the county in which the real estate or a part thereof is situated, **and in any city not within a county, any county with a charter form of government and with more than one million inhabitants, or any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants at least one of the commissioners shall be either a licensed real estate broker or a state-licensed or state-certified real estate appraiser**, to assess the damages which the owners may severally sustain by reason of such appropriation, who, within forty-five days after appointment by the court, which forty-five days may be extended by the court to a date certain with good cause shown, after applying the definition of fair market value contained in subdivision (1) of section 523.001, and after having viewed the property, shall return to the clerk of such court, under oath, their report in duplicate of such assessment of damages, setting forth the amount of damages allowed to the person or persons named as owning or claiming the tract of land condemned, and should more than one tract be condemned in the petition, then the damages allowed to the owner, owners, claimant or claimants of each tract, respectively, shall be stated separately, together with a specific description of the tracts for which such damages are assessed; and the clerk shall file one copy of said report in his office and record the same in the order book of the court, and he shall deliver the other copy, duly certified by him, to the recorder of deeds of the county where the land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city) who shall record the same in his office, and index each tract separately as provided in section 59.440, and the fee for so recording shall be taxed by the clerk as costs in the proceedings; and thereupon such company shall pay to the clerk the amount thus assessed for the party in whose favor such damages have been assessed; and on making such payment it shall be lawful for such company to hold the interest in the property so appropriated for the uses prescribed in this section; and upon failure to pay the assessment, the court may, upon motion and notice by the party entitled to such damages, enforce the payment of the same by execution, unless the said company shall, within ten days from the return of such assessment, elect to abandon the proposed appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the clerk of the court, and entered on the minutes of the court, and as to so much as is thus abandoned, the assessment of damages shall be void.

2. Prior to the issuance of any report under subsection 1 of this section, a commissioner shall notify all parties named in the condemnation petition no less than ten days prior to the commissioners’ viewing of the property of the named parties’ opportunity to accompany the commissioners on the commissioners’ viewing of the property and of the named parties’ opportunity to present information to the commissioners.

3. The commissioners shall view the property, hear arguments, and review other relevant information that may be offered by the parties.”; 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 No. 2** for **SB 97**, entitled:

An Act to authorize the conveyance of real property owned by the state.

With House Amendment No. 1.

#### HOUSE AMENDMENT NO. 1

Amend House Committee Substitute No. 2 for Senate Bill No. 97, Page 3, Section 3, Line 10, by inserting after all of said section and line, the following:

**“Section 4. 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Callaway County to the City of Fulton. The property to be conveyed is more particularly described as follows:**

**Part of Section 16 in Township 47 North, Range 9 West, in the City of Fulton, Callaway County, Missouri, more particularly described as follows:**

**TRACT 1: Commencing at the northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 16; thence  $S1^{\circ}34'55''W$ , along the Quarter-Quarter Section Line, 1553.12 feet to the southerly right of way of Missouri State Route “O”, as described in Book 154, Page 119, Callaway County Recorder's Office; thence  $S89^{\circ}01'33''E$ , along the southerly right of way of said Missouri State Route “O”, 525.24 feet; thence on a curve to the left having a radius of 1940.39 feet, an arc distance of 11.95 feet ( $Ch=S89^{\circ}12'08''E$ , 11.95 feet) to the POINT OF BEGINNING for this description; thence continuing along the southerly right of way line of said Missouri State Route “O” the following courses and distances: on a curve to the left having a radius of 1940.39 feet, an arc distance of 388.23 feet ( $Ch=N84^{\circ}53'22''E$ , 387.59 feet); thence  $N79^{\circ}09'27''E$ , 245.94 feet; thence leaving the said Hwy. right of way  $S04^{\circ}40'06''E$ , 77.57 feet; thence on a curve to the right having a radius of 72.00 feet, an arc distance of 61.43 feet ( $Ch=S19^{\circ}46'31''W$ , 59.59 feet); thence on a curve to the left having a radius of 280 feet, an arc distance of 148.34 feet ( $Ch=S29^{\circ}02'28''W$ , 146.62 feet); thence  $S13^{\circ}51'49''W$ , 453.89 feet; thence on a curve to the left having a radius of 270 feet, an arc distance of 212.47 feet ( $Ch=S08^{\circ}40'47''E$ , 207.03 feet); thence  $S20^{\circ}19'55''W$ , 261.02 feet; thence  $N87^{\circ}23'57''W$ , 418.88 feet; thence  $N02^{\circ}23'59''E$ , 1052.77 feet to the point of beginning.**

**Containing 12.66**

**TRACT 2: Being a 60 feet wide public right of way, described as follows:**

**Commencing at the Northeast corner of the above described tract; thence continuing  $N79^{\circ}09'27''E$ , 47.86 feet; thence on a curve to the right having a radius of 686.52 feet, an arc distance of 12.48 feet ( $Ch=N79^{\circ}40'39''E$ , 12.48 feet); thence leaving the said Hwy. right of way  $S04^{\circ}40'06''E$ , 83.94 feet; thence on a curve to the right having a radius of 132.00 feet, an arc distance of 112.63 feet ( $Ch=S19^{\circ}41'06''W$ , 108.87 feet); thence on a curve to the left having a radius of 220.00 feet, an arc distance of 116.56 feet ( $Ch=S29^{\circ}05'42''W$ , 115.60 feet); thence**

**S13°51'49"E, 435.89 feet; thence on a curve to the left having a radius of 210.00 feet, an arc distance of 111.64 feet (Ch=S01°21'56"E, 110.33 feet); thence S20°19'55"W, 85.30 feet to a point; thence on a curve to the right having a radius of 270.00 feet, an arc distance of 212.47 feet (Ch=N08°40'47"W, 207.03 feet); thence N13°51'49"E, 453.89 feet; thence on a curve to the right having a radius of 280.00 feet, an arc distance of 148.34 feet (Ch=N29°02'28"E, 146.62 feet); thence on a curve to the left having a radius of 72.00 feet, an arc distance of 61.43 feet (Ch=N19°46'31"E, 59.59 feet); thence N04°40'06"W, 77.57 feet to the point of beginning.**

**Containing 1.26**

**2. 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 number of appraisals required, the time, place, and terms of the conveyance.**

**3. 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.

In which the concurrence of the Senate is respectfully requested.

#### **CONFERENCE COMMITTEE APPOINTMENTS**

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **SCS** for **HB 101**, as amended: Senators Cunningham, Ridgeway, Lembke, Justus and McKenna.

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **HCS** for **SB 145**, as amended: Senators Dempsey, Brown, Rupp, Callahan and Green.

On motion of Senator Dempsey, the Senate recessed until 7:30 p.m.

#### **RECESS**

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

#### **RESOLUTIONS**

Senator Munzlinger offered Senate Resolution No. 1052, regarding James M. Scudder, Brashear, which was adopted.

Senator Munzlinger offered Senate Resolution No. 1053, regarding the One Hundred Twenty-fifth Anniversary of Mary Immaculate Parish, Kirksville, which was adopted.

Senator Brown offered Senate Resolution No. 1054, regarding Mylan Myers, Rolla, which was adopted.

Senator Brown offered Senate Resolution No. 1055, regarding Karana Southard, Rolla, which was adopted.

Senator Brown offered Senate Resolution No. 1056, regarding the One Hundredth Birthday of Roy Edward Carlton, Rolla, which was adopted.

Senator Brown offered Senate Resolution No. 1057, regarding Dawn Harmount, which was adopted.

Senator Brown offered Senate Resolution No. 1058, regarding the Thirtieth Anniversary of Brewer Science, Rolla, which was adopted.

Senator Engler offered Senate Resolution No. 1059, regarding Stanley Cook, which was adopted.

Senator Engler offered Senate Resolution No. 1060, regarding Ray Politte, which was adopted.

Senator Engler offered Senate Resolution No. 1061, regarding Pamela Frakes, which was adopted.

Senator Engler offered Senate Resolution No. 1062, regarding Luke Kyle Nash, Belleview, which was adopted.

Senator Engler offered Senate Resolution No. 1063, regarding Holden Ace Armstrong, Belleview, which was adopted.

Senator Schmitt offered Senate Resolution No. 1064, regarding Lucy Rebecca Short, which was adopted.

### **HOUSE BILLS ON THIRD READING**

**HCS No. 2 for HB 609**, with **SCS**, entitled:

An Act to repeal section 374.284, RSMo, and to enact in lieu thereof nine new sections relating to the Show-Me health insurance exchange act.

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

**SCS for HCS No. 2 for HB 609**, entitled:

#### **SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR HOUSE BILL NO. 609**

An Act to repeal section 374.284, RSMo, and to enact in lieu thereof nine new sections relating to the Show-Me health insurance exchange act.

Was taken up.

Senator Wasson moved that **SCS for HB 609** be adopted.

At the request of Senator Wasson, **HCS No. 2 for HB 609**, with **SCS** (pending), was placed on the Informal Calendar.

Senator Rupp moved that **HB 648**, with **SS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

At the request of Senator Rupp, **SS for HB 648** was withdrawn.

Senator Rupp offered **SS No. 2 for HB 648**, entitled:

#### **SENATE SUBSTITUTE NO. 2 FOR HOUSE BILL NO. 648**

An Act to repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405,

630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, and to enact in lieu thereof eighty-one new sections relating to individuals with disabilities, with existing penalty provisions.

Senator Rupp moved that **SS No. 2** for **HB 648** be adopted.

Senator Rupp offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for House Bill No. 648, Page 25, Section 208.955, Line 14 of said page, by striking “twenty” and inserting in lieu thereof the following: “**nineteen**”.

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

Senator Rupp moved that **SS No. 2** for **HB 648**, as amended, be adopted, which motion prevailed.

On motion of Senator Rupp, **SS No. 2** for **HB 648**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

At the request of Senator Kraus, **HB 183** was placed on the Informal Calendar.

**HB 667** was placed on the Informal Calendar.

**HCS** for **HB 697**, with **SCS**, entitled:

An Act to amend chapter 536, RSMo, by adding thereto one new section relating to the repromulgation of state administrative rules.

Was taken up by Senator Dixon.

**SCS** for **HCS** for **HB 697**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 697

An Act to amend chapter 536, RSMo, by adding thereto two new sections relating to the review of state administrative rules.

Was taken up.

Senator Dixon moved that **SCS** for **HCS** for **HB 697** be adopted.

At the request of Senator Dixon, **HCS** for **HB 697**, with **SCS** (pending), was placed on the Informal Calendar.

At the request of Senator Lamping, **HB 661**, with **SCS**, was placed on the Informal Calendar.

**HB 591**, with **SCS**, introduced by Representative Lichtenegger, et al, entitled:

An Act to amend chapter 332, RSMo, by adding thereto one new section relating to limited dental teaching license.

Was taken up by Senator Curls.

**SCS** for **HB 591**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 591

An Act to amend chapter 332, RSMo, by adding thereto one new section relating to limited dental teaching license.

Was taken up.

Senator Curls moved that **SCS** for **HB 591** be adopted, which motion prevailed.

On motion of Senator Curls, **SCS** for **HB 591** was read the 3rd time and passed by the following vote:

YEAS—Senators

Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon	Engler
Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager	Lamping
Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson—32

NAYS—Senator Brown—1

Absent—Senator Wright-Jones—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

**HCS for HB 464, with SCS, entitled:**

An Act to repeal sections 8.650, 8.900, 21.475, 21.780, 26.600, 26.603, 26.605, 26.607, 26.609, 26.611, 26.614, 32.250, 32.260, 90.101, 105.1006, 105.1010, 105.1012, 162.1000, 162.1060, 166.200, 166.201, 166.203, 166.205, 166.207, 166.209, 166.212, 166.215, 166.218, 166.220, 166.222, 166.225, 166.228, 166.231, 166.233, 166.235, 166.237, 166.240, 166.242, 190.176, 192.350, 192.352, 192.355, 192.735, 192.737, 192.739, 192.742, 192.745, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.175, 208.195, 208.275, 208.530, 208.533, 208.535, 208.792, 208.955, 210.101, 210.102, 210.496, 260.372, 260.705, 260.720, 260.725, 260.735, 286.001, 286.005, 286.200, 286.205, 286.210, 302.136, 304.028, 320.094, 320.205, 334.721, 344.060, 344.105, 344.108, 361.070, 361.092, 361.093, 361.094, 361.095, 361.096, 361.097, 361.098, 361.105, 362.040, 362.111, 362.325, 369.014, 369.024, 369.144, 369.159, 369.294, 369.299, 369.304, 369.309, 369.314, 369.319, 369.329, 371.060, 371.090, 371.240, 620.638, 620.641, 620.644, 620.647, 620.650, 620.653, 630.900, 630.910, 630.915, 632.020, 660.010, and 701.302, RSMo, and section 362.105 as enacted by senate committee substitute for senate bill no. 630, ninety-fifth general assembly, second regular session, and to enact in lieu thereof eighty-five new sections for the sole purpose of eliminating, combining, and revising certain state boards, commissions, committees, and councils.

Was taken up by Senator Wasson.

**SCS for HCS for HB 464, entitled:**

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 464

An Act to repeal sections 8.650, 8.900, 21.475, 21.780, 26.600, 26.603, 26.605, 26.607, 26.609, 26.611, 26.614, 32.250, 32.260, 105.1006, 105.1010, 105.1012, 162.1000, 162.1060, 166.200, 166.201, 166.203, 166.205, 166.207, 166.209, 166.212, 166.215, 166.218, 166.220, 166.222, 166.225, 166.228, 166.231, 166.233, 166.235, 166.237, 166.240, 166.242, 190.176, 192.350, 192.352, 192.355, 192.735, 192.737, 192.739, 192.742, 192.745, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.175, 208.195, 208.275, 208.530, 208.533, 208.535, 208.792, 208.955, 210.101, 210.102, 210.496, 260.372, 260.705, 260.720, 260.725, 260.735, 286.001, 286.005, 286.200, 286.205, 286.210, 302.136, 304.028, 320.094, 320.205, 324.600, 324.603, 324.606, 324.609, 324.612, 324.615, 324.618, 324.621, 324.624, 324.627, 324.630, 324.635, 324.1100, 324.1102, 324.1103, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1144, 344.060, 344.105, 344.108, 361.070, 361.092, 361.093, 361.094, 361.095, 361.096, 361.097, 361.098, 361.105, 362.040, 362.111, 362.325, 369.014, 369.024, 369.144, 369.159, 369.294, 369.299, 369.304, 369.309, 369.314, 369.319, 369.329, 371.060, 371.090, 371.240, 536.310, 620.638, 620.641, 620.644, 620.647, 620.650, 620.653, 630.900, 630.910, 630.915, 632.020, 660.010, and 701.302, RSMo, section 362.105 as enacted by senate committee substitute for senate bill no. 630, ninety-fifth general assembly, second regular session, and section 362.105 as enacted by senate committee substitute for house committee substitute for house bill no. 221 merged with house substitute for senate committee substitute for senate bill no. 346, ninety-second general assembly, first regular session, and to enact in lieu thereof one hundred nine new sections relating

to repealing and revising certain state boards, councils, committees, and commissions, with existing penalty provisions.

Was taken up.

Senator Wasson moved that **SCS** for **HCS** for **HB 464** be adopted.

Senator Schaaf offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 464, Pages 27-33, Section 208.955, by striking all of said section and inserting in lieu thereof the following:

“208.955. 1. There is hereby established in the department of social services the “MO HealthNet Oversight Committee”, which shall be appointed by January 1, 2008, and shall consist of [eighteen] **nineteen** members as follows:

(1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;

(2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;**

(4) Two primary care physicians, licensed under chapter 334, [recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state,] who care for participants, not from the same geographic area, **chosen in the same manner as described in section 334.120;**

(5) Two physicians, licensed under chapter 334, who care for participants but who are not primary care physicians and are not from the same geographic area, [recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state] **chosen in the same manner as described in section 334.120;**

(6) One representative of the state hospital association;

(7) [One] **Two** nonphysician health care [professional] **professionals, the first nonphysician health care professional licensed under chapter 335 and the second nonphysician health care professional licensed under chapter 337,** who [cares] **care** for participants[, recommended by the director of the department of insurance, financial institutions and professional registration];

(8) One dentist, who cares for participants[. The dentist shall be recommended by any Missouri organization or association that represents a significant number of dentists licensed in this state], **chosen in the same manner as described in section 332.021;**

(9) Two patient advocates **who have no financial interest in the health care industry and who have not been employees of the state within the last five years;**

(10) One public member **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;** and

(11) The directors of the department of social services, the department of mental health, the department

of health and senior services, or the respective directors' designees, who shall serve as ex-officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of

the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4. The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

(1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;

(2) Provide information and assistance about the array of long-term care services to Missourians;

(3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;

(4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;

(5) Strengthen the long-term care quality assurance and quality improvement system;

(6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and

(7) Study one-stop shopping for seniors as established in section 208.612.

5. The subcommittee shall include the following members:

(1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;

(2) One member from a Missouri area agency on aging, designated by the governor;

(3) One member representing the in-home care profession, designated by the governor;

(4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;

(5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;

(6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;

(7) One member from the office of the state ombudsman for long-term care facility residents, designated

by the governor;

(8) One member representing Missouri centers for independent living, designated by the governor;

(9) One consumer representative with expertise in services for seniors or [the disabled] **persons with a disability**, designated by the governor;

(10) One member with expertise in Alzheimer's disease or related dementia;

(11) One member from a county developmental disability board, designated by the governor;

(12) One member representing the hospice care profession, designated by the governor;

(13) One member representing the home health care profession, designated by the governor;

(14) One member representing the adult day care profession, designated by the governor;

(15) One member gerontologist, designated by the governor;

(16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;

(17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and

(18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

(1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;

(2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;

(3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;

(4) A case management or care coordination system to be available as needed; and

(5) An electronic system or database to coordinate and monitor the services provided which are

integrated into the web-based electronic patient health record.

7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.”; and

Further amend said bill, Page 64, Section 324.1144, Line 6 of said page, by inserting after all of said line the following:

“332.021. 1. “The Missouri Dental Board” shall consist of seven members including five registered and currently licensed dentists, one registered and currently licensed dental hygienist with voting authority as limited in subsection 4 of this section, and one voting public member. Any currently valid certificate of registration or currently valid specialist’s certificate issued by the Missouri dental board as constituted pursuant to prior law shall be a valid certificate of registration or a valid specialist’s certificate, as the case may be, upon October 13, 1969, and such certificates shall be valid so long as the holders thereof comply with the provisions of this chapter.

2. Any person other than the public member appointed to the board as hereinafter provided shall be a dentist or a dental hygienist who is registered and currently licensed in Missouri, is a United States citizen, has been a resident of this state for one year immediately preceding his or her appointment, has practiced dentistry or dental hygiene for at least five consecutive years immediately preceding his or her appointment, shall have graduated from an accredited dental school or dental hygiene school, and at the time of his or her appointment or during his or her tenure on the board has or shall have no connection with or interest in, directly or indirectly, any dental college, dental hygiene school, university, school, department, or other institution of learning wherein dentistry or dental hygiene is taught, or with any dental laboratory or other business enterprise directly related to the practice of dentistry or dental hygiene.

3. The governor shall appoint members to the board by and with the advice and consent of the senate when a vacancy thereon occurs either by the expiration of a term or otherwise; provided, however, that any board member shall serve until his or her successor is appointed and has qualified. Each appointee, except where appointed to fill an unexpired term, shall be appointed for a term of five years. The president of the Missouri Dental Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member other than the dental hygienist or public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five dentists qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Dental Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

4. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. **The list of dentists submitted to the governor shall include the names submitted to the director of the division of**

**professional registration by the president of the Missouri Dental Association. This list shall be a public record available for inspection and copying under chapter 610.** Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists' Association. The duties of the dental hygienist member shall not include participation in the determination for or the issuance of a certificate of registration or a license to practice as a dentist. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

5. The board shall have a seal which shall be in circular form and which shall impress the word "SEAL" in the center and around said word the words "Missouri Dental Board". The seal shall be affixed to such instruments as hereinafter provided and to any other instruments as the board shall direct.

6. The board may sue and be sued as the Missouri dental board, and its members need not be named as parties. Members of the board shall not be personally liable, either jointly or severally, for any act or acts committed in the performance of their official duties as board members; nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

334.120. 1. There is hereby created and established a board to be known as "The State Board of Registration for the Healing Arts" for the purpose of registering, licensing and supervising all physicians and surgeons, and midwives in this state. The board shall consist of nine members, including one voting public member, to be appointed by the governor by and with the advice and consent of the senate, at least five of whom shall be graduates of professional schools accredited by the Liaison Committee on Medical Education or recognized by the Educational Commission for Foreign Medical Graduates, and at least two of whom shall be graduates of professional schools approved and accredited as reputable by the American Osteopathic Association, and all of whom, except the public member, shall be duly licensed and registered as physicians and surgeons pursuant to the laws of this state. Each member must be a citizen of the United States and must have been a resident of this state for a period of at least one year next preceding his or her appointment and shall have been actively engaged in the lawful and ethical practice of the profession of physician and surgeon for at least five years next preceding his or her appointment. Not more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The president of the Missouri State Medical Association, for all medical physician appointments, or the president of the Missouri Association of Osteopathic Physicians and Surgeons, for all osteopathic physician appointments, in office at the time shall, at least ninety days prior to the expiration of the term of the respective board member, other than the public member, or as soon as feasible after the appropriate vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five physicians and surgeons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, as appropriate, shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a

member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. **The list of medical physicians or osteopathic physicians submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, respectively. This list shall be a public record available for inspection and copying under chapter 610.** The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.”; and

Further amend the title and enacting clause accordingly.

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

Senator Chappelle-Nadal offered **SA 2** which was read:

#### SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 464, Page 38, Section 210.496, Lines 1-21, by striking all of said section from the bill; and

Further amend said bill, page 132, section 208.530 lines 1-13, by striking all of said section from the bill; and

Further amend said bill, pages 132-133, section 208.533 by striking all of said section from the bill; and

Further amend said bill, pages 133-135, section 208.535 by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Chappelle-Nadal moved that the above amendment be adopted.

Senator Stouffer assumed the Chair.

At the request of Senator Wasson, **HCS** for **HB 464**, with **SCS** and **SA 2** (pending), was placed on the Informal Calendar.

Senator Engler moved that **HB 71**, with **SS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

**SA 1** was again taken up.

At the request of Senator Engler, **HB 71**, with **SS** and **SA 1** (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 has taken up and passed **HCS** for **SS** for **SB 118**, entitled:

An Act to repeal sections 198.006 and 198.074, RSMo, and to enact in lieu thereof two new sections

relating to sprinkler system requirements in long-term care facilities.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 118, Page 6, Section 198.074, Line 37, by inserting an opening bracket “[” immediately before the word “If”; and

Further amend said bill, section and page, line 40, by inserting a closing bracket “]” immediately after the date “2013.”; and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SB 61**, 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 refuses to recede from its position on **HCS** for **SB 322**, 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 refuses to recede from its position on **HCS** for **SS** for **SB 226**, 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 passed **HCS** for **SB 250**, entitled:

An Act to repeal sections 566.147 and 589.040, RSMo, and to enact in lieu thereof two new sections relating to requirements for persons convicted of sexual assault offenses, with penalty provisions.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 250, Page 1, in the Title, Line 3, by deleting from said line the word “assault”; and

Further amend said Page, Section A, Line 2, by inserting after all of said section and line, the following:

“43.650. 1. The patrol shall, subject to appropriation, maintain a web page on the Internet which shall be open to the public and shall include a registered sexual offender search capability. **This web page shall only include the names and information for Tier II and III offenders. Tier I offenders’ names and information shall not be included on this public web page but the patrol shall maintain a separate registry for Tier I offenders to which only law enforcement agencies shall have access and then only**

**for a period of five years.**

2. **Except as provided in subsections 5, 6, and 7 of this section,** the registered sexual offender search shall make it possible for any person using the Internet to search for and find the information specified in subsection 4 of this section, if known, on offenders registered in this state pursuant to sections 589.400 to 589.425[, except that only persons who have been convicted of, found guilty of or plead guilty to committing, attempting to commit, or conspiring to commit sexual offenses shall be included on this website].

3. The registered sexual offender search shall include the capability to search for sexual offenders by name, zip code, and by typing in an address and specifying a search within a certain number of miles radius from that address.

4. Only the information listed in this subsection shall be provided to the public in the registered sexual offender search:

(1) The name and any known aliases of the offender;

(2) The date of birth and any known alias dates of birth of the offender;

(3) A physical description of the offender;

(4) The residence, temporary, work, and school addresses of the offender, including the street address, city, county, state, and zip code;

(5) [Any photographs of the offender] **A current photograph of the individual to be taken by the registering official;**

(6) A physical description of the offender's vehicles, including the year, make, model, color, and license plate number;

(7) The nature and dates of all offenses qualifying the offender to register, **including the tier level assigned to the offender under sections 589.400 to 589.425;**

(8) The date on which the offender was released from the department of mental health, prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying the offender to register;

(9) Compliance status of the offender with the provisions of section 589.400 to 589.425; [and]

(10) Any online identifiers, as defined in section 43.651, used by the person. Such online identifiers shall not be included in the general profile of an offender on the web page and shall only be available to a member of the public by a search using the specific online identifier to determine if a match exists with a registered offender;

**(11) The original and most recent registration date of the offender;**

**(12) The status of the offender's term of incarceration, probation, or parole; and**

**(13) Whether the offender is a repeat offender due to having multiple adjudications for separate offenses requiring registration under sections 589.400 to 589.425.**

**5. Although required to register under sections 589.400 to 589.425, if:**

**(1) There is no other offense for which the offender is required to register;**

**(2) The offender is not a repeat offender as a result of multiple adjudications for the offenses listed**

**in this subsection; and**

**(3) No sexual conduct, attempted sexual conduct, or conspiracy to commit sexual conduct occurred during the offense.**

**Then offenders committing felonious restraint of a nonsexual nature when the victim was under the age of eighteen under section 565.120 or kidnapping of a nonsexual nature when the victim was under the age of eighteen under section 565.110, are exempt from the public notification requirements of this section.**

**6. Witnesses afforded federal protection required to register under sections 589.400 to 589.425, may be excluded from public notification under 18 U.S.C. Section 3521 et seq. while under active federal protection.**

**7. Juveniles required to register under subdivision (5) of subsection 1 of section 589.400 are exempt from public notification to include out-of-state, federal, military, tribal, territory, District of Columbia, or foreign country.”; and**

Further amend said bill, Page 2, Section 589.040, Line 9, by inserting after all of said section and line, the following:

“589.400. 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who[, since July 1, 1979,] has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit [a felony] **an** offense [of chapter 566, including sexual trafficking of a child and sexual trafficking of a child under the age of twelve, or any offense of chapter 566 where the victim is a minor,] **listed in section 589.414** unless such person is [exempted] **exempt** from registering under subsection **7 or 8** of this section **or section 589.401**; or

(2) [Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit one or more of the following offenses: kidnapping when the victim was a child and the defendant was not a parent or guardian of the child; abuse of a child under section 568.060 when such abuse is sexual in nature; felonious restraint when the victim was a child and the defendant is not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a nursing home, under section 565.200; endangering the welfare of a child under section 568.045 when the endangerment is sexual in nature; genital mutilation of a female child, under section 568.065; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic material to minors; public display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in the first degree; promoting pornography for minors or obscenity in the second degree; incest; use of a child in a sexual performance; or promoting sexual performance by a child; or

(3) Any person who[, since July 1, 1979,] has been committed to the department of mental health as a criminal sexual psychopath; or

[(4)] **(3)** Any person who[, since July 1, 1979,] has been found not guilty as a result of mental disease or defect of any offense listed in [subdivision (1) or (2) of this subsection] **section 589.414**; or

[(5)] **(4)** Any juvenile certified as an adult and transferred to a court of general jurisdiction who has been [convicted of, found guilty of, or has pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a felony under chapter 566 which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense] **adjudicated of an offense listed in section 589.414; or**

[(6)] **(5)** Any juvenile fourteen years of age or older at the time of the offense who has been adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense; **or**

[(7)] **(6)** Any person who is a resident of this state who has[, since July 1, 1979,] **been** or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, **territory, or the District of Columbia**, or foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to commit, or conspiring to commit an offense which, if committed in this state, would [be a violation of chapter 566, or a felony violation of any offense listed in subdivision (2) of this subsection] **constitute an offense listed in section 589.414** or has been or is required to register in another state, **territory, the District of Columbia, or foreign country**, or has been or is required to register under tribal, federal, or military law; or

[(8)] **(7)** Any person who has been or is required to register in another state, **territory, the District of Columbia, or foreign country** or has been or is required to register under tribal, federal, or military law and who works or attends an educational institution, whether public or private in nature, including any secondary school, trade school, professional school, or institution of higher education on a full-time or on a part-time basis or has a temporary residence in Missouri. “Part-time” in this subdivision means for more than seven days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within three **business** days of [conviction] **adjudication**, release from incarceration, or placement upon probation, register with the chief law enforcement official of the county or city not within a county in which such person resides unless such person has already registered in that county for the same offense. **For any juvenile in subdivision (5) of subsection 1 of this section, within three business days of adjudication or release from commitment to the division of youth services, the department of mental health, or other placement, he or she shall register with the chief law enforcement official of the county or city not within a county in which such person resides unless such person has already registered in that county for the same offense.** Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county or city not within a county within three **business** days. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town, village, or campus law enforcement agency located within the county of the chief law enforcement official[, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town, village, or campus law enforcement agency, if so requested].

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless:

- (1) All offenses requiring registration are reversed, vacated or set aside;
- (2) The registrant is pardoned of the offenses requiring registration **in the state of Missouri, or if not**

**in Missouri, pardoned in another state, territory, the District of Columbia, or foreign country and the pardon explicitly states that the person is relieved of his or her duty to register as a sexual offender;**

(3) The registrant is no longer required to register and his or her name shall be removed from the registry under the provisions of [subsection 6 of this] section **589.401**; or

(4) The [registrant may petition the court for removal or exemption from the registry under subsection 7 or 8 of this section and the] court orders the removal or exemption of such person from the registry **under section 589.401**.

4. For processing an initial sex offender registration the chief law enforcement officer of the county or city not within a county may charge the offender registering a fee of up to ten dollars.

5. For processing any change in registration required pursuant to section 589.414 the chief law enforcement official of the county or city not within a county may charge the person changing their registration a fee of five dollars for each change made after the initial registration.

**6. The following individuals shall be exempt from registering as a sexual offender:** any person currently on the sexual offender registry **or who otherwise would be required to register** for being convicted of, found guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or conspiring to commit, felonious restraint **of a nonsexual nature** when the victim was a child and he or she was the parent or guardian of the child, nonsexual child abuse that was committed under section 568.060, or kidnapping **of a nonsexual nature** when the victim was a child and he or she was the parent or guardian of the child shall be removed from the registry. However, such person shall remain on the sexual offender registry for any other offense for which he or she is required to register under sections 589.400 to 589.425.

**7. The following individuals shall be exempt from registering as a sexual offender upon filing a petition with the court with jurisdiction under section 589.401, and that court ordering the petitioner to be removed from the registry:**

(1) Any person currently on the sexual offender registry **or who otherwise would be required to register** for [having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit promoting prostitution in the second degree, promoting prostitution in the third degree, public display of explicit sexual material, statutory rape in the second degree, and no physical force or threat of physical force was used in the commission of the crime may file a petition in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the offense or offenses for the removal of his or her name from the sexual offender registry after ten years have passed from the date he or she was required to register] **a sexual offense involving sexual conduct where no force or threat of force was directed toward the victim or any other individual involved and:**

(a) **The victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense; or**

(b) **The victim was eighteen years of age or younger and the offender was not more than five years older than the victim at the time of the commission of the offense.**

**However, such person shall remain on the sexual offender registry for any other offense for which he or she is required to register under sections 589.400 to 589.425; or**

**(2) Effective August 28, 2011, any person currently required to register for the following sexual offenses, however, such person shall remain on the sexual offender registry for any other offense for which he or she is required to register under sections 589.400 to 589.425:**

- (a) Sexual misconduct in the second degree under section 566.093;**
- (b) Sexual misconduct in the third degree under section 566.095;**
- (c) Promoting obscenity in the first degree under section 573.020;**
- (d) Promoting obscenity in the second degree under section 573.030;**
- (e) Furnishing pornographic materials to minors under section 573.040;**
- (f) Public display of explicit sexual material under section 573.060; or**
- (g) Coercing acceptance of obscene material under section 573.065.**

8. [Effective August 28, 2009,] Any person **currently** on the sexual offender registry for having been convicted of, found guilty of, or having pled guilty or nolo contendere to [an offense included under subsection 1 of this section may file a petition after two years have passed from the date the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or her name from the registry if such person was nineteen years of age or younger and the victim was thirteen years of age or older at the time of the offense and no physical force or threat of physical force was used in the commission of the offense, unless such person meets the qualifications of this subsection, and such person was eighteen years of age or younger at the time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a violation of section 566.068, 566.090, 566.093, or 566.095 when such offense is a misdemeanor, in which case, such person may immediately file a petition to remove or exempt his or her name from the registry upon his or her conviction or finding or pleading of guilty or nolo contendere to such offense] **committing, attempting to commit, or conspiring to commit a Tier I, II, or juvenile Tier III offense or other comparable offense listed in section 589.414 may file a petition under section 589.401.**

9. [(1) The court may grant such relief under subsection 7 or 8 of this section if such person demonstrates to the court that he or she has complied with the provisions of this section and is not a current or potential threat to public safety. The prosecuting attorney in the circuit court in which the petition is filed must be given notice, by the person seeking removal or exemption from the registry, of the petition to present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of the person seeking removal or exemption from the registry to notify the prosecuting attorney of the petition shall result in an automatic denial of such person's petition. If the prosecuting attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of the crime for which the person was required to register of the petition and the dates and times of any hearings or other proceedings in connection with that petition.

(2) If the petition is denied, such person shall wait at least twelve months before petitioning the court again. If the court finds that the petitioner is entitled to relief, which removes or exempts such person's name from the registry, a certified copy of the written findings or order shall be forwarded by the court to the chief law enforcement official having jurisdiction over the offender and to the Missouri state highway patrol in order to have such person's name removed or exempted from the registry.

10.] Any nonresident worker **to include work as a volunteer or intern** or nonresident student shall register for the duration of such person's employment or attendance at any school **whether public or private in nature, including any secondary school, trade school, professional school, or institution** of higher education [and is not entitled to relief under the provisions of subsection 9 of this section] **on a full-time or part-time basis in Missouri unless granted relief under section 589.401**. Any registered offender from another state who has a temporary residence in this state and resides more than seven days in a twelve-month period shall register for the duration of such person's temporary residency [and is not entitled to the provisions of subsection 9 of this section] **unless granted relief under section 589.401**.

[11. Any person whose name is removed or exempted from the sexual offender registry under subsection 7 or 8 of this section shall no longer be required to fulfill the registration requirements of sections 589.400 to 589.425, unless such person is required to register for committing another offense after being removed from the registry.]

**589.401. 1. A person on the sexual offender registry may file a petition in the division of the circuit court in the county in which the offense requiring registration was adjudicated to have his or her name removed from the sexual offender registry.**

**2. A person who is required to register in Missouri because of an adjudication that was committed in another jurisdiction shall file their petition for removal according to the laws of the state, territory, tribal, or military jurisdiction, the District of Columbia, or foreign country in which their offense was adjudicated. Upon the grant of the petition for removal in the jurisdiction where the offense was adjudicated, said judgment may be registered in this state by sending the information required in subsection 5 of this section as well as one authenticated copy of the order granting removal from the sexual offender registry in the jurisdiction where the offense was adjudicated, to the court in the county in which the offender is required to register. On receipt of a request for registration removal, the registering court shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form. The petitioner shall be responsible for costs associated with filing the petition.**

**3. A person required to register as a Tier III offender cannot file a petition under this section unless the requirement to register results from a juvenile adjudication.**

**4. The petition shall be dismissed without prejudice if the following time periods have not elapsed since the date the person was required to register:**

- (1) For a Tier I offense, five years;**
- (2) For a Tier II offense, ten years;**
- (3) For a Tier III offense adjudicated as a juvenile, twenty-five years.**

**5. The petition shall be dismissed without prejudice if it fails to include any of the following:**

- (1) The petitioner's:**
  - (a) Full name;**
  - (b) Sex;**
  - (c) Race;**
  - (d) Date of birth;**

- (e) Last four digits of the Social Security number;**
  - (f) Address;**
  - (g) Place of employment, school, or volunteer status;**
  - (2) The offense and tier of the offense that required the petitioner to register;**
  - (3) The date the petitioner plead to, was convicted of or was adjudicated for the offense;**
  - (4) The date the petitioner was required to register;**
  - (5) The case number and court, including county, that entered the original order for the adjudicated sex offense;**
  - (6) Petitioner's fingerprints on an applicant fingerprint card;**
  - (7) If the petitioner was pardoned or an offense requiring registration was reversed, vacated or set aside, an authenticated copy of the order;**
  - (8) If the petitioner is currently registered under applicable law and has not been adjudicated for failure to register in any jurisdiction and does not have any charges pending for failure to register.**
- 6. The petition shall name as respondents the Missouri state highway patrol and the chief law enforcement official in the county or city not within a county in which the petition is filed.**
- 7. All proceedings under this section shall be governed under the Missouri supreme court rules of civil procedure.**
- 8. The prosecuting attorney in the circuit court in which the petition is filed must be given notice, by the person seeking removal or exemption from the registry, of the petition to present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of the person seeking removal or exemption from the registry to notify the prosecuting attorney of the petition shall result in an automatic denial of such person's petition.**
- 9. The prosecuting attorney in the circuit court in which the petition is filed shall have access to all applicable records concerning the petitioner including but not limited to criminal history records, mental health records, juvenile records, and records of the department of corrections and/or probation and parole.**
- 10. The prosecuting attorney shall make reasonable efforts to notify the victim of the crime for which the person was required to register of the petition and the dates and times of any hearings or other proceedings in connection with that petition.**
- 11. The court shall not enter an order directing the removal of the petitioner's name from the sexual offender registry unless it finds the petitioner:**
- (1) Has not been adjudicated of or have charges pending for any additional nonsexual offense for which imprisonment for more than one year may be imposed since the date that the offender was required to register for their current tier level;**
  - (2) Has not been adjudicated of or have charges pending for any additional sex offense that would require registration under sections 589.400 to 589.425 since the date that the offender was required to register for their current tier level, even if the offense was punishable by less than one year imprisonment;**

**(3) Has successfully completed any required periods of supervised release, probation, or parole without revocation since the date that the offender was required to register for their current tier level;**

**(4) Has successfully completed an appropriate sex offender treatment program as approved by a court of jurisdiction or the Missouri department of corrections; and**

**(5) Is not a current or potential threat to public safety.**

**12. In order to prove the facts required by subdivisions (1) and (2) of subsection 11 of this section, the fingerprints filed in the case shall be examined by the Missouri state highway patrol.**

**13. If it is found that the petition is denied due to a violation of subdivision (1) or (2) of subsection 11 of this section then the petitioner may not file a new petition under this section until:**

**(1) Five years have passed from the date of the adjudication resulting in the denial of relief, if the petitioner is classified as a Tier I offender;**

**(2) Ten years have passed from the date of adjudication resulting in the denial of relief, if the petitioner is classified as a Tier II offender; or**

**(3) Twenty-five years have passed from the date of the adjudication resulting in the denial of relief, if the petitioner is classified as a Tier III offender on the basis of a juvenile adjudication.**

**14. If the petition is denied for reasons other than those outlined in subdivision (1) or (2) of subsection 11 of this section, no successive petition requesting such relief shall be filed for at least five years from the date the judgment denying relief is entered.**

**15. If the court finds that the petitioner is entitled to have his or her name removed from the sexual offender registry, it shall enter judgment directing the Missouri state highway patrol to remove the name within three business days of receiving the judgment. A copy of the judgment shall be provided to the respondents named in the petition.**

**16. Any person subject to judgment requiring his or her name to be removed from the sexual offender registry is not required to register under sections 589.400 to 589.425 unless such person is required to register for an offense that was committed after the judgment of removal was entered.**

**17. The court may deny the petition for any legitimate legal justification.**

589.402. 1. The chief law enforcement officer of the county or city not within a county may maintain a web page on the Internet, which shall be open to the public and shall include a registered sexual offender search capability. **This web page shall only include the names and information for Tier II and III offenders. Tier I offenders names and information shall not be included on this public web page.**

2. **Except as provided by subsections 5 and 6 of this section** the registered sexual offender search [shall] **may** make it possible for any person using the Internet to search for and find the information specified in subsection 3 of this section, if known, on **Tier II and III** offenders registered in this state pursuant to sections 589.400 to 589.425[, except that only persons who have been convicted of, found guilty of, or plead guilty to committing, attempting to commit, or conspiring to commit sexual offenses shall be included on this website].

3. Only the information listed in this subsection [shall] **may** be provided to the public in the registered sexual offender search:

- (1) The name and any known aliases of the offender;
  - (2) The date of birth and any known alias dates of birth of the offender;
  - (3) A physical description of the offender;
  - (4) The residence, temporary, work, and school addresses of the offender, including the street address, city, county, state, and zip code;
  - (5) [Any photographs of the offender] **A current photograph of the individual to be taken by the registering official;**
  - (6) A physical description of the offender's vehicles, including the year, make, model, color, and license plate number;
  - (7) The nature and dates of all offenses qualifying the offender to register, **including the Tier level assigned to the offender under sections 589.400 to 589.425;**
  - (8) The date on which the offender was released from the department of mental health, prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying the offender to register;
  - (9) Compliance status of the offender with the provisions of sections 589.400 to 589.425; [and]
  - (10) Any online identifiers, as defined in section 43.651, used by the person. Such online identifiers shall not be included in the general profile of an offender on the web page and shall only be available to a member of the public by a search using the specific online identifier to determine if a match exists with a registered offender;
  - (11) The original registration date and most recent registration date of the offender;**
  - (12) The status of the offender's term of incarceration, probation, or parole; and**
  - (13) Whether the offender is a repeat offender due to having multiple adjudications for separate offenses requiring registration under sections 589.400 to 589.425.**
4. The chief law enforcement officer of any county or city not within a county may publish in any newspaper distributed in the county or city not within a county the sexual offender information provided under subsection 3 of this section for any **Tier II or III** offender residing in the county or city not within a county.

**5. Although required to register under sections 589.400 to 589.425, if:**

- (1) There is no other offense for which the offender is required to register;**
- (2) The offender is not a repeat offender as a result of multiple adjudications for the offenses listed in this subsection; and**
- (3) No sexual conduct, attempted sexual conduct, or conspiracy to commit sexual conduct, occurred during the offense.**

**Then offenders committing felonious restraint of a nonsexual nature when the victim was under the age of eighteen under section 565.120, or kidnapping of a nonsexual in nature when the victim was under the age of eighteen under section 565.110, are exempt from the public notification requirements of this section.**

**6. Witnesses afforded federal protection required to register under sections 589.400 to 589.425,**

may be excluded from public notification under 18 U.S.C. Section 3521 et seq. while under active federal protection.

**7. Juveniles required to register under subdivision (5) of subsection 1 of section 589.400 are exempt from public notification to include out-of-state, federal, military, tribal, territory, District of Columbia, or foreign country.**

**589.403. 1.** Any person [to whom subsection 1 of section 589.400 applies] **who is required to register under sections 589.400 to 589.425** who is paroled, discharged, or otherwise released from any correctional facility of the department of corrections [or], any mental health institution, **private jail under section 221.095, or other private facility recognized by or contracted with the department of corrections or department of mental health** where such person was confined shall:

**(1) If the person plans to reside in Missouri**, be informed by the official in charge of such correctional facility or mental health institution of the person's possible duty to register pursuant to sections 589.400 to 589.425. If such person is required to register pursuant to sections 589.400 to 589.425, the official in charge of the correctional facility or the mental health institution shall complete the initial registration **notification at least seven days** prior to release and forward the offender's registration, within three business days **of release, to the Missouri state highway patrol and** to the chief law enforcement official of the county or city not within a county where the person expects to reside upon discharge, parole or release[. When the person lists an address where he or she expects to reside that is not in this state, the initial registration shall be forwarded to the Missouri state highway patrol.]; **or**

**(2) If the person does not reside or plan to reside in Missouri**, be informed by the official in charge of such correctional facility or mental health institution of the person's possible duty to register under sections 589.400 to 589.425. If such person is required to register under sections 589.400 to 589.425, the official in charge of the correctional facility or the mental health institution shall complete the initial registration notification at least seven days prior to release and forward the offender's registration within three business days of release to the Missouri state highway patrol and chief law enforcement official within the county that the correctional facility or mental health institution is located.

**2.** If the offender refuses to complete and sign the registration information as outlined in this section, or fails to register with the chief law enforcement official within three business days as directed, it will constitute an offense of failure to register under section 589.425.

**589.404.** As used in sections 589.400 to 589.425 the following terms mean:

- (1) "Absconder"**, a sex offender who has failed to register and whose whereabouts are unknown;
- (2) "Adjudication"**, a plea of guilt, finding of guilt, finding of not guilty due to mental disease or defect, plea of nolo contendere to committing, attempting to commit, or conspiring to commit;
- (3) "Employee"**, includes an individual who is self-employed or works for any other entity, whether compensated or not. This definition includes working as a volunteer or unpaid intern;
- (4) "Habitually lives"**, when an offender is classified as homeless, the place where the offender habitually lives shall be defined as information about a certain part of a city, town, or county that is the sex offender's habitual locale, a park, or spot on the street, or a number of such places, where the sex offender stations himself or herself during the day or sleeps at night, shelters among which the

sex offender circulates, or places in public buildings, restaurants, libraries, or other establishments that the sex offender frequents;

(5) “Habitually located”, in regard to means of transportation, the place where a vehicle, watercraft, or aircraft is normally located when not in use;

(6) “Noncompliant”, a sexual offender who has not completed or updated his or her information and is not compliant with the chief law enforcement officer in the county in which they reside;

(7) “Offender registration”, defines the required minimum informational content of sex offender registries and will consist of but will not be limited to, a full set of fingerprints on a standard sex offender registration card upon initial registration in Missouri, as well as all other forms required by the Missouri state highway patrol upon each initial and subsequent registration;

(8) “Residence”, is defined as any place where an offender sleeps for seven or more consecutive or nonconsecutive days or nights within a twelve-month period;

(9) “Sexual act”, any type or degree of genital, oral, or anal penetration;

(10) “Sexual contact”, any sexual touching of or contact with a person’s body, either directly or through the clothing;

(11) “Sexual element”, used for the purposes of distinguishing if sexual contact or a sexual act was committed. Authorities will refer to information filed by the prosecutor, amended information filed by the prosecutor, indictment information filed by the prosecutor, or amended indictment information filed by the prosecutor, plea agreement, or court documentation to determine if a sexual element exists;

(12) “Sex offender”, any person who meets the criteria to register under sections 589.400 to 589.425 or the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109);

(13) “Sex offense”, any offense which is listed in section 589.414 or comparable to those listed in section 589.414 or otherwise comparable to offenses covered under the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109);

(14) “Signature”, the name of the offender signed in writing or electronic form approved by the Missouri state highway patrol;

(15) “Student”, an individual who enrolls in or attends the physical location of an educational institution, including (whether public or private) a secondary school, trade or professional school, and institutions of higher education;

(16) “Vehicle”, any land vehicle.

589.405. 1. Any person [to whom subsection 1 of section 589.400 applies] **who is required to register under sections 589.400 to 589.425** who is released on probation, discharged upon payment of a fine, or released after confinement in a county jail shall, prior to such release or discharge, be informed of the possible duty to register pursuant to sections 589.400 to 589.425 by the court having jurisdiction over the case. If such person is required to register pursuant to sections 589.400 to 589.425 **and is placed on probation**, the court shall [obtain the address where the person expects to reside upon discharge, parole or

release and shall] **make it a condition of probation that the offender** report, within three business days[, such address] to the chief law enforcement official of the county **of adjudication** or city not within a county [where the person expects to reside, upon discharge, parole or release] **of adjudication, to complete the initial registration. If such offender is not placed on probation the court shall:**

**(1) If the offender resides in Missouri, complete the initial notification of duty to register form approved by the state judicial records committee and Missouri state highway patrol and forward the form within three business days to the Missouri state highway patrol and the chief law enforcement official in the county in which the offender resides;**

**(2) If the offender does not reside in Missouri, the court shall:**

**(a) Order the offender to proceed directly to the chief law enforcement official in the county where the adjudication was heard to register as outlined in sections 589.400 to 589.425; and**

**(b) Complete the initial notification of duty to register form approved by the state judicial records committee and Missouri state highway patrol and forward the form within three business days to the Missouri state highway patrol and the chief law enforcement official in the county where the offender was adjudicated.**

**2. If the offender refuses to complete and sign the registration information as outlined in subsection 1 of this section or if the offender resides outside of Missouri and fails to directly report to the chief law enforcement official as outlined in subsection 2 of this section, it will constitute an offense of failure to register under section 589.425.**

589.407. 1. Any registration pursuant to sections 589.400 to 589.425 shall consist of completion of an offender registration form developed by the Missouri state highway patrol **or other format approved by the Missouri state highway patrol**. Such form **will consist of a statement in writing, including the signature of the offender and** shall include, but is not limited to the following:

**(1) [A statement in writing signed by the person, giving the name, address, Social Security number and phone number of the person, the license plate number and vehicle description, including the year, make, model, and color of each vehicle owned or operated by the offender, any online identifiers, as defined in section 43.651, used by the person, the place of employment of such person, enrollment within any institutions of higher education, the crime which requires registration, whether the person was sentenced as a persistent or predatory offender pursuant to section 558.018, the date, place, and a brief description of such crime, the date and place of the conviction or plea regarding such crime, the age and gender of the victim at the time of the offense and whether the person successfully completed the Missouri sexual offender program pursuant to section 589.040, if applicable;] The full name of the individual to include any alias, maiden, nicknames, pseudonym, ethnic or tribal names used, regardless of the context in which they are used;**

**(2) The date of birth of the individual to include any alias date of births used;**

**(3) The address of the individual's residences or, if the individual is deemed homeless under section 589.414, the names and addresses of habitual locales frequented during the day and night to include any temporary homeless shelter or other temporary residence;**

**(4) The name and fixed address of the individual's employers, to include any place where the individual serves as a volunteer or unpaid intern. If the individual's place of employment is not fixed,**

**the places where the individual works with whatever definiteness is possible under the circumstances shall be required, such as information about normal travel routes or the general areas in which the individual works;**

**(5) The name and address of any institutions of higher education that the individual attends;**

**(6) The Social Security number of the individual including any alias Social Security numbers used;**

**(7) The telephone numbers of the individual including all landline and cellular telephone numbers used;**

**(8) The license plate number, registration number, vehicle identification number, and vehicle description, including the year, make, model, color, and habitual location of each vehicle owned or operated by the individual for personal or work use;**

**(9) Any online identifiers as defined in section 43.651 which are used by the individual for personal purposes;**

**(10) The crime for which the individual is registering including whether the person was sentenced as a persistent or predatory offender under section 558.018;**

**(11) The date, place, a brief description of the crime including the date and place of the adjudication regarding such crime;**

**(12) The age and gender of the victim at the time of the offense;**

**(13) The date the individual successfully completed the Missouri sexual offender program under section 589.040 or that the program was not successfully completed;**

**(14) The status of the individual's parole, probation, or supervised release, if applicable;**

**(15) Passport and immigration numbers to include expiration dates;**

**(16) The physical description of the sex offender to include the physical appearance or characteristics, and identifying marks such as scars, marks, or tattoos.**

**2. The following shall be included with the form:**

**(1) Copies of all of the individual's passport or immigration documents;**

**(2) The fingerprints, palm prints, and a photograph of the person; [and]**

**(3) A current photograph of the individual to be taken by the registering official; and**

**[(3)] (4) A DNA sample from the individual, if a sample has not already been obtained.**

**[2.] 3. The offender shall provide positive identification and documentation to substantiate the accuracy of the information completed on the offender registration form, including but not limited to the following:**

**(1) A photocopy of a valid driver's license or nondriver's identification card;**

**(2) A document verifying proof of the offender's residency; and**

**(3) A photocopy of the vehicle registration for each of the offender's vehicles.**

**4. The Missouri state highway patrol shall maintain all required registration information in digitized form.**

**5. Upon receipt of any changes to an offender's registration information contained in this section, the Missouri state highway patrol shall immediately notify all other jurisdictions in which the offender is either registered or required to register.**

**6. The offender shall be responsible for reviewing their existing registration information for accuracy at every regular in person appearance and if any inaccuracies are found provide proof of the information in question.**

**7. The signed offender registration form shall serve as proof that the individual understands his or her duty to register as a sexual offender under sections 589.400 to 589.425 and a statement to this effect will be included on the form that the individual is required to sign at each registration.**

**589.408. 1. Any person who would otherwise be a Tier II or Tier III offender may file a petition in the division of the circuit court in the county in which the offense requiring classification as a Tier II or Tier III offender was adjudicated to have his or her classification lowered one Tier.**

**2. A person whose offense requiring classification in Missouri as a Tier II or Tier III offender was adjudicated in another jurisdiction shall file his or her petition in the court in the county in which the offender is required to register. The petitioner shall be responsible for costs associated with filing the petition.**

**3. The petition shall be dismissed without prejudice if it fails to include any of the following:**

**(1) The petitioner's:**

**(a) Full name;**

**(b) Sex;**

**(c) Race;**

**(d) Date of birth;**

**(e) Last four digits of the Social Security number;**

**(f) Address;**

**(g) Place of employment, school, or volunteer status;**

**(2) The offense or offenses requiring classification as a Tier II or Tier III offender;**

**(3) All offenses that required the petitioner to register;**

**(4) The date the petitioner was required to register;**

**(5) The case number and court, including county, that entered the order for the adjudicated sex offense requiring classification as a Tier II or Tier III offender;**

**(6) Petitioner's fingerprints on an applicant fingerprint card;**

**(7) If the petitioner is currently registered under applicable law and has not been adjudicated for failure to register in any jurisdiction and does not have any charges pending for failure to register.**

**4. The petition shall name as respondents the Missouri state highway patrol and the chief law enforcement official in the county or city not within a county in which the petition is filed.**

**5. All proceedings under this section shall be governed under the Missouri supreme court rules**

of civil procedure.

**6. In making a determination as to whether the petition should be granted the court shall, at a minimum, consider the following factors:**

**(1) The seriousness of the offense should the offender reoffend. This factor includes consideration of the following:**

- (a) The degree of likely force or harm;**
- (b) The degree of likely physical contact; and**
- (c) The age of the likely victim;**

**(2) The offender's prior offense history. This factor includes consideration of the following:**

- (a) The relationship of prior victims to the offender;**
- (b) The number of prior sexual offenses or victims;**
- (c) The number of prior noncontact sexual offenses;**
- (d) The number of prior nonsexual violent offenses;**
- (e) The number of prior sentencing dates;**

**(f) The duration of the offender's prior offense history;**

**(g) The length of time since the offender's last prior offense while the offender was at risk to commit offenses; and**

**(h) The offender's prior history of other antisocial acts;**

**(3) The offender's characteristics. This factor includes consideration of the following:**

- (a) The offender's response to prior treatment efforts; and**
- (b) The offender's history of substance abuse;**

**(4) The availability of community supports to the offender. This factor includes consideration of the following:**

**(a) The availability and likelihood that the offender will be involved in therapeutic treatment;**

**(b) The availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;**

**(c) The offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and**

**(d) The offender's lack of education or employment stability;**

**(5) Whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community;**

**(6) Whether the offender had any unrelated victims;**

**(7) Whether the offender had any stranger victims;**

**(8) Whether the offender had any male victims;**

**(9) The current age of the offender;**

**(10) Whether the offender has ever lived with a lover for at least two years; and**

**(11) Whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.**

**7. The prosecuting attorney in the circuit court in which the petition is filed shall be given notice, by the person seeking a reduction in classification, of the petition to present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of the person seeking a reduction in classification level to notify the prosecuting attorney of the petition shall result in an automatic denial of such person's petition.**

**8. The prosecuting attorney in the circuit court in which the petition is filed shall have access to all applicable records concerning the petitioner including but not limited to criminal history records, mental health records, juvenile records, and records of the department of corrections and/or probation and parole.**

**9. The prosecuting attorney shall make reasonable efforts to notify the victim of the crime for which the person was required to be classified as a Tier II or Tier III offender of the petition and the dates and times of any hearings or other proceedings in connection with that petition.**

**10. The court shall not enter an order directing the lowering of the classification from a Tier II offender to a Tier I offender or from a Tier III offender to a Tier II offender unless it finds the petitioner:**

**(1) Has not been adjudicated of or have charges pending for any additional nonsexual offense for which imprisonment for more than one year may be imposed since the date that the offender was required to register for the offense requiring classification as a Tier III offender;**

**(2) Has not been adjudicated of or have charges pending for any additional sex offense that would require registration under sections 589.400 to 589.425 since the date that the offender was required to register for the offense requiring classification as a Tier II or Tier III offender, even if the offense was punishable by less than one year imprisonment.**

**11. In order to prove the facts required by subdivisions (1) and (2) of subsection 10 of this section, the fingerprints filed in the case shall be examined by the Missouri state highway patrol.**

**12. If it is found that the petition is denied a Tier II offender may not file a new petition under this section until five years have passed from the date of the adjudication resulting in the denial of relief and a Tier III offender may not file a new petition under this section until ten years have passed from the date of the adjudication resulting in the denial of relief.**

**13. If the court finds that the petitioner is entitled to have his or her classification lowered, it shall enter judgment directing the Missouri state highway patrol to change the offender's classification either from a Tier II to a Tier I offender or from a Tier III to a Tier II offender within three business days of receiving the judgment. A copy of the judgment shall be provided to the respondents named in the petition.**

**14. The court may deny the petition for any legitimate legal justification.**

589.414. 1. Any person required by sections 589.400 to 589.425 to register shall, not later than three

business days [after each change of name, residence within the county or city not within a county at which the offender is registered, employment, or student status,] appear in person to the chief law enforcement officer of the county or city not within a county [and inform such officer of all changes in the information required by the offender. The chief law enforcement officer shall immediately forward the registrant changes to the Missouri state highway patrol within three business days] **if there is a change to any of the following information:**

- (1) Name;
- (2) Residence;
- (3) Employment;
- (4) Student status; or
- (5) A termination to any of the items listed in this subsection.

**2. Any person required to register under sections 589.400 to 589.425 shall within three business days after a change, notify the chief law enforcement officer of the county or city not within a county of any changes to the following information:**

- (1) Vehicle information;
- (2) Temporary residence information;
- (3) Email addresses, instant messaging addresses, and any other designations used in internet communications, postings, or telephone communications.

**3. The chief law enforcement official in the county or city not within a county shall immediately forward the registration changes described in subsections 1 and 2 of this section to the Missouri state highway patrol within three business days.**

[2.] **4.** If any person required by sections 589.400 to 589.425 to register changes such person's residence or address to a different county or city not within a county, the person shall appear in person and shall inform both the chief law enforcement official with whom the person last registered and the chief law enforcement official of the county or city not within a county having jurisdiction over the new residence or address in writing within three business days of such new address and phone number, if the phone number is also changed. If any person required by sections 589.400 to 589.425 to register changes their state, **or foreign country, or federal, tribal, or military jurisdiction** of residence, the person shall appear in person and shall inform both the chief law enforcement official with whom the person was last registered and the chief law enforcement official of the area in the new state, **or foreign country, or federal, tribal, or military jurisdiction** having jurisdiction over the new residence or address within three business days of such new address. Whenever a registrant changes residence, the chief law enforcement official of the county or city not within a county where the person was previously registered shall inform the Missouri state highway patrol of the change within three business days. When the registrant is changing the residence to a new state **or foreign country, or federal, tribal, or military jurisdiction**, the Missouri state highway patrol shall inform the responsible official in the new state, **or foreign country, or federal, tribal, or military jurisdiction** of residence within three business days.

[3.] **5. Tier I sexual offenders**, in addition to the requirements of subsections 1 [and 2] **to 4** of this section, [the following offenders] shall report in person to the chief law enforcement [agency every ninety days] **official annually in the month of their birth** to verify the information contained in their statement

made pursuant to section 589.407. **Tier I sexual offenders include:**

(1) [Any offender registered as a predatory or persistent sexual offender under the definitions found in section 558.018;] **Any offender who has been convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the crime of:**

(a) **Felonious restraint when there is sexual motivation under section 565.120;**

(b) **Skilled nursing facility residents, sexual contact or intercourse with under section 565.200;**

(c) **Invasion of privacy first degree under section 565.252;**

(d) **Invasion of privacy second degree under section 565.253;**

(e) **Child molestation second degree when the victim is fourteen to seventeen years of age under section 566.068;**

(f) **Sexual misconduct involving a child under section 566.083;**

(g) **Sexual misconduct in the first degree under section 566.090;**

(h) **Sexual contact with prisoner or offender under section 566.145;**

(i) **Age misrepresentation under section 566.153;**

(j) **Endangering the welfare of a child in the second degree when it is sexual in nature and when the victim is fourteen to seventeen years of age under section 568.050; or**

(k) **Possession of child pornography under section 537.037;**

(2) **Any offender whose classification was changed to a Tier I offender by court order under section 589.408;**

(3) Any offender who is [registered for a crime where the victim was less than eighteen years of age at the time of the offense; and] **or has been convicted of, been found guilty of, or pled guilty or nolo contendere in any other state, territory, or the District of Columbia, or foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to commit, or conspiring to commit an offense of a sexual nature or with a sexual element that is comparable to the Tier I sexual offenses listed in this subsection or, if not comparable to those in this subsection, comparable to those described as Tier I offenses under the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109).**

[(3) Any offender who has pled guilty or been found guilty pursuant to section 589.425 of failing to register or submitting false information when registering.

4.] **6. Tier II sexual offenders**, in addition to the requirements of subsections 1 [and 2] **to 4** of this section, [all registrants] shall report [semiannually] in person in the month of their birth [and six months thereafter] to the chief law enforcement [agency] **official** to verify the information contained in their statement made pursuant to section 589.407 **and six months thereafter, shall report by mail, on a form to be provided by the Missouri state highway patrol, to update any change in information or to indicate that there has been no change. This form shall require the signature of the offender.** [All registrants shall allow the chief law enforcement officer to take a current photograph of the offender in the month of his or her birth to the chief law enforcement agency.] **Tier II sexual offenders include:**

(1) **Any offender who has been convicted of, found guilty of, or has pled guilty or nolo contendere**

**to committing, attempting to commit, or conspiring to commit the crime of:**

- (a) Statutory rape in the second degree under section 566.034;**
  - (b) Statutory sodomy in the second degree under section 566.064;**
  - (c) Child molestation in the first degree when the victim is fourteen to seventeen years of age under section 566.067;**
  - (d) Sexual contact with a student while on public school property when the victim is fourteen to seventeen years of age under section 566.086;**
  - (e) Sexual abuse when the victim is fourteen years of age or older under section 566.100;**
  - (f) Enticement of a child under section 566.151;**
  - (g) Trafficking for the purpose of sexual exploitation under section 566.209;**
  - (h) Child molestation in the second degree when the victim is under fourteen years of age under section 566.068;**
  - (i) Promoting prostitution in the second degree when the victim is under eighteen years of age under section 567.060;**
  - (j) Promoting prostitution in the third degree when the victim is under eighteen years of age under section 567.070;**
  - (k) Endangering the welfare of a child in the first degree when there is sexual conduct or sexual contact with a victim fourteen to seventeen years of age under section 568.045;**
  - (l) Endangering the welfare of a child in the second degree when the offense is sexual in nature and the victim is under thirteen years of age under section 568.050;**
  - (m) Abuse of a child when the offense is sexual in nature under section 568.060;**
  - (n) Genital mutilation of a female child under section 568.065;**
  - (o) Child used in sexual performance under section 568.080;**
  - (p) Promoting sexual performance by a child under section 568.090;**
  - (q) Sexual exploitation of a minor under section 573.023;**
  - (r) Promoting child pornography in the first degree under section 573.025;**
  - (s) Promoting child pornography in the second degree under section 573.035; or**
  - (t) Unlawful sex with an animal under section 566.111;**
- (2) Any offender whose classification was changed to a Tier II offender by court order under section 589.408;**
- (3) Any person who is convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a crime comparable to a Tier I offense listed in this section or failure to register offense under section 589.425 or comparable out-of-state failure to register offense, who is already required to register as a Tier I offender due to having been convicted of, found guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a Tier I offense on a previous occasion; or**

**(4) Any person who is or has been convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, territory, or the District of Columbia, or foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to commit, or conspiring to commit an offense of a sexual nature or with a sexual element that is comparable to the Tier II sexual offenses listed in this subsection or, if not comparable to those in this subsection, comparable to those described as Tier II offenses under the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109).**

**7. Tier III sexual offenders, in addition to the requirements of subsections 1 to 4 of this section, shall report semiannually in person in the month of their birth and six months thereafter to the chief law enforcement official to verify the information contained in their statement made under section 589.407. In addition such offenders shall report by mail, on a form to be provided by the Missouri state highway patrol, to update any change in information or to indicate that there has been no change, ninety days after each in-person report. This form shall require the signature of the offender. Except as provided in subsections 8 and 9 of this section, Tier III sexual offenders include:**

**(1) Any offender registered as a predatory or persistent sexual offender under the definitions found in section 558.018;**

**(2) Any offender who has been convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the crime of:**

**(a) Kidnapping when a sexual offense was committed during the kidnapping or when the kidnapping was committed for the purpose of committing a sexual offense and when the victim is less than eighteen years of age and excluding kidnapping by parent or guardian under section 565.110;**

**(b) Child kidnapping when a sexual offense was committed during the kidnapping or when the kidnapping was committed for the purpose of committing a sexual offense under section 565.115;**

**(c) Forcible rape under section 566.030;**

**(d) Statutory rape in the first degree under section 566.032;**

**(e) Sexual assault under section 566.040;**

**(f) Forcible sodomy under section 566.060;**

**(g) Statutory sodomy in the first degree under section 566.062;**

**(h) Child molestation in the first degree when the victim is less than fourteen years of age under section 566.067;**

**(i) Deviate sexual assault under section 566.070;**

**(j) Sexual contact with a student while on public school property when the victim is less than fourteen years of age under section 566.086;**

**(k) Sexual abuse when the victim is less than fourteen years of age under section 566.100;**

**(l) Sexual trafficking of a child under section 566.212;**

**(m) Sexual trafficking of a child under the age of twelve, under section 566.213;**

**(n) Promoting prostitution in the first degree when the victim is less than eighteen years of age under section 567.050;**

**(o) Incest under section 568.020;**

**(p) Endangering the welfare of a child in the first degree when there is sexual conduct or sexual contact with a victim less than fourteen years of age under section 568.045;**

**(q) Endangering the welfare of a child in the first degree when there is sexual intercourse or deviate sexual intercourse with a victim less than eighteen years of age under section 568.045;**

**(3) Any offender who is convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a crime comparable to a Tier I or Tier II offense listed in this section or failure to register offense under section 589.425, or other comparable out-of-state failure to register offense, who has been or is already required to register as a Tier II offender because of having been convicted of, found guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a Tier II offense, two Tier I offenses, or a combination of a Tier I offense and failure to register offense, on a previous occasion;**

**(4) Any offender who is or has been convicted of, been found guilty of, or pled guilty or nolo contendere in any other state, territory, or the District of Columbia, or foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to commit, or conspiring to commit an offense of a sexual nature or with a sexual element that is comparable to a Tier III offense listed in this section or a Tier III offense under the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109); or**

**(5) Any offender who is or has been convicted of, been found guilty of, or pled guilty to or nolo contendere to any offense of a sexual nature requiring registration under sections 589.400 to 589.425 that is not classified as a Tier I or Tier II offense in this section.**

[5.] **8.** In addition to the requirements of subsections 1 [and 2] to 7 of this section, all Missouri registrants who work, **including as a volunteer or unpaid intern**, or attend **any school [or training] whether public or private in nature, including any secondary school, trade school, professional school, or institution of higher education** on a full-time or part-time basis [in any other state] **or has a temporary residence in Missouri** shall be required to report in person to the chief law enforcement officer in the area of the state where they work or attend school or training and register in that state. “Part-time” in this subsection means for more than seven days in any twelve-month period.

[6.] **9.** If a person, who is required to register as a sexual offender under sections 589.400 to 589.425, changes or obtains a new online identifier as defined in section 43.651, the person shall report such information in the same manner as a change of residence before using such online identifier.

**10. It is not a defense to a prosecution for a violation of any Tier I, Tier II, or Tier III offense listed in this section that the victim was a peace officer masquerading as a minor.**

**11. Individuals that are not currently registered due to being adjudicated of a sexual offense prior to the initial enactment of state or federal sex offender registry legislation shall only be required to register for their original offense if the person is currently incarcerated or under supervision of the Missouri department of corrections for a sexual offense.**

**If such person’s original offense is not currently a crime such person shall still be classified as a Tier I, II, or III offender. The classification shall be made by determining which current crime is most comparable to the original offense and then placing such person in the Tier which corresponds to that**

**current crime.**”; and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 237**.

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 **SB 59**, 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 passed **HCS** for **SCS** for **SB 29**, entitled:

An Act to repeal sections 197.705, 302.291, 324.043, 334.040, 334.070, 334.090, 334.100, 334.102, 334.103, 334.715, 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 339.190, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, RSMo, and to enact in lieu thereof thirty new sections relating to the licensing of certain professions, with penalty provisions.

With House Amendment No. 2, House Amendment No. 1 to House Amendment No. 3, House Amendment No. 3, as amended, House Amendment Nos. 4, 5, 6, 7, 8, 9, House Substitute Amendment No. 1 for House Amendment No. 11, House Amendment Nos. 12, 13, 14 and 15.

#### HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Page 2, Section 197.705, Line 41, by inserting after all of said section and line the following:

“215.020. 1. There is hereby created and established as a governmental instrumentality of the state of Missouri the “Missouri Housing Development Commission” which shall constitute a body corporate and politic.

2. The commission shall consist of the governor, lieutenant governor, the state treasurer, the state attorney general, and six members to be selected by the governor, with the advice and consent of the senate. The persons to be selected by the governor shall be individuals knowledgeable in the areas of housing, finance or construction. Not more than four of the members appointed by the governor shall be from the same political party. The members of the commission appointed by the governor shall serve the following terms: Two shall serve two years, two shall serve three years, and two shall serve four years, respectively. Thereafter, each appointment shall be for a term of four years. If for any reason a vacancy occurs, the governor, with the advice and consent of the senate, shall appoint a new member to fill the unexpired term. Members are eligible for reappointment.

3. Six members of the commission shall constitute a quorum. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the

commission. No action shall be taken by the commission except upon the affirmative vote of at least six of the members of the commission.

4. Each member of the commission appointed by the governor is entitled to compensation of fifty dollars per diem plus his reasonable and necessary expenses actually incurred in discharging his duties under sections 215.010 to 215.250.

**5. The department staff shall report to an executive director who shall be appointed by the governor and such executive director shall implement only those policies which are presented by the executive director and approved by the commission.**

**6. The employment of the executive director including the executive director serving in such capacity on the effective date of this act shall be subject to the advice and consent of the senate in the same manner as an appointment subject to the provisions of Article IV, Section 51 of the Missouri Constitution; and shall be for a term of 3 years subject to the reappointment for additional terms; each such additional term shall also be subject to the advice and consent of the senate.”; and**

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

HOUSE AMENDMENT NO. 1 TO  
HOUSE AMENDMENT NO. 3

Amend House Amendment No. 3 to House Committee Substitute for Senate Committee Substitute for Senate Bill 29, Page 29, Section 334.108, Line 1, by inserting immediately after said line the following:

**“(3) Home health services provided by a home health agency as defined in section 197.400;”**; and

Further amend said amendment by renumbering said section accordingly; 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. 29, Pages 5 and 6, Section 324.043, Lines 1 to 37, by deleting all of said lines and inserting in lieu thereof the following:

“324.043. 1. Except as provided in this section, no disciplinary proceeding against any person or entity licensed, registered, or certified to practice a profession within the division of professional registration shall be initiated unless such action is commenced within three years of the date upon which the licensing, registering, or certifying agency received notice of an alleged violation of an applicable statute or regulation.

2. For the purpose of this section, notice shall be limited to:

(1) A written complaint;

(2) Notice of final disposition of a malpractice claim, including exhaustion of all extraordinary remedies and appeals;

(3) Notice of exhaustion of all extraordinary remedies and appeals of a conviction based upon a criminal statute of this state, any other state, or the federal government;

(4) Notice of exhaustion of all extraordinary remedies and appeals in a disciplinary action by a hospital, state licensing, registering or certifying agency, or an agency of the federal government.

3. For the purposes of this section, an action is commenced when a complaint is filed by the agency with

the administrative hearing commission, any other appropriate agency, or in a court; or when a complaint is filed by the agency's legal counsel with the agency in respect to an automatic revocation or a probation violation.

4. Disciplinary proceedings based upon repeated negligence shall be exempt from all limitations set forth in this section.

5. Disciplinary proceedings based upon a complaint involving sexual misconduct shall be exempt from all limitations set forth in this section.

6. Any time limitation provided in this section shall be tolled:

(1) During any time the accused licensee, registrant, or certificant is practicing exclusively outside the state of Missouri or residing outside the state of Missouri and not practicing in Missouri;

(2) As to an individual complainant, during the time when such complainant is less than eighteen years of age;

(3) During any time the accused licensee, registrant, or certificant maintains legal action against the agency; or

(4) When a settlement agreement is offered to the accused licensee, registrant, or certificant, in an attempt to settle such disciplinary matter without formal proceeding pursuant to section 621.045 until the accused licensee, registrant, or certificant rejects or accepts the settlement agreement.

7. The licensing agency may, in its discretion, toll any time limitation when the accused **applicant**, licensee, registrant, or certificant enters into and participates in a treatment program for chemical dependency or mental impairment.”; and

Further amend said bill, Page 6, Section 324.045, Lines 1 to 17, by deleting all of said lines and inserting in lieu thereof the following:

**“324.045. 1. Notwithstanding any provision of chapter 536, in any proceeding initiated by the division of professional registration or any board, committee, commission, or office within the division of professional registration to determine the appropriate level of discipline or additional discipline, if any, against a licensee of the board, committee, commission, or office within the division, if the licensee against whom the proceeding has been initiated upon a properly pled writing filed to initiate the contested case and upon proper notice fails to plead or otherwise defend against the proceeding, the board, commission, committee, or office within the division shall enter a default decision against the licensee without further proceedings. The terms of the default decision shall not exceed the terms of discipline authorized by law for the division, board, commission, or committee. The division, office, board, commission, or committee shall provide the licensee notice of the default decision in writing.**

**2. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. “Good cause” includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.”; and**

Further amend said bill, Pages 7 and 8, Section 334.001, Lines 1 to 36, by deleting all of said lines and inserting in lieu thereof the following:

**“334.001. 1. Notwithstanding any other provision of law to the contrary, the following information**

is an open record and shall be released upon request of any person and may be published on the board's website:

- (1) **The name of a licensee or applicant;**
  - (2) **The licensee's business address;**
  - (3) **Registration type;**
  - (4) **Currency of the license, certificate, or registration;**
  - (5) **Professional schools attended;**
  - (6) **Degrees and certifications, including certification by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule;**
  - (7) **To the extent provided to the board after August 28, 2011, discipline by another state or administrative agency;**
  - (8) **Limitations on practice placed by a court of competent jurisdiction;**
  - (9) **Any final discipline by the board, including the content of the settlement agreement or order issued; and**
  - (10) **Whether a discipline case brought by the board is pending in the administrative hearing commission or any court.**
- 2. All other information pertaining to a licensee or applicant not specifically denominated an open record in subsection 1 of this section is a closed record and confidential.**
- 3. The board shall disclose confidential information without charge or fee upon written request of the licensee or applicant if the information is less than five years old. If the information requested is more than five years old, the board may charge a fee equivalent to the fee specified by regulation.**
- 4. At its discretion, the board may disclose confidential information, without the consent of the licensee or applicant, to a licensee or applicant for a license in order to further a board investigation or to facilitate settlement negotiations with the board, in the course of voluntary exchange of information with another state's licensing authority, pursuant to a court order, or to other administrative or law enforcement agencies acting within the scope of their statutory authority.**
- 5. Information obtained from a federal administrative or law enforcement agency shall be disclosed only after the board has obtained written consent to the disclosure from the federal administrative or law enforcement agency.**
- 6. The board is entitled to the attorney/client privilege and work product privilege to the same extent as any other person.”; and**

Further amend said bill, Pages 8 and 9, Section 334.040, Lines 1 to 52, by deleting all of said lines and inserting in lieu thereof the following:

“334.040. 1. Except as provided in section 334.260, all persons desiring to practice as physicians and surgeons in this state shall be examined as to their fitness to engage in such practice by the board. All persons applying for examination shall file a completed application with the board [at least eighty days before the date set for examination upon blanks] **upon forms** furnished by the board.

2. The examination shall be sufficient to test the applicant's fitness to practice as a physician and surgeon. The examination shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an average score of not less than seventy-five percent is required to pass; provided, however, that the board may require applicants to take the Federation Licensing Examination, also known as FLEX, or the United States Medical Licensing Examination (USMLE). If the FLEX examination is required, a weighted average score of no less than seventy-five [percent] is required to pass. **Scores from one test administration of the FLEX shall not be combined or averaged with scores from other test administrations to achieve a passing score.** The passing score of the United States Medical Licensing Examination shall be determined by the board through rule and regulation. The board shall not issue a permanent license as a physician and surgeon or allow the Missouri state board examination to be administered to any applicant who has failed to achieve a passing score within three attempts on licensing examinations administered in one or more states or territories of the United States, the District of Columbia or Canada. The steps one, two and three of the United States Medical Licensing Examination shall be taken within a seven-year period with no more than three attempts on any step of the examination; however, the board may grant an extension of the seven-year period if the applicant has obtained a MD/PhD degree in a program accredited by the [liaison committee on medical education] **Liaison Committee on Medical Education (LCME)** and a regional university accrediting body **or a DO/PhD degree accredited by the American Osteopathic Association and a regional university accrediting body.** The board may waive the provisions of this section if the applicant is licensed to practice as a physician and surgeon in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or the District of Columbia and no license issued to the applicant has been disciplined in any state or territory of the United States or the District of Columbia[. Prior to waiving the provisions of this section, the board may require the applicant to achieve a passing score on one of the following:

(1) The American Specialty Board's certifying examination in the physician's field of specialization;

(2) Part II of the FLEX; or

(3) The Federation portion of the State Medical Board's Special Purpose Examination (SPEX)] **and the applicant is certified in the applicant's area of specialty by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule.**

3. If the board waives the provisions of this section, then the license issued to the applicant may be limited or restricted to the applicant's board specialty. [Scores from one test administration shall not be combined or averaged with scores from other test administrations to achieve a passing score.] The board shall not be permitted to favor any particular school or system of healing.

**4. If an applicant has not actively engaged in the practice of clinical medicine or held a teaching or faculty position in a medical or osteopathic school approved by the American Medical Association, the Liaison Committee on Medical Education, or the American Osteopathic Association for any two years in the three year period immediately preceding the filing of his or her application for licensure, the board may require successful completion of another examination, continuing medical education, or further training before issuing a permanent license. The board shall adopt rules to prescribe the form and manner of such reexamination, continuing medical education, and training.”;** and

Further amend said bill, Page 10, Section 334.070, Lines 1 to 13, by deleting all of said lines and inserting in lieu thereof the following:

“334.070. 1. Upon due application therefor and upon submission by such person of evidence satisfactory to the board that he **or she** is licensed to practice in this state, and upon the payment of fees required to be paid by this chapter, the board shall issue to [him] **such person** a certificate of registration. The certificate of registration shall contain the name of the person to whom it is issued and his **or her** office address [and residence address], the expiration date, and the date and number of the license to practice.

2. [Every person shall, upon receiving such certificate, cause it to be conspicuously displayed at all times in every office maintained by him in the state. If he maintains more than one office in this state, the board shall without additional fee issue to him duplicate certificates of registration for each office so maintained.] If any registrant shall change the location of his **or her** office during the period for which any certificate of registration has been issued, [he] **the registrant** shall, within fifteen days thereafter, notify the board of such change [and it shall issue to him without additional fee a new registration certificate showing the new location].”; and

Further amend said bill, Page 10, Section 334.090, Lines 1 to 13, by deleting all of said lines and inserting in lieu thereof the following:

“334.090. 1. Each applicant for registration under this chapter shall accompany the application for registration with a registration fee to be paid to the [director of revenue] **board**. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; but whenever in the opinion of the board the applicant's failure to register is caused by extenuating circumstances including illness of the applicant, as defined by rule and regulation, the delinquent fee may be waived by the board. Whenever any new license is granted to any person under the provisions of this chapter, the board shall, upon application therefor, issue to such licensee a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.”; and

Further amend said bill, Pages 10 to 12, Section 334.099, Lines 1 to 58, by deleting all of said lines and inserting in lieu thereof the following:

**“334.099. 1. The board may initiate a contested hearing to determine if reasonable cause exists to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances:**

**(1) The board shall serve notice pursuant to section 536.067 of the contested hearing at least fifteen days prior to the hearing. Such notice shall include a statement of the reasons the board believes there is reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances;**

**(2) For purposes of this section and prior to any contested hearing, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to the licensee or applicant without the licensee's or applicant's consent, upon issuance of a subpoena by the board. These data and records shall be admissible without further**

authentication by either board or licensee at any hearing held pursuant to this section;

(3) After a contested hearing before the board, and upon a showing of reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances the board may require a licensee or applicant to submit to an examination. The board shall maintain a list of facilities approved to perform such examinations. The licensee or applicant may propose a facility not previously approved to the board and the board may accept such facility as an approved facility for such licensee or applicant by a majority vote;

(4) For purposes of this subsection, every licensee or applicant is deemed to have consented to an examination upon a showing of reasonable cause. The applicant or licensee shall be deemed to have waived all objections to the admissibility of testimony by the provider of the examination and to the admissibility of examination reports on the grounds that the provider of the examination's testimony or the examination is confidential or privileged;

(5) Written notice of the order for an examination shall be sent to the applicant or licensee by registered mail, addressed to the licensee or applicant at the licensee's or applicant's last known address on file with the board, or shall be personally served on the applicant or licensee. The order shall state the cause for the examination, how to obtain information about approved facilities, and a time limit for obtaining the examination. The licensee or applicant shall cause a report of the examination to be sent to the board;

(6) The licensee or applicant shall sign all necessary releases for the board to obtain and use the examination during a hearing and to disclose the recommendations of the examination as part of a disciplinary order;

(7) After receiving the report of the examination ordered in subdivision (3) of this subsection, the board may hold a contested hearing to determine if by clear and convincing evidence the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or osteopathic incompetency, reason of mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances. If the board finds that the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or osteopathic incompetency, reason of mental or physical incapacity, or excessive use or abuse of controlled substances, the board shall, after a hearing, enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of section 334.100; and

(8) The provisions of chapter 536 for a contested case, except those provisions or amendments which are in conflict with this section, shall apply to and govern the proceedings contained in this subsection and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence under chapter 536 relevant to the allegations.

2. Failure to submit to the examination when directed shall be cause for the revocation of the license of the licensee or denial of the application. No license may be reinstated or application granted until such time as the examination is completed and delivered to the board or the board withdraws its order.

3. Neither the record of proceedings nor the orders entered by the board shall be used against a

**licensee or applicant in any other proceeding, except for a proceeding in which the board or its members are a party or in a proceeding involving any state or federal agency.**

**4. A licensee or applicant whose right to practice has been affected under this section shall, at reasonable intervals not to exceed twelve months, be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession or should be granted a license. The board may hear such motion more often upon good cause shown.**

**5. The board shall promulgate rules and regulations to carry out the provisions of this section.**

**6. For purposes of this section, “examination” means a skills, multidisciplinary, or substance abuse evaluation.”; and**

Further amend said bill, Pages 12 to 19, Section 334.100, Lines 1 to 268, by deleting all of said lines and inserting in lieu thereof the following:

“334.100. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense [an essential element of which is] **involving** fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination **including failing to establish a valid physician-patient relationship pursuant to section 334.108**, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

(j) **Being listed on any state or federal sexual offender registry;**

(k) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

[(k)] (l) Failing to furnish details of a patient's medical records to other treating physicians or hospitals upon proper request; or failing to comply with any other law relating to medical records;

[(l)] (m) Failure of any applicant or licensee[, other than the licensee subject to the investigation,] to cooperate with the board during any investigation;

[(m)] (n) Failure to comply with any subpoena or subpoena duces tecum from the board or an order of

the board;

[(n)] **(o)** Failure to timely pay license renewal fees specified in this chapter;

[(o)] **(p)** Violating a probation agreement, **order, or other settlement agreement** with this board or any other licensing agency;

[(p)] **(q)** Failing to inform the board of the physician's current residence and business address;

[(q)] **(r)** Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation or association which issues or conducts such advertising;

**(s) Any other conduct that is unethical or unprofessional involving a minor;**

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter **or chapter 324**, or of any lawful rule or regulation adopted pursuant to this chapter **or chapter 324**;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of the drug laws or rules and regulations of this state, **including but not limited to any provision of chapter 195**, any other state, or the federal government;

(14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of the person's profession;

(15) **Knowingly making a false statement, orally or in writing to the board;**

(16) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

[(16)] (17) Using, or permitting the use of, the person's name under the designation of "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

[(17)] (18) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208 or chapter 630 or for payment from Title XVIII or Title XIX of the federal Medicare program;

[(18)] (19) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

[(19)] (20) Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, as a podiatrist pursuant to chapter 330, as an advanced practice registered nurse under chapter 335, or any licensed and registered physician, dentist, podiatrist, or advanced practice registered nurse practicing in another jurisdiction, whose license is in good standing;

[(20)] (21) Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.620;

[(21)] (22) Any person licensed to practice as a physician or surgeon, requiring, as a condition of the physician-patient relationship, that the patient receive prescribed drugs, devices or other professional services directly from facilities of that physician's office or other entities under that physician's ownership or control. A physician shall provide the patient with a prescription which may be taken to the facility selected by the patient and a physician knowingly failing to disclose to a patient on a form approved by the advisory commission for professional physical therapists as established by section 334.625 which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands

that the physician has a pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one physician to another physician within a group of physicians practicing together;

[(22)] **(23)** A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another physician who is authorized by law to do so;

[(23)] **(24) Habitual intoxication or dependence on alcohol, evidence of which may include more than one alcohol-related enforcement contact as defined by section 302.525;**

**(25) Failure to comply with a treatment program or an aftercare program entered into as part of a board order, settlement agreement or licensee's professional health program;**

**(26) Revocation, suspension, limitation, probation, or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not, or voluntary termination of a controlled substance authority while under investigation;**

[(24)] **(27)** For a physician to operate, conduct, manage, or establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, and such facility has failed to obtain or renew a license as an ambulatory surgical center[;

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licentiate graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical Association or American Osteopathic Association, then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

(b) For the purpose of this subdivision, every physician licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that the examining physician's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician or applicant without the physician's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physician, by registered mail, addressed to the physician at the physician's last known address. Failure of a physician to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the physician, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physician's control. A physician whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physician can resume the competent practice as a physician and surgeon with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of this section].

3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to this chapter which has been in a revoked, suspended or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.”; and

Further amend said bill, Pages 19 to 24, Section 334.102, Lines 1 to 158, by deleting all of said lines and inserting in lieu thereof the following:

“334.102. 1. [Upon receipt of information that the holder of any certificate of registration or authority, permit or license issued pursuant to this chapter may present a clear and present danger to the public health and safety, the executive secretary or director shall direct that the information be brought to the board in the form of sworn testimony or affidavits during a meeting of the board.

2. The board may issue an order suspending and/or restricting the holder of a certificate of registration or authority, permit or license if it believes:

(1) The licensee's acts, conduct or condition may have violated subsection 2 of section 334.100; and

(2) A licensee is practicing, attempting or intending to practice in Missouri; and

(3) Either a licensee is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that the licensee's condition or actions significantly affect the licensee's ability to practice, or another state, territory, federal agency or country has issued an order suspending or restricting the holder of a license or other right to practice a profession regulated by this chapter, or the licensee has engaged in repeated acts of life-threatening negligence as defined in subsection 2 of section 334.100; and

(4) The acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety.

3. (1) The order of suspension or restriction:

(a) Shall be based on the sworn testimony or affidavits presented to the board;

(b) May be issued without notice and hearing to the licensee;

(c) Shall include the facts which lead the board to conclude that the acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety; and

(2) The board or the administrative hearing commission shall serve the licensee, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the board, a copy of the complaint and the request for expedited hearing, and a notice of the place of and the date upon which the preliminary hearing will be held.

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection.

(4) The order of suspension shall become effective upon the entry of the preliminary order of the administrative hearing commission.

(5) The licensee may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

4. The board shall file a complaint in the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the board. Immediately upon receipt of a complaint filed pursuant to this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee.

The administrative hearing commission shall grant a licensee's request for a continuance of the preliminary hearing; however, the board's order shall remain in full force and effect until the preliminary hearing, which shall be held not later than forty-five days after service of the documents required in subdivision (2) of subsection 3.

5. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the board and shall only hear evidence on the issue of whether the board's order of suspension or restriction should be terminated or modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without findings of fact and conclusions of law, that either adopts, terminates or modifies the board's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

6. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing on the merits of the complaint filed by the board within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

7. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying, or dismissing its preliminary order or until the board issues an order of discipline following its consideration of the decision of the administrative hearing commission pursuant to section 621.110 and subsection 3 of section 334.100.

8. In cases where the board initiates summary suspension or restriction proceedings against a physician licensed pursuant to this chapter, and said petition is subsequently denied by the administrative hearing commission, in addition to any award made pursuant to sections 536.085 and 536.087, the board, but not individual members of the board, shall pay actual damages incurred during any period of suspension or restriction.

9. Notwithstanding the provisions of this chapter or chapter 610 or chapter 621 to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

10. The burden of proving the elements listed in subsection 2 of this section shall be upon the state board of registration for the healing arts.] **The board may apply to the administrative hearing commission for an emergency suspension or restriction of a licensee for the following causes:**

**(1) Engaging in sexual conduct, as defined in section 566.010, with a patient who is not the licensee's spouse, regardless of whether the patient consented;**

**(2) Engaging in sexual misconduct with a minor or person the licensee believes to be a minor. "Sexual misconduct" means any conduct of a sexual nature which would be illegal under state or federal law;**

**(3) Possession of a controlled substance in violation of chapter 195 or any state or federal law, rule, or regulation, excluding record keeping violations;**

**(4) Use of a controlled substance without a valid prescription;**

**(5) The licensee is adjudicated incapacitated or disabled by a court of competent jurisdiction;**

**(6) Habitual intoxication or dependence upon alcohol or controlled substances or failure to comply with a treatment or aftercare program entered into pursuant to a board order, settlement agreement, or as part of the licensee's professional health program;**

**(7) A report from a board approved facility or a professional health program stating the licensee is not fit to practice. For purposes of this section, a licensee is deemed to have waived all objections to the admissibility of testimony from the provider of the examination and admissibility of the examination reports. The licensee shall sign all necessary releases for the board to obtain and use the examination during a hearing; or**

**(8) Any conduct for which the board may discipline that constitutes a serious danger to the health, safety, or welfare of a patient or the public.**

**2. The board shall submit existing affidavits and existing certified court records together with a complaint alleging the facts in support of the board's request for an emergency suspension or restriction to the administrative hearing commission and shall supply the administrative hearing commission with the last home or business addresses on file with the board for the licensee. Within one business day of the filing of the complaint, the administrative hearing commission shall return a service packet to the board. The service packet shall include the board's complaint and any affidavits or records the board intends to rely on that have been filed with the administrative hearing commission. The service packet may contain other information in the discretion of the administrative hearing commission. Within twenty-four hours of receiving the packet, the board shall either personally serve the licensee or leave a copy of the service packet at all of the licensee's current addresses on file with the board. Prior to the hearing, the licensee may file affidavits and certified court records for consideration by the administrative hearing commission.**

**3. Within five days of the board's filing of the complaint, the administrative hearing commission shall review the information submitted by the board and the licensee and shall determine based on that information if probable cause exists pursuant to subsection 1 of this section and shall issue its findings of fact and conclusions of law. If the administrative hearing commission finds that there is probable cause, the administrative hearing commission shall enter the order requested by the board. The order shall be effective upon personal service or by leaving a copy at all of the licensee's current addresses on file with the board.**

**4. The administrative hearing commission shall hold a hearing within forty-five days of the board's filing of the complaint to determine if cause for discipline exists. The administrative hearing commission may grant a request for a continuance, but shall in any event, hold the hearing within one hundred twenty days of the board's initial filing. The board shall be granted leave to amend its complaint if it is more than thirty days prior to the hearing. If less than thirty days, the board may be granted leave to amend if public safety requires.**

**(1) If no cause for discipline exists, the administrative hearing commission shall issue findings of fact, conclusions of law, and an order terminating the emergency suspension or restriction.**

**(2) If cause for discipline exists, the administrative hearing commission shall issue findings of fact and conclusions of law and order the emergency suspension or restriction to remain in full force and effect pending a disciplinary hearing before the board. The board shall hold a hearing following the**

**certification of the record by the administrative hearing commission and may impose any discipline otherwise authorized by state law.**

**5. Any action under this section shall be in addition to and not in lieu of any discipline otherwise in the board's power to impose and may be brought concurrently with other actions.**

**6. If the administrative hearing commission does not find probable cause and does not grant the emergency suspension or restriction, the board shall remove all reference to such emergency suspension or restriction from its public records. Records relating to the suspension or restriction shall be maintained in the board's files. The board or licensee may use such records in the course of any litigation to which they are both parties. Additionally, such records may be released upon a specific, written request of the licensee.**

**7. (1) The board may initiate a hearing before the board, for discipline of any licensee's license or certificate upon receipt of one of the following:**

**(a) Certified court records of a finding of guilt or plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States for any offense involving the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;**

**(b) Evidence of final disciplinary action against the licensee's license, certification or registration issued by any other state, by any other agency or entity of this state or any other state or the United States or its territories, or any other country;**

**(c) Evidence of certified court records finding the licensee has been judged incapacitated or disabled under Missouri law or under the laws of any other state or of the United States or its territories.**

**(2) The board shall provide the licensee not less than ten days notice of any hearing held pursuant to chapter 536.**

**(3) Upon a finding that cause exists to discipline a licensee's license the board may impose any discipline otherwise available when disciplining licensees of that same profession.**

**8. A final decision of the administrative hearing commission or the board shall be subject to judicial review pursuant to chapter 536.”; and**

Further amend said bill, Page 24, Section 334.103, Lines 1 to 18, by deleting all of said lines and inserting in lieu thereof the following:

“334.103. 1. A license issued under this chapter by the Missouri State Board of Registration for the Healing Arts shall be automatically revoked at such time as the final trial proceedings are concluded whereby a licensee has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of their profession, or for any felony offense[, an essential element of which is] **involving** fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional revocation of the license to practice their profession in another state or territory upon grounds for which revocation is authorized in this state

following a review of the record of the proceedings and upon a formal motion of the state board of registration for the healing arts. The license of any such licensee shall be automatically reinstated if the conviction or the revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

2. Anyone who has been denied a license, permit or certificate to practice in another state shall automatically be denied a license to practice in this state. However, the board of healing arts may set up other qualifications by which such person may ultimately be qualified and licensed to practice in Missouri.”; and

Further amend said bill, Pages 24 and 25, Section 334.108, Lines 1 to 22, by deleting all of said lines and inserting in lieu thereof the following:

**“334.108. 1. Prior to prescribing any drug, controlled substance, or other treatment through the internet, a physician shall establish a valid physician-patient relationship. This relationship shall include:**

**(1) Obtaining a reliable medical history and performing a physical examination of the patient, adequate to establish the diagnosis for which the drug is being prescribed and to identify underlying conditions or contraindications to the treatment recommended or provided;**

**(2) Having sufficient dialogue with the patient regarding treatment options and the risks and benefits of treatment or treatments;**

**(3) If appropriate, following up with the patient to assess the therapeutic outcome;**

**(4) Maintaining a contemporaneous medical record that is readily available to the patient and, subject to the patient's consent, to the patient's other health care professionals; and**

**(5) Including the electronic prescription information as part of the patient's medical record.**

**2. The requirements of subsection 1 of this section may be satisfied by the prescribing physician's designee when treatment is provided in:**

**(1) A hospital as defined in section 197.020;**

**(2) A hospice program as defined in section 197.250;**

**(3) Accordance with a collaborative practice agreement as defined in section 334.104;**

**(4) Conjunction with a physician assistant licensed pursuant to section 334.738;**

**(5) Consultation with another physician who has an ongoing physician-patient relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications; or**

**(6) On-call or cross-coverage situations.”; and**

Further amend said bill, Pages 25 to 27, Section 334.715, Lines 1 to 63, by deleting all of said lines and inserting in lieu thereof the following:

**“334.715. 1. The board may refuse to issue or renew any license [any applicant or may suspend, revoke, or refuse to renew the license of any licensee for any one or any combination of the causes provided in section 334.100, or if the applicant or licensee] required under sections 334.700 to 334.725 for one or any combination of causes listed in subsection 2 of this section or any cause listed in section 334.100. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the**

**applicant of the applicant's right to file a complaint with the administrative hearing commission as provided in chapter 621. As an alternative to a refusal to issue or renew any certificate, registration, or authority, the board may, in its discretion, issue a license which is subject to reprimand, probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes listed in subsection 2 of this section or section 334.100. The board's order of reprimand, probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.**

**2. The board may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621 against any holder of a certificate of registration or authority, permit, or license required by sections 334.700 to 334.725 or any person who has failed to renew or has surrendered the person's certification of registration or license for any one or any combination of the following causes:**

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification, or its successor agency, as adopted and published by the committee and the board and filed with the secretary of state; or

**(3) Any cause listed in section 334.100.**

[2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any license which has expired, been suspended or been revoked or may issue any license which has been denied; provided, that no application for reinstatement or issuance of license or licensure shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the license to be reinstated or issued was denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.]

**3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:**

(1) Warn, censure, or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years; or

(2) Suspend the person's license, certificate, or permit for a period not to exceed three years; or

(3) Administer a public or private reprimand; or

(4) Deny the person's application for a license; or

**(5) Permanently withhold issuance of a license or require the person to submit to the care, counseling, or treatment of physicians designated by the board at the expense of the individual to be examined; or**

**(6) Require the person to attend such continuing education courses and pass such examinations as the board may direct.**

**4. In any order of revocation, the board may provide that the person shall not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll such time period.**

**5. Before restoring to good standing a license, certificate, or permit issued under this chapter which has been in a revoked, suspended, or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing education courses and pass such examinations as the board may direct.”; and**

Further amend said bill, Pages 33 and 34, Section 536.063, Lines 1 to 43, by deleting all of said lines and inserting in lieu thereof the following:

“536.063. In any contested case:

(1) The contested case shall be commenced by the filing of a writing by which the party or agency instituting the proceeding seeks such action as by law can be taken by the agency only after opportunity for hearing, or seeks a hearing for the purpose of obtaining a decision reviewable upon the record of the proceedings and evidence at such hearing, or upon such record and additional evidence, either by a court or by another agency. Answering, intervening and amendatory writings and motions may be filed in any case and shall be filed where required by rule of the agency, except that no answering instrument shall be required unless the notice of institution of the case states such requirement. Entries of appearance shall be permitted[.];

(2) Any writing filed whereby affirmative relief is sought shall state what relief is sought or proposed and the reason for granting it, and shall not consist merely of statements or charges phrased in the language of a statute or rule; provided, however, that this subdivision shall not apply when the writing is a notice of appeal as authorized by law[.];

(3) Reasonable opportunity shall be given for the preparation and presentation of evidence bearing on any issue raised or decided or relief sought or granted. Where issues are tried without objection or by consent, such issues shall be deemed to have been properly before the agency. Any formality of procedure may be waived by mutual consent[.];

(4) Every writing seeking relief or answering any other writing, and any motion shall state the name and address of the attorney, if any, filing it; otherwise the name and address of the party filing it[.];

(5) By rule the agency may require any party filing such a writing to furnish, in addition to the original of such writing, the number of copies required for the agency's own use and the number of copies necessary to enable the agency to comply with the provisions of this subdivision hereinafter set forth. The agency shall, without charge therefor, mail one copy of each such writing, as promptly as possible after it is filed, to every party or his **or her** attorney who has filed a writing or who has entered his **or her** appearance in the case, and who has not theretofore been furnished with a copy of such writing and shall have requested copies of the writings; provided that in any case where the parties are so numerous that the requirements

of this subdivision would be unduly onerous, the agency may in lieu thereof (a) notify all parties of the fact of the filing of such writing, and (b) permit any party to copy such writing[.];

**(6) When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under section 536.067 upon a properly pled writing filed to initiate the contested case under this chapter, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. “Good cause” includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.”; and**

Further amend said bill, Pages 34 and 35, Section 536.067, Lines 1 to 54, by deleting all of said lines and inserting in lieu thereof the following:

“536.067. In any contested case:

(1) The agency shall promptly mail a notice of institution of the case to all necessary parties, if any, and to all persons designated by the moving party and to any other persons to whom the agency may determine that notice should be given. The agency or its clerk or secretary shall keep a permanent record of the persons to whom such notice was sent and of the addresses to which sent and the time when sent. Where a contested case would affect the rights, privileges or duties of a large number of persons whose interests are sufficiently similar that they may be considered as a class, notice may in a proper case be given to a reasonable number thereof as representatives of such class. In any case where the name or address of any proper or designated party or person is not known to the agency, and where notice by publication is permitted by law, then notice by publication may be given in accordance with any rule or regulation of the agency or if there is no such rule or regulation, then, in a proper case, the agency may by a special order fix the time and manner of such publication[.];

(2) The notice of institution of the case to be mailed as provided in this section shall state in substance:

(a) The caption and number of the case;

(b) That a writing seeking relief has been filed in such case, the date it was filed, and the name of the party filing the same;

(c) A brief statement of the matter involved in the case unless a copy of the writing accompanies said notice;

(d) Whether an answer to the writing is required, and if so the date when it must be filed;

(e) That a copy of the writing may be obtained from the agency, giving the address to which application for such a copy may be made. This may be omitted if the notice is accompanied by a copy of such writing;

(f) The location in the Code of State Regulations of any rules of the agency regarding discovery or a statement that the agency shall send a copy of such rules on request;

(3) Unless the notice of hearing hereinafter provided for shall have been included in the notice of

institution of the case, the agency shall, as promptly as possible after the time and place of hearing have been determined, mail a notice of hearing to the moving party and to all persons and parties to whom a notice of institution of the case was required to be or was mailed, and also to any other persons who may thereafter have become or have been made parties to the proceeding. The notice of hearing shall state:

- (a) The caption and number of the case;
- (b) The time and place of hearing;

(4) No hearing in a contested case shall be had, except by consent, until a notice of hearing shall have been given substantially as provided in this section, and such notice shall in every case be given a reasonable time before the hearing. Such reasonable time shall be at least ten days except in cases where the public morals, health, safety or interest may make a shorter time reasonable; provided that when a longer time than ten days is prescribed by statute, no time shorter than that so prescribed shall be deemed reasonable;

**(5) When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section upon a properly pled writing filed to initiate the contested case under this chapter, a default decision shall be entered against the holder of a license, registration, permit, or certificate of authority without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. “Good cause” includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.”; and**

Further amend said bill, Pages 35 to 38, Section 536.070, Lines 1 to 93, by deleting all of said lines and inserting in lieu thereof the following:

“536.070. In any contested case:

(1) Oral evidence shall be taken only on oath or affirmation[.];

(2) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not the subject of the direct examination, to impeach any witness regardless of which party first called him **or her** to testify, and to rebut the evidence against him[.] **or her**;

(3) A party who does not testify in his **or her** own behalf may be called and examined as if under cross-examination[.];

(4) Each agency shall cause all proceedings in hearings before it to be suitably recorded and preserved. A copy of the transcript of such a proceeding shall be made available to any interested person upon the payment of a fee which shall in no case exceed the reasonable cost of preparation and supply[.];

(5) Records and documents of the agency which are to be considered in the case shall be offered in evidence so as to become a part of the record, the same as any other evidence, but the records and

documents may be considered as a part of the record by reference thereto when so offered[.];

(6) Agencies shall take official notice of all matters of which the courts take judicial notice. They may also take official notice of technical or scientific facts, not judicially cognizable, within their competence, if they notify the parties, either during a hearing or in writing before a hearing, or before findings are made after hearing, of the facts of which they propose to take such notice and give the parties reasonable opportunity to contest such facts or otherwise show that it would not be proper for the agency to take such notice of them[.];

(7) Evidence to which an objection is sustained shall, at the request of the party seeking to introduce the same, or at the instance of the agency, nevertheless be heard and preserved in the record, together with any cross-examination with respect thereto and any rebuttal thereof, unless it is wholly irrelevant, repetitious, privileged, or unduly long[.];

(8) Any evidence received without objection which has probative value shall be considered by the agency along with the other evidence in the case. The rules of privilege shall be effective to the same extent that they are now or may hereafter be in civil actions. Irrelevant and unduly repetitious evidence shall be excluded[.];

(9) Copies of writings, documents and records shall be admissible without proof that the originals thereof cannot be produced, if it shall appear by testimony or otherwise that the copy offered is a true copy of the original, but the agency may, nevertheless, if it believes the interests of justice so require, sustain any objection to such evidence which would be sustained were the proffered evidence offered in a civil action in the circuit court, but if it does sustain such an objection, it shall give the party offering such evidence reasonable opportunity and, if necessary, opportunity at a later date, to establish by evidence the facts sought to be proved by the evidence to which such objection is sustained[.];

(10) Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of an act, transaction, occurrence or event, shall be admissible as evidence of the act, transaction, occurrence or event, if it shall appear that it was made in the regular course of any business, and that it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event or within a reasonable time thereafter. All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect the weight of such evidence, but such showing shall not affect its admissibility. The term "business" shall include business, profession, occupation and calling of every kind[.];

(11) The results of statistical examinations or studies, or of audits, compilations of figures, or surveys, involving interviews with many persons, or examination of many records, or of long or complicated accounts, or of a large number of figures, or involving the ascertainment of many related facts, shall be admissible as evidence of such results, if it shall appear that such examination, study, audit, compilation of figures, or survey was made by or under the supervision of a witness, who is present at the hearing, who testifies to the accuracy of such results, and who is subject to cross-examination, and if it shall further appear by evidence adduced that the witness making or under whose supervision such examination, study, audit, compilation of figures, or survey was made was basically qualified to make it. All the circumstances relating to the making of such an examination, study, audit, compilation of figures or survey, including the nature and extent of the qualifications of the maker, may be shown to affect the weight of such evidence but such showing shall not affect its admissibility[.];

(12) Any party or the agency desiring to introduce an affidavit in evidence at a hearing in a contested

case may serve on all other parties (including, in a proper case, the agency) copies of such affidavit in the manner hereinafter provided, at any time before the hearing, or at such later time as may be stipulated. Not later than seven days after such service, or at such later time as may be stipulated, any other party (or, in a proper case, the agency) may serve on the party or the agency who served such affidavit an objection to the use of the affidavit or some designated portion or portions thereof on the ground that it is in the form of an affidavit; provided, however, that if such affidavit shall have been served less than eight days before the hearing such objection may be served at any time before the hearing or may be made orally at the hearing. If such objection is so served, the affidavit or the part thereof to which objection was made, may not be used except in ways that would have been permissible in the absence of this subdivision; provided, however, that such objection may be waived by the party or the agency making the same. Failure to serve an objection as aforesaid, based on the ground aforesaid, shall constitute a waiver of all objections to the introduction of such affidavit, or of the parts thereof with respect to which no such objection was so served, on the ground that it is in the form of an affidavit, or that it constitutes or contains hearsay evidence, or that it is not, or contains matters which are not, the best evidence, but any and all other objections may be made at the hearing. Nothing herein contained shall prevent the cross-examination of the affiant if he **or she** is present in obedience to a subpoena or otherwise and if he **or she** is present, he **or she** may be called for cross-examination during the case of the party who introduced the affidavit in evidence. If the affidavit is admissible in part only it shall be admitted as to such part, without the necessity of preparing a new affidavit. The manner of service of such affidavit and of such objection shall be by delivering or mailing copies thereof to the attorneys of record of the parties being served, if any, otherwise, to such parties, and service shall be deemed complete upon mailing; provided, however, that when the parties are so numerous as to make service of copies of the affidavit on all of them unduly onerous, the agency may make an order specifying on what parties service of copies of such affidavit shall be made, and in that case a copy of such affidavit shall be filed with the agency and kept available for inspection and copying. Nothing in this subdivision shall prevent any use of affidavits that would be proper in the absence of this subdivision.”; and

Further amend said bill, Pages 40 and 41, Section 621.045, Lines 1 to 72, by deleting all of said lines and inserting in lieu thereof the following:

“621.045. 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his **or her** qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri State Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance, Financial Institutions and Professional Registration

Department of Mental Health

Board of Private Investigator Examiners.

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the Missouri state board for architects, professional engineers, professional land surveyors and landscape architects against unlicensed persons under section 327.076.

4. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 or 2 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof and the agency's initial settlement offer, or file a contested case against the licensee;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, to consider the agency's initial settlement offer and to contact the agency to discuss the terms of such settlement offer;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact under this subsection by the agency or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

5. If the licensee desires review by the administrative hearing commission under subdivision (3) of subsection 4 of this section at any time prior to the settlement becoming final, the licensee may rescind and

withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

**6. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under sections 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. “Good cause” includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.”; and**

Further amend said bill, Pages 42 and 43, Section 621.100, Lines 1 to 42, by deleting all of said lines and inserting in lieu thereof the following:

“621.100. 1. Upon receipt of a written complaint from an agency named in section 621.045 in a case relating to a holder of a license granted by such agency, or upon receipt of such complaint from the attorney general, the administrative hearing commission shall cause a copy of said complaint to be served upon such licensee in person, **or by leaving a copy of the complaint at the licensee's dwelling house or usual place of abode or last address given to the agency by the licensee with some person residing or present therein over the age of fifteen**, or by certified mail, together with a notice of the place of and the date upon which the hearing on said complaint will be held. If service cannot be accomplished [in person or by certified mail] **as described in this section**, notice by publication as described in subsection 3 of section 506.160 shall be allowed; any commissioner is authorized to act as a court or judge would in that section, and any employee of the commission is authorized to act as a clerk would in that section. In any case initiated upon complaint of the attorney general, the agency which issued the license shall be given notice of such complaint and the date upon which the hearing will be held by delivery of a copy of such complaint and notice to the office of such agency or by certified mail. Such agency may intervene and may retain the services of legal counsel to represent it in such case.

**2. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section and section 536.067 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of**

**the default decision. “Good cause” includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.**

3. In any case initiated under this section, the custodian of the records of an agency may prepare a sworn affidavit stating truthfully pertinent information regarding the license status of the licensee charged in the complaint, including only: the name of the licensee; his **or her** license number; its designated date of expiration; the date of his **or her** original Missouri licensure; the particular profession, practice or privilege licensed; and the status of his **or her** license as current and active or otherwise. This affidavit shall be received as substantial and competent evidence of the facts stated therein notwithstanding any objection as to the form, manner of presentment or admissibility of this evidence, and shall create a rebuttable presumption of the veracity of the statements therein; provided, however, that the procedures specified in section 536.070 shall apply to the introduction of this affidavit in any case where the status of this license constitutes a material issue of fact in the proof of the cause charged in the complaint.”; and

Further amend said bill, Page 43, Section 621.110, Lines 1 to 22, by deleting all of said lines and inserting in lieu thereof the following:

“621.110. Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee **and within one hundred twenty days of the date the case became ready for decision**, the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. A copy of the findings of fact, conclusions of law and the commission's recommendations, if any, shall be delivered or transmitted by mail to the licensee if the licensee's whereabouts are known, and to any attorney who represented the licensee. Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing, provided that such hearing may be waived by consent of the agency and licensee where the commission has made recommendations as to appropriate disciplinary action. In case of such waiver by the agency and licensee, the recommendations of the commission shall become the order of the agency. The licensee may appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. In any case where the commission fails to find any cause charged by the complaint for which the license may be suspended or revoked, the commission shall dismiss the complaint, and so notify all parties.”; and

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

#### HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Page 1, Section A, Line 7, by inserting after all of said section and line the following:

“167.194. 1. Beginning July 1, 2008, every child enrolling in kindergarten or first grade in a public elementary school in this state shall receive one comprehensive vision examination performed by a state licensed optometrist or physician. Evidence of the examination shall be submitted to the school no later than January first of the first year in which the student is enrolled at the school, provided that the evidence

submitted in no way violates any provisions of Public Law 104-191, 42 U.S.C. 201, et seq, Health Insurance Portability and Accountability Act of 1996.

2. The state board of education, in conjunction with the department of health and senior services, shall promulgate rules establishing the criteria for meeting the requirements of subsection 1 of this section, which may include, but are not limited to, forms or other proof of such examination, or other rules as are necessary for the enforcement of this section. The form or other proof of such examination shall include but not be limited to identifying the result of the examinations performed under subsection 4 of this section, the cost for the examination, the examiner's qualifications, and method of payment through either:

- (1) Insurance;
- (2) The state Medicaid program;
- (3) Complimentary; or
- (4) Other form of payment.

3. The department of elementary and secondary education, in conjunction with the department of health and senior services, shall compile and maintain a list of sources to which children who may need vision examinations or children who have been found to need further examination or vision correction may be referred for treatment on a free or reduced-cost basis. The sources may include individuals, and federal, state, local government, and private programs. The department of elementary and secondary education shall ensure that the superintendent of schools, the principal of each elementary school, the school nurse or other person responsible for school health services, and the parent organization for each district elementary school receives an updated copy of the list each year prior to school opening. Professional and service organizations concerned with vision health may assist in gathering and disseminating the information, at the direction of the department of elementary and secondary education.

4. For purposes of this section, the following comprehensive vision examinations shall include but not be limited to:

- (1) Complete case history;
- (2) Visual acuity at distance (aided and unaided);
- (3) External examination and internal examination (ophthalmoscopic examination);
- (4) Subjective refraction to best visual acuity.

5. Findings from the evidence of examination shall be provided to the department of health and senior services and kept by the optometrist or physician for a period of seven years.

6. In the event that a parent or legal guardian of a child subject to this section shall submit to the appropriate school administrator a written request that the child be excused from taking a vision examination as provided in this section, that child shall be so excused.

[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 on June 30, 2012, 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 eight 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. 5

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Page 27, Section 334.715, Line 63, by inserting after all of said line the following:

“335.036. 1. The board shall:

(1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and the board may appoint, employ and fix the compensation of a legal counsel and such board personnel as defined in subdivision (4) of subsection 10 of section 324.001 as are necessary to administer the provisions of sections 335.011 to 335.096;

(2) Adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of sections 335.011 to 335.096;

(3) Prescribe minimum standards for educational programs preparing persons for licensure pursuant to the provisions of sections 335.011 to 335.096;

(4) Provide for surveys of such programs every five years and in addition at such times as it may deem necessary;

(5) Designate as “approved” such programs as meet the requirements of sections 335.011 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall annually publish a list of such programs;

(6) Deny or withdraw approval from educational programs for failure to meet prescribed minimum standards;

(7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

(8) Cause the prosecution of all persons violating provisions of sections 335.011 to 335.096, and may incur such necessary expenses therefor;

(9) Keep a record of all the proceedings; and make an annual report to the governor and to the director of the department of insurance, financial institutions and professional registration;

(10) Establish an impaired nurse program.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. All fees received by the board pursuant to the provisions of sections 335.011 to 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of nursing fund. All administrative costs and expenses of the board shall be paid from appropriations made for those purposes. **The board is authorized to provide funding for the nursing education incentive program established in sections 335.200 to 335.203.**

4. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be

transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule, permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 1999, shall be invalid and void.

335.200. As used in sections 335.200 to [335.209] **335.203**, the following terms mean:

(1) "Board", the [Missouri coordinating board for higher education] **state board of nursing**;

(2) "**Department**", the **Missouri department of higher education**;

(3) "Eligible [nursing program] **institution of higher education**", a **Missouri institution of higher education accredited by the higher learning commission of the north central association which offers a nursing education program [accredited under this chapter]**;

[ (3) "Fund", the nurse training incentive fund, established in section 335.203; ]

(4) "[Incentive] Grant", a grant awarded to [a nurse education program] **an eligible institution of higher education** under the guidelines set forth in sections **335.200 to 335.203** [to 335.209];

(5) "Nontraditional student", a person admitted to an eligible nursing program that is older than twenty-two years of age at the time he is admitted to the nursing program;

(6) "Nurse", a person holding a license as a registered nurse, pursuant to this chapter; and

(7) "Professional nursing education program", a program of education accredited by the state board of nursing, pursuant to this chapter, designed to prepare persons for licensure as registered professional nurses with an enrollment of no less than sixty-five percent of the enrollment approved by the state board of nursing].

335.203. [The "Nurse Training Incentive Fund" is hereby established in the state treasury. The fund shall be administered by the coordinating board for higher education. The board shall base its appropriation request on enrollment, graduation and licensure figures for the previous year. The board may accept funds from private, federal and other sources for the purposes of sections 335.200 to 335.209. All appropriations, private donations, and other funds provided to the board for the implementation of sections 335.200 to 335.209 shall be placed in the nurse training incentive fund. Notwithstanding the provisions of section 33.080 to the contrary, funds in the nurse training incentive fund shall not revert to the general revenue fund. Interest accruing to the fund shall be part of the fund. Grants provided pursuant to section 335.206 shall be made within the amounts appropriated therefor.] **1. There is hereby established the "Nursing Education**

**Incentive Program” within the department of higher education.**

**2. Subject to appropriation, grants shall be awarded through the nursing education incentive program to eligible institutions of higher education based on criteria jointly determined by the board and the department. Grant award amounts shall not exceed one hundred fifty thousand dollars. No campus shall receive more than one grant per year.**

**3. To be considered for a grant, an eligible institution of higher education shall offer a program of nursing that meets the predetermined category and area of need as established by the board and the department under subsection 4 of this section.**

**4. The board and the department shall determine categories and areas of need for designating grants to eligible institutions of higher education. In establishing categories and areas of need, the board and department may consider criteria including, but not limited to:**

**(1) Data generated from licensure renewal data and the department of health and senior services; and**

**(2) National nursing statistical data and trends that have identified nursing shortages.**

**5. The department shall be the administrative agency responsible for implementation of the program established under sections 335.200 to 335.203, and shall promulgate reasonable rules for the exercise of its functions and the effectuation of the purposes of sections 335.200 to 335.203. The department shall, by rule, prescribe the form, time, and method of filing applications and shall supervise the processing of such applications.**

**6. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.”; and**

Further amend said bill, Page 43, Section 621.110, Line 22, by inserting after all of said line the following:

“[335.206. 1. The nurse training incentive fund shall, upon appropriation, be used to provide incentive grants to eligible nursing programs which increase enrollment. Grants shall not be awarded to classes begun on or after July 1, 1996.

2. Grants shall be awarded to eligible nursing programs which increase enrollment pursuant to subsection 3 of this section. Eligible programs receiving grants provided under sections 335.200 to 335.209 shall monitor the enrollment of nontraditional students in their program and shall annually report to the board the number of nontraditional students enrolled therein. It shall be the intent of sections 335.200 to 335.209 to encourage the enrollment and graduation of nontraditional students in nursing education programs.

3. Incentive grants shall be awarded to professional nurse education programs, as follows:

(1) A grant of eight thousand dollars for each entering class of ten students by which the program

increases its enrollment over the number of entering students admitted in the fall of 1989; and

(2) A grant of four hundred dollars for each student from each entering class cited in subdivision (1) of this section by which the program increases its number of graduates over the number of students graduated in the preceding year; or

(3) Beginning with the first graduating class of the classes which enter and are enrolled after August 28, 1990, a grant of four hundred dollars for each student by which the program increases its number of graduates over the number of graduates of the preceding year, if the program is not otherwise qualified to receive the grant provided pursuant to subdivision (1) of this section.]

[335.209. No rule or portion of a rule promulgated under the authority of sections 335.200 to 335.209 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.]; 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 29, Page 7, Section 332.425, Line 7, Lines 24 & 25, by striking all of said lines and inserting in lieu thereof the following:

**“(7) Submit to the board evidence of successful passage of an examination approved by the board of spoken and written proficiency in the English language.”; 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. 29, Page 2, Section 197.705, Line 9, by deleting the words, **“in a single line”**; and

Further amend said section and page, Line 10, by deleting the words, **“one-half inch”**; and

Further amend said section page and line, by inserting before the word, **“bottom”** the words, **“top or”**; and

Further amend said section and page, Line 14, by deleting all of said line and inserting correct punctuation, **“:”** after the word, **“Physician”** on line 13; and

Further amend said section and page, Line 41, by deleting the word, **“five”** and inserting in lieu thereof the word, **“ten”**; and

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

#### HOUSE AMENDMENT NO. 8

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Page 1, Section A, Line 7, by inserting after all of said section and line the following:

**“197.071. Any person aggrieved by an official action of the department of health and senior services affecting the licensed status of a person under the provisions of sections 197.010 to [197.120] 197.162, including the refusal to grant, the grant, the revocation, the suspension, or the failure to renew a license, may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, and it shall not be a condition to such determination that the person aggrieved seek a**

reconsideration, a rehearing, or exhaust any other procedure within the department of health and senior services.

**2. The department shall review and revise its regulations governing hospital licensure and enforcement as to promote hospital and regulatory efficiencies and eliminate duplicative regulation and inspections by or on behalf of state and federal agencies. The hospital licensure regulations adopted under this section shall incorporate standards which shall include, but not be limited to, the following:**

**(1) Each citation or finding of a regulatory deficiency shall refer to the specific written and publicly available standard and associated written interpretative guidance that are the basis of the citation or finding;**

**(2) Subject to appropriations, the department shall ensure that its hospital licensure regulatory standards are consistent with and do not contradict the federal Centers for Medicare and Medicaid Services' Conditions of Participation for hospitals and associated interpretive guidance;**

**(3) The department shall establish and publish a process and standards for complaint investigation, including but not limited to:**

**(a) A process and standards for determining which complaints warrant an onsite investigation based on a preliminary review of available information from the complainant and the hospital. The process and standards shall, at a minimum, provide for a departmental determination independent of any recommendation for investigation by or in consultation with the federal Centers for Medicare and Medicaid Services (CMS). For purposes of evaluating such process and standards, the number and nature of complaints filed and the recommended actions by the department and, as appropriate, CMS shall be disclosed upon request to hospitals, so long as the otherwise confidential identity of the complainant or the patient for whom the complaint was filed is not disclosed;**

**(b) The scope of a departmental investigation of a complaint shall be limited to the specific regulatory standard or standards raised by the complaint, unless a threat of immediate jeopardy of safety is observed or identified during such investigation;**

**(c) A hospital shall be provided with a report of all complaints made against the hospital. Such report shall include the nature of the complaint, the date of the complaint, the department conclusions regarding the complaint, the number of investigators and days of investigation resulting from each complaint;**

**(4) Subject to appropriations, the department shall designate adequate and sufficient resources to the annual inspection of hospitals necessary for licensure, including but not limited to resources for consultation services and collaboration with hospital personnel to facilitate improvements;**

**(5) Hospitals and hospital personnel shall have the opportunity to participate in:**

**(a) Training sessions provided to state licensure surveyors, which shall be provided at least annually subject to appropriations. Hospitals and hospital personnel shall assume all costs associated with their participation in training sessions and use of curriculum materials; and**

**(b) Training of surveyors assigned to inspection of hospitals to the fullest extent possible, including the training of surveyors previously designated as a surveyor specific, which resulted in the exclusion of all hospital personnel from such training sessions;**

**(6) The regulations shall establish specific time lines for state hospital officials to provide responses to hospitals regarding the status and outcome of pending investigations and regulatory actions and questions about interpretations of regulations. Such time lines shall be identical to, to the extent practicable, to the time lines established for the federal hospital certification and enforcement system in CMS's State Operations Manual, as amended.**

**3. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.**

197.080. The department of health and senior services, with the advice of the state advisory council and pursuant to the provisions of this section and chapter 536, shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect to all hospitals or different types of hospitals to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting safe and adequate treatment of individuals in hospitals in the interest of public health, safety and welfare. No rule or portion of a rule promulgated under the authority of sections 197.010 to 197.280 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

197.100. 1. Any provision of chapter 198 and chapter 338 to the contrary notwithstanding, the department of health and senior services shall have sole authority, and responsibility for inspection and licensure of hospitals in this state including, but not limited to all parts, services, functions, support functions and activities which contribute directly or indirectly to patient care of any kind whatsoever. The department of health and senior services shall annually inspect each licensed hospital [and] **but shall accept in lieu of an annual inspection reports of hospital inspections from other governmental and recognized accrediting organizations as authorized by this section. Recognizing accrediting organizations shall be those that have deemed status conferred by the Centers for Medicare and Medicaid Services (CMS) to take the place of direct CMS oversight and enforcement. The department shall make any other inspections and investigations as it deems necessary for good cause shown; provided that, the scope of a departmental investigation of a complaint shall be limited to the specific regulatory standard or standards raised by the complaint, unless a documented threat of immediate jeopardy of safety is observed or identified during the investigation.** The department of health and senior services shall accept reports of hospital inspections from governmental agencies and recognized accrediting organizations [in whole or in part] for licensure purposes if[:

(1) The inspection is comparable to an inspection performed by the department of health and senior services;

(2) The hospital meets minimum licensure standards; and

(3) **The accreditation inspection was conducted within [one year of the date of license renewal] the term of accreditation authorized by the Centers for Medicare and Medicaid Services in granting deemed status to the recognized accrediting organization.** The department of health and senior services shall attempt to schedule inspections and evaluations required by this section so as not to cause a hospital to be subject to more than one inspection in any twelve-month period from the department of health and

senior services or any agency or accreditation organization the reports of which are accepted for licensure purposes pursuant to this section, except for good cause shown.

2. Other provisions of law to the contrary notwithstanding, the department of health and senior services shall be the only state agency to determine life safety and building codes for hospitals defined or licensed pursuant to the provisions of this chapter, including but not limited to sprinkler systems, smoke detection devices and other fire safety related matters so long as any new standards shall apply only to new construction.”; and

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

HOUSE AMENDMENT NO. 9

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Page 1, In the Title, Lines 2 to 6, by deleting all of said lines and inserting in lieu thereof the following:

“To repeal sections 197.705, 302.291, 324.043, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 334.040, 334.070, 334.090, 334.100, 334.102, 334.103, 334.715, 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 339.190, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, RSMo, and to enact in lieu thereof forty-three new sections relating to the licensing of certain professions, with penalty provisions.”; and

Further amend said bill, Page 1, Section A, Lines 1 to 7, by deleting all of said lines and inserting in lieu thereof the following:

“Section A. Sections 197.705, 302.291, 324.043, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 334.040, 334.070, 334.090, 334.100, 334.102, 334.103, 334.715, 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 339.190, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, RSMo, are repealed and forty-three new sections enacted in lieu thereof, to be known as sections 197.705, 302.291, 324.013, 324.043, 324.045, 332.425, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 334.001, 334.040, 334.070, 334.090, 334.099, 334.100, 334.102, 334.103, 334.108, 334.715, 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 339.190, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070, 537.033, 621.045, 621.100, and 621.110, to read as follows:”; and

Further amend said bill, Page 7, Section 332.425, Line 25, by inserting after all of said line the following:

“333.041. 1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he or she is:

(1) At least eighteen years of age, and possesses a high school diploma, **a general equivalency diploma**, or equivalent thereof, **as determined, at its discretion, by the board; and**

(2) [Either a citizen or a bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and

(3)] A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of

Missouri and who is enrolled in [an] **a program** accredited [institution of mortuary science education] **by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board**, shall register with the board as a practicum student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum [for the accredited institution of mortuary science education]. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is at least eighteen years of age, and possesses a high school diploma, **a general equivalency diploma**, or equivalent thereof, **as determined, at its discretion, by the board**;

(2) [Is either a citizen or bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so;

(3)] Is a person of good moral character;

[(4)] **(3) Has [graduated from an institute of mortuary science education] completed a funeral service education program** accredited by the American Board of Funeral Service Education, [or] any successor organization [recognized by the United States Department of Education, for funeral service education], **or other accrediting entity as approved by the board**. If an applicant does not [appear for the final examination before the board] **complete all requirements for licensure** within five years from the date of his or her [graduation from] **completion of** an accredited [institution of mortuary science education] **program**, his or her registration as [a student] **an apprentice** embalmer shall be automatically canceled. **The applicant shall be required to file a new application and pay applicable fees. No previous apprenticeship shall be considered for the new application;**

[(5)] **(4) Upon due examination administered by the board, is possessed of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any applicant fails to pass the state examination, he or she may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his or her desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;**

[(6)] **(5) Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six**

months of the apprenticeship period. All transcripts and other records filed with the board shall become a part of the board files.

4. If the applicant does not [appear for oral examination] **complete the application process** within the five years after his or her [graduation from an accredited institution of mortuary science education] **completion of an approved program**, then he or she must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. Upon establishment of his or her qualifications as specified by this section or section 333.042, the board shall issue to the applicant a license to practice funeral directing or embalming, as the case may require, and shall register the applicant as a duly licensed funeral director or a duly licensed embalmer. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

333.042. 1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. **Except as otherwise provided in section 41.950**, applicants not entitled to a license pursuant to section 333.051 shall serve an apprenticeship for at least twelve **consecutive** months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be canceled.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he or she shall make application, pay the current application and examination fee and successfully complete the Missouri law examination. He or she shall be exempt from the twelve-month apprenticeship **required by subsection 1 of this section** and the practical examination before the board. If a person has a limited license issued pursuant to this subsection, he or she may obtain a full funeral director's license if he or she fulfills the apprenticeship and successfully completes the funeral director practical examination.

3. If an individual is a Missouri licensed embalmer or has [graduated from an institute of mortuary

science education] **completed a program** accredited by the American Board of Funeral Service Education [or], any successor organization [recognized by the United States Department of Education for funeral service education], **or other accrediting entity as approved by the board** or has successfully completed a course of study in funeral directing offered by [a college] **an institution** accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve-month apprenticeship required by subsection 1 of this section.

333.051. 1. Any [nonresident] individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in the state of his **or her** residence may be granted a license to practice funeral directing or embalming in this state on application to the board and on providing the board with such evidence as to his **or her** qualifications as is required by the board. [No license shall be granted to a nonresident applicant except one who resides in a county contiguous and adjacent to the state of Missouri and who is regularly engaged in the practice of funeral directing or embalming, as defined by this chapter, at funeral establishments within this state or in an establishment located in a county contiguous and adjacent to the state of Missouri, unless the law of the state of the applicant's residence authorizes the granting of licenses to practice funeral directing in such state to persons licensed as funeral directors under the law of the state of Missouri.]

2. Any individual holding a valid, unrevoked and unexpired license as an embalmer or funeral director in another state having requirements substantially similar to those existing in this state [who is or intends to become a resident of this state] may apply for a license to practice in this state by filing with the board a certified statement from the examining board of the state or territory in which the applicant holds his **or her** license showing the grade rating upon which [his] **the** license was granted, together with a recommendation, and the board shall grant the applicant a license upon his **or her** successful completion of an examination over Missouri laws as required in section 333.041 or section 333.042 if the board finds that the applicant's qualifications meet the requirements for funeral directors or embalmers in this state at the time the applicant was originally licensed in the other state.

3. A person holding a valid, unrevoked and unexpired license to practice funeral directing or embalming in another state or territory with requirements less than those of this state may, after five consecutive years of active experience as a licensed funeral director or embalmer in that state, apply for a license to practice in this state after passing a test to prove his **or her** proficiency, including but not limited to a knowledge of the laws and regulations of this state as to funeral directing and embalming.

333.061. 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation

room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have [available in the preparation or embalming room] a register book or log which shall be available at all times [in full view] for the board's inspector and [the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book] **that shall contain:**

**(a) The name of each body that has been in the establishment;**

**(b) The date the body arrived at the establishment;**

**(c) If applicable, the place of embalming, if known; and**

**(d) If the body was embalmed at the establishment, the date and time that the embalming took place, and the name, signature, and license number of the embalmer; and**

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

333.091. [Each establishment, funeral director or embalmer receiving a license under this chapter shall have recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices.] All licenses or registrations, or duplicates thereof, issued pursuant to this chapter shall be displayed at each place of business.

333.151. 1. The state board of embalmers and funeral directors shall consist of ten members, including one voting public member appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than five members

of the board shall be of the same political party. The nonpublic members shall be appointed by the governor, with the advice and consent of the senate[, one from each of the state’s congressional districts be of good moral character and submit an audited financial statement of their funeral establishment by an independent auditor for the previous five years. This audited financial statement must include all at-need and preneed business]. **A majority of the members shall constitute a quorum. Members shall be appointed to represent diversity in gender, race, ethnicity, and the various geographic regions of the state.**

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor, if any.

3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

333.171. The board shall hold at least two regular meetings each year for the purpose of administering examinations at times and places fixed by the board. Other meetings shall be held at the times fixed by regulations of the board or on the call of the chairman of the board. Notice of the time and place of each regular or special meeting shall be mailed by the executive secretary to each member of the board at least five days before the date of the meeting. [At all meetings of the board three members constitute a quorum.] The board may adopt and use a common seal.”; and

Further amend said bill, Page 34, Section 339.190, Line 43, by inserting after all of said line the following:

“436.405. 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

(1) “Beneficiary”, the individual who is to be the subject of the disposition or who will receive funeral services, facilities, or merchandise described in a preneed contract;

(2) **“Board”, the board of embalmers and funeral directors;**

(3) “Guaranteed contract”, a preneed contract in which the seller promises, assures, or guarantees to the purchaser that all or any portion of the costs for the disposition, services, facilities, or merchandise identified in a preneed contract will be no greater than the amount designated in the contract upon the preneed beneficiary’s death or that such costs will be otherwise limited or restricted;

[(3)] (4) “Insurance-funded preneed contract”, a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or [single premium] **a deferred annuity contract that is not classified as a variable annuity and has death benefit proceeds that are never less than the sum of premiums paid;**

[(4)] (5) “Joint account-funded preneed contract”, a preneed contract which designates that payments

for the preneed contract made by or on behalf of the purchaser will be deposited and maintained in a joint account in the names of the purchaser and seller, as provided in this chapter;

[(5)] (6) “Market value”, a fair market value:

(a) As to cash, the amount thereof;

(b) As to a security as of any date, the price for the security as of that date obtained from a generally recognized source, or to the extent no generally recognized source exists, the price to sell the security in an orderly transaction between unrelated market participants at the measurement date; and

(c) As to any other asset, the price to sell the asset in an orderly transaction between unrelated market participants at the measurement date consistent with statements of financial accounting standards;

[(6)] (7) “Nonguaranteed contract”, a preneed contract in which the seller does not promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities, service, or merchandise identified in a preneed contract will be limited to the amount designated in the contract upon the preneed beneficiary’s death or that such costs will be otherwise limited or restricted;

[(7)] (8) “Preneed contract”, any contract or other arrangement which provides for the final disposition in Missouri of a dead human body, funeral or burial services or facilities, or funeral merchandise, where such disposition, services, facilities, or merchandise are not immediately required. Such contracts include, but are not limited to, agreements providing for a membership fee or any other fee for the purpose of furnishing final disposition, funeral or burial services or facilities, or funeral merchandise at a discount or at a future date;

[(8)] (9) “Preneed trust”, a trust to receive deposits of, administer, and disburse payments received under preneed contracts, together with income thereon;

[(9)] (10) “Purchaser”, the person who is obligated to pay under a preneed contract;

[(10)] (11) “Trustee”, the trustee of a preneed trust, including successor trustees;

[(11)] (12) “Trust-funded preneed contract”, a preneed contract which provides that payments for the preneed contract shall be deposited and maintained in trust.

2. All terms defined in chapter 333 shall be deemed to have the same meaning when used in sections 436.400 to 436.520.

436.412. Each preneed contract made before August 28, 2009, and all payments and disbursements under such contract shall continue to be governed by this chapter as the chapter existed at the time the contract was made. Any licensee or registrant of the board may be disciplined for violation of any provision of sections 436.005 to 436.071 within the applicable statute of limitations. [In addition, the provisions of section 436.031, as it existed on August 27, 2009, shall continue to govern disbursements to the seller from the trust and payment of trust expenses.] Joint accounts in existence as of August 27, 2009, shall continue to be governed by the provisions of section 436.053, as that section existed on August 27, 2009.

436.445. A trustee of any preneed trust, including trusts established before August 28, 2009, shall not after August 28, 2009, make any decisions to invest any trust fund with:

(1) The spouse of the trustee;

(2) The descendants, siblings, parents, or spouses of a seller or an officer, manager, director or employee

of a seller, provider, or preneed agent;

(3) Agents, **other than authorized external investment advisors as authorized by section 436.440**, or attorneys of a trustee, seller, or provider; or

(4) A corporation or other person or enterprise in which the trustee, seller, or provider owns a controlling interest or has an interest that might affect the trustee's judgment.

436.450. 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract any amount in excess of what is required to pay the premiums on the insurance policy as assessed or required by the insurer as premium payments for the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

3. Payments collected by or on behalf of a seller for an insurance-funded preneed contract shall be promptly remitted to the insurer or the insurer's designee as required by the insurer; provided that payments shall not be retained or held by the seller or preneed agent for more than thirty days from the date of receipt.

4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or [single premium] annuity sold with a preneed contract; provided, however, the provisions of [this act] **sections 436.400 to 436.520** shall not apply to [single premium] annuities or insurance policies regulated by chapters 374, 375, and 376 used to fund preneed funeral agreements, contracts, or programs.

6. This section shall apply to all preneed contracts including those entered into before August 28, 2009.

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

(1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and

(2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the beneficiary or assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of Missouri.

436.455. 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business

in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate, **or in an account titled in the beneficiary's name and payable on the beneficiary's death to the seller.** There shall be a separate joint account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.

3. All consideration paid by the purchaser under a joint account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

4. The financial institution shall hold, invest, and reinvest funds deposited under this section in other accounts offered to depositors by the financial institutions as provided in the written agreement of the purchaser and the seller, provided the financial institution shall not invest or reinvest any funds deposited under this section in term life insurance or any investment that does not reasonably have the potential to gain income or increase in value.

5. Income generated by preneed funds deposited under this section shall be used to pay the reasonable expenses of administering the account as charged by the financial institution and the balance of the income shall be distributed or reinvested upon fulfillment of the contract, cancellation or transfer pursuant to the provisions of this chapter.

6. Within fifteen days after a provider [and a witness certify to the financial institution in writing] **delivers a copy of a certificate of performance to the seller, signed by the provider and the person authorized to make arrangements on behalf of the beneficiary, certifying** that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, the [financial institution shall distribute the deposited funds to the seller if the certification has been approved by the purchaser] **seller shall take whatever steps are required by the financial institution to secure payment of the funds from the financial institution.** The seller shall pay the provider within ten days of receipt of funds.

7. Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

436.456. At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(1) In the case of a joint account-funded preneed contract, deliver written notice of the cancellation to the seller [and the financial institution]. Within fifteen days of receipt of notice of the cancellation, the [financial institution shall distribute all deposited funds to the purchaser] **seller shall take whatever steps may be required by the financial institution to obtain the funds from the financial institution. Upon receipt of the funds from the financial institution, the seller shall distribute the principal to the purchaser.** Interest shall be distributed as provided in the agreement with the seller and purchaser;

(2) In the case of an insurance-funded preneed contract, deliver written notice of the cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller shall notify the purchaser that

the cancellation of the contract shall not cancel any life insurance funding the contract and that insurance cancellation is required to be made in writing to the insurer;

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under subsection 4 of section 436.430 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.”; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR  
HOUSE AMENDMENT NO. 11

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Page 33, Section 339.190, Line 18, by inserting after all of said section and line, the following:

**“376.1257. 1. Any health benefit plan that provides coverage and benefits for cancer chemotherapy treatment shall not require a higher co-payment, deductible, or coinsurance amount for a prescribed orally administered anticancer medication that is used to kill or slow the growth of cancerous cells than what the plan requires for an intravenously administered or injected cancer medication that is provided, regardless of formulation or benefit category determination by the health carrier administering the health benefit plan.**

**2. A health carrier shall not achieve compliance with the provisions of this section by imposing an increase in co-payment, deductible, or coinsurance amount for an intravenously administered or injected cancer chemotherapy agent covered under the health benefit plan.**

**3. Nothing in this section shall be interpreted to prohibit a health carrier from requiring prior authorization or imposing other appropriate utilization controls in approving coverage for any chemotherapy.**

**4. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.**

**5. As used in this section, the terms “health benefit plan” and “health carrier” shall have the same meanings ascribed to such terms in section 376.1350.**

**6. Coverage under this section shall be limited to Federal Drug Administration approved indications and National Comprehensive Cancer Network recommendations.**

**7. Coverage under this section may be administered by a specialty pharmacy network.”; and**

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

HOUSE AMENDMENT NO. 12

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Page 1, In the Title, Line 2, by inserting after the word “sections” the numbers “195.060, 195.080,”; and

Further amend said bill, Page 1, In the Title, Line 3, by inserting after the number “334.715,” the number “334.747,”; and

Further amend said bill, Page 1, In the Title, Line 5, by deleting the word “thirty” and inserting in lieu thereof the word “forty-four”; and

Further amend said bill, Page 1, Section A, Line 1, by inserting after the word “Sections” the numbers “195.060, 195.080,”; and

Further amend said bill, Page 1, Section A, Line 2, by inserting after the number “334.715,” the number “334.747,”; and

Further amend said bill, Page 1, Section A, Line 3, by deleting the word “thirty” and inserting in lieu thereof the word “forty-four”; and

Further amend said bill, Page 1, Section A, Line 4, by inserting after the word “sections” the numbers “195.060, 195.080, 195.450, 195.453, 195.456, 195.459, 195.462, 195.465, 195.468, 195.471, 195.474, 195.477, 195.480,”; and

Further amend said bill, Page 1, Section A, Line 6, by inserting after the number “334.715,” the number “334.747,”; and

Further amend said bill, Page 1, Section A, Line 7, by inserting after all of said line the following:

“195.060. 1. Except as provided in subsection [3] **4** of this section, a pharmacist, in good faith, may sell and dispense controlled substances to any person only upon a prescription of a practitioner as authorized by statute, provided that the controlled substances listed in Schedule V may be sold without prescription in accordance with regulations of the department of health and senior services. All written prescriptions shall be signed by the person prescribing the same. All prescriptions shall be dated on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is prescribed, and the full name, address, and the registry number under the federal controlled substances laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of the animal for which the drug is prescribed. The person filling the prescription shall either write the date of filling and his own signature on the prescription or retain the date of filling and the identity of the dispenser as electronic prescription information. The prescription or electronic prescription information shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this law. No prescription for a drug in Schedule I or II shall be filled more than six months after the date prescribed; no prescription for a drug in schedule I or II shall be refilled; no prescription for a drug in Schedule III or IV shall be filled or refilled more than six months after the date of the original prescription or be refilled more than five times unless renewed by the practitioner.

**2. A pharmacist, in good faith, may sell and dispense controlled substances to any person upon a prescription of a practitioner located in another state, provided that the prescription was issued according to and in compliance with the applicable laws of that state and the United States.**

**3.** The legal owner of any stock of controlled substances in a pharmacy, upon discontinuance of dealing in such drugs, may sell the stock to a manufacturer, wholesaler, or pharmacist, but only on an official written order.

[3.] **4.** A pharmacist, in good faith, may sell and dispense any Schedule II drug or drugs to any person in emergency situations as defined by rule of the department of health and senior services upon an oral prescription by an authorized practitioner.

[4.] **5.** Except where a bona fide physician-patient-pharmacist relationship exists, prescriptions for narcotics or hallucinogenic drugs shall not be delivered to or for an ultimate user or agent by mail or other common carrier.

195.080. 1. Except as otherwise in sections 195.005 to 195.425 specifically provided, sections 195.005 to 195.425 shall not apply to the following cases: prescribing, administering, dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain controlled substances in such combinations of drugs as to prevent the drugs from being readily extracted from such liniments, ointments, or preparations, except that sections 195.005 to 195.425 shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

2. [The quantity of Schedule II controlled substances prescribed or dispensed at any one time shall be limited to a thirty-day supply.] The quantity of Schedule **II**, III, IV or V controlled substances prescribed or dispensed at any one time shall be limited to a ninety-day supply and shall be prescribed and dispensed in compliance with the general provisions of sections 195.005 to 195.425. [The supply limitations provided in this subsection may be increased up to three months if the physician describes on the prescription form or indicates via telephone, fax, or electronic communication to the pharmacy to be entered on or attached to the prescription form the medical reason for requiring the larger supply.] The supply limitations provided in this subsection shall not apply if:

**(1) The prescription issued by a practitioner located in another state according to and in compliance with the applicable laws of that state and the United States and dispensed to a patient located or residing in another state; or**

**(2) The prescription is dispensed directly to a member of the United States armed forces serving outside the United States.**

3. The partial filling of a prescription for a Schedule II substance is permissible as defined by regulation by the department of health and senior services.

**195.450. 1. Sections 195.450 to 195.480 shall be known and may be cited as the “Prescription Drug Monitoring Program Act”.**

**2. As used in sections 195.450 to 195.480, the following terms mean:**

**(1) “Controlled substance”, the same meaning given such term in section 195.010;**

**(2) “Department”, the department of health and senior services;**

**(3) “Dispenser”, a person located in Missouri who delivers a schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:**

**(a) A hospital, as defined in section 197.020, that distributes such substances for the purpose of inpatient hospital care or dispenses prescriptions for controlled substances at the time of discharge**

from an inpatient stay at such facility;

(b) A practitioner or other authorized person who administers such a substance; or

(c) A wholesale distributor of a schedule II, III, IV, or V controlled substance;

(4) “Patient”, a person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed;

(5) “Schedule II, III, IV, or V controlled substance”, a controlled substance that is listed in schedules II, III, IV, or V of the schedules provided under this chapter or the Federal Controlled Substances Act, 21 U.S.C. Section 812.

**195.453. 1.** Subject to appropriations, the department of health and senior services shall establish and maintain a program for the monitoring of prescribing and dispensing of all schedule II, III, IV, and V controlled substances by all professionals, except schedule V controlled substance containing any detectable amount of pseudoephedrine, by all professionals licensed to prescribe or dispense such substances in this state. The department may apply for any available grants and accept any gifts, grants, or donations to assist in developing and maintaining the program.

**2.** Each dispenser shall submit to the department by electronic means information regarding each dispensation of a drug included in subsection 1 of this section. The information submitted for each shall include, but not be limited to:

(1) The dispenser identification number;

(2) The date of the dispensation;

(3) If there is a prescription:

(a) The prescription number;

(b) Whether the prescription is new or a refill;

(c) The prescriber identification number;

(d) The date the prescription is issued by the prescriber;

(e) The person who receives the prescription from the dispenser, if other than the patient;

(f) The source of payment for the prescription;

(4) The NDC code for the drug dispensed;

(5) The number of days’ supply of the drug;

(6) The quantity dispensed;

(7) The patient identification number;

(8) The patient’s name, address, and date of birth.

**3.** Each dispenser shall submit the information in accordance with transmission methods and frequency established by the department; except that, each dispenser shall report at least every seven days between the first and fifteenth of the month following the month of the dispensation.

**4.** The department may issue a waiver to a dispenser that is unable to submit dispensation information by electronic means. Such waiver may permit the dispenser to submit dispensation

information by paper form or other means, provided all information required in subsection 2 of this section is submitted in such alternative format.

**195.456. 1.** Dispensation information submitted to the department shall be confidential and not subject to public disclosure under chapter 610 except as provided in subsections 3 to 5 of this section.

**2.** The department shall maintain procedures to ensure that the privacy and confidentiality of patients and personnel information collected, recorded, transmitted, and maintained is not disclosed to persons except as provided in subsections 3 to 5 of this section.

**3.** The department shall review the dispensation information and, if there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the department shall notify the appropriate law enforcement or professional licensing, certification, or regulatory agency or entity, and provide dispensation information required for an investigation.

**4.** The department may provide data in the controlled substances dispensation monitoring program to the following persons:

**(1)** Persons, both in-state and out-of-state, authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients;

**(2)** An individual who requests his or her own dispensation monitoring information in accordance with state law;

**(3)** The state board of pharmacy;

**(4)** Any state board charged with regulating a professional that has the authority to prescribe or dispense controlled substances that requests data related to a specific professional under the authority of that board;

**(5)** Local, state, and federal law enforcement or prosecutorial officials, both in-state and out-of-state engaged in the administration, investigation, or enforcement of the laws governing licit drugs based on a specific case and under a subpoena or court order;

**(6)** The family support division within the department of social services regarding Medicaid program recipients;

**(7)** A judge or other judicial authority under a subpoena or court order; and

**(8)** Authorized personnel of the department of health and senior services for the administration and enforcement of sections 195.450 to 195.480.

**5.** The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients or persons who received dispensations from dispensers.

**6.** Nothing in sections 195.450 to 195.480 shall be construed to require a pharmacist or prescriber to obtain information about a patient from the database. A pharmacist or prescriber shall not be held liable for damages to any person in any civil action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain information from the database.

**195.459.** The department is authorized to contract with any other agency of this state or with a

private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall comply with the provisions regarding confidentiality of prescription information in section 195.456.

**195.462.** The department shall promulgate rules setting forth the procedures and methods of implementing sections 195.450 to 195.480. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. Sections 195.450 to 195.480 and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.

**195.465. 1.** A dispenser who knowingly fails to submit dispensation monitoring information to the department as required in sections 195.450 to 195.480 or knowingly submits the incorrect dispensation information is guilty of a class A misdemeanor.

**2.** A person authorized to have dispensation monitoring information under sections 195.450 to 195.480 who knowingly discloses such information in violation of sections 195.450 to 195.480 or who uses such information in a manner and for a purpose in violation of sections 195.450 to 195.480 is guilty of a class A misdemeanor.

**195.468. 1.** The department shall implement the following education courses:

**(1)** An orientation course during the implementation phase of the dispensation monitoring program established in section 195.453;

**(2)** A course for persons who are authorized to access the dispensation monitoring information but who did not participate in the orientation course;

**(3)** A course for persons who are authorized to access the dispensation monitoring information but who have violated laws or breached occupational standards involving dispensing, prescribing, and use of substances monitored by the dispensation monitoring program established in section 195.453;

When appropriate, the department shall develop the content of the education courses described in subdivisions (1) to (3) of this subsection.

**2.** The department shall, when appropriate:

**(1)** Work with associations for impaired professionals to ensure intervention, treatment, and ongoing monitoring and followup; and

**(2)** Encourage individual patients who are identified and who have become addicted to substances monitored by the dispensation monitoring program established in section 195.453 to receive addiction treatment.

**195.471.** The department of health and senior services shall develop and implement an electronic logbook to monitor the sale of schedule V controlled substances containing any detectable amount of pseudoephedrine. All pharmacists and registered pharmacy technicians shall submit their logbooks, as required under section 195.017, electronically in accordance with rules promulgated by the department.

**195.474. 1. Beginning January 1, 2012, the bureau of narcotics and dangerous drugs within the department of health and senior services shall establish a two-year statewide pilot project for the reporting of fraudulently obtained prescription controlled substances. The pilot project shall include the following:**

**(1) Provide a toll-free number for reporting to the bureau by physicians, pharmacists, and other health care professionals with prescriptive authority who have reason to believe that a person is fraudulently attempting to obtain a prescription for a controlled substance or is attempting to obtain an excessive amount of a controlled substance by prescription;**

**(2) Establish a system within the bureau for receiving such reports under subdivision (1) of this subsection along with any evidence offered or submitted by the reporter which indicates the fraud; and**

**(3) Forward such reports, along with any evidence offered or submitted to the appropriate prosecuting attorney or the state attorney general for investigation and prosecution.**

**2. On or before February 1, 2013, and February 1, 2014, the bureau of narcotics and dangerous drugs shall submit a report to the general assembly detailing the following specifics regarding the pilot project:**

**(1) The number of reports received under this section;**

**(2) The type of evidence offered or submitted indicating the fraud;**

**(3) The number of referrals to the attorney general and each local prosecuting attorney;**

**(4) The number of cases investigated and prosecuted as a result of such reporting, and the number of convictions or pleas resulting from such investigations and prosecutions. The attorney general and local prosecuting attorneys shall cooperate with the bureau in the submission and collection of the information necessary for inclusion in the report; and**

**(5) Any recommendations regarding continuance of and improvements in the pilot project.**

**Nothing in this section shall be construed as authorizing the inclusion or release of any identifying information of any reporter or person who is identified as a person who is attempting to fraudulently obtain prescription controlled substances.**

**3. Any person who in good faith reports to the bureau under this section shall be immune from any civil or criminal liability as the result of such good faith reporting.**

**4. The department of health and senior services may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.**

**5. The pilot project shall be funded from existing appropriations or with any moneys specifically appropriated for this pilot project. The lack of any additional new appropriations for this pilot**

project shall not be sufficient cause for the department to fail to establish the pilot project under this section.

6. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program 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 the program authorized under this section is sunset.

195.477. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under sections 195.450 to 195.480 shall automatically sunset six years after the effective date of sections 195.450 to 195.480 unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 195.450 to 195.480 shall automatically sunset six years after the effective date of the reauthorization of sections 195.450 to 195.480; and

(3) Sections 195.450 to 195.480 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 195.450 to 195.480 is sunset.

195.480. The provisions of sections 195.450 to 195.480 shall be funded with federal or private grant moneys. If no federal or private grant moneys are available to implement the provisions of sections 195.450 to 195.480, the prescription drug monitoring act shall be implemented subject to appropriations.”; and

Further amend said bill, Page 27, Section 334.715, Line 63, by inserting after all of said line the following:

“334.747. 1. A physician assistant with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in schedule III, IV, or V of section 195.017 when delegated the authority to prescribe controlled substances in a supervision agreement. Such authority shall be listed on the supervision verification form on file with the state board of healing arts. The supervising physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the physician assistant is permitted to prescribe. Any limitations shall be listed on the supervision form. Physician assistants shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances shall be limited to a five-day supply without refill. Physician assistants who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall include [such] **the Drug Enforcement Administration** registration [numbers] **number** on prescriptions for controlled substances.

2. The supervising physician shall be responsible to determine and document the completion of at least one hundred twenty hours in a four-month period by the physician assistant during which the physician

assistant shall practice with the supervising physician on-site prior to prescribing controlled substances when the supervising physician is not on-site. Such limitation shall not apply to physician assistants of population-based public health services as defined in 20 CSR 2150-5.100 as of April 30, 2009.

3. A physician assistant shall receive a certificate of controlled substance prescriptive authority from the board of healing arts upon verification of the completion of the following educational requirements:

(1) Successful completion of an advanced pharmacology course that includes clinical training in the prescription of drugs, medicines, and therapeutic devices. A course or courses with advanced pharmacological content in a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency shall satisfy such requirement;

(2) Completion of a minimum of three hundred clock hours of clinical training by the supervising physician in the prescription of drugs, medicines, and therapeutic devices;

(3) Completion of a minimum of one year of supervised clinical practice or supervised clinical rotations. One year of clinical rotations in a program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency, which includes pharmacotherapeutics as a component of its clinical training, shall satisfy such requirement. Proof of such training shall serve to document experience in the prescribing of drugs, medicines, and therapeutic devices;

(4) A physician assistant previously licensed in a jurisdiction where physician assistants are authorized to prescribe controlled substances may obtain a state bureau of narcotics and dangerous drugs registration if a supervising physician can attest that the physician assistant has met the requirements of subdivisions (1) to (3) of this subsection and provides documentation of existing federal Drug Enforcement Agency registration.”; and

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

#### HOUSE AMENDMENT NO. 13

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill 29, Page 2, Section 197.705, Line 40, by inserting immediately after the word “**hospitals**” the following:

“, **ambulatory surgical centers**,”; and

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

#### HOUSE AMENDMENT NO. 14

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Page 1, Section A, Line 7, by inserting after all of said line the following:

**“44.114. Except as otherwise provided in this section, at the time of any emergency, catastrophe or other life or property threatening event which jeopardizes the ability of an insurer to address the financial needs of its insureds or the public, no political subdivision shall impose restrictions or enforce local licensing or registration ordinances with respect to such insurer’s claims handling operations. As used in this section, the term “claims handling operations” includes but is not limited to the establishment of a base of operations by an insurer within the disaster area and the investigation and handling of claims by personnel authorized by any such insurer. Nothing herein shall prohibit a political subdivision from performing any safety inspection authorized by local**

**ordinance of the premises fo the insurer’s base of operations within the disaster area.”; and**

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

HOUSE AMENDMENT NO. 15

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 29, Section A, Page 1, Line 7, by inserting after all of said section and line the following:

“191.227. 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed practitioners in this state, herein called “providers”, shall, upon written request of a patient, or guardian or legally authorized representative of a patient, furnish a copy of his or her record of that patient’s health history and treatment rendered to the person submitting a written request, except that such right shall be limited to access consistent with the patient’s condition and sound therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record shall be furnished within a reasonable time of the receipt of the request therefor and upon payment of a fee as provided in this section.

2. Health care providers may condition the furnishing of the patient’s health care records to the patient, the patient’s authorized representative or any other person or entity authorized by law to obtain or reproduce such records upon payment of a fee for:

(1) (a) Copying, in an amount not more than [seventeen] **twenty-one** dollars and [five] **thirty-six** cents plus [forty] **fifty** cents per page for the cost of supplies and labor **plus, if the health care provider has contracted for off-site records storage and management, any additional labor costs of outside storage retrieval, not to exceed twenty dollars, as adjusted annually pursuant to subsection 5 of this section; or**

**(b) If the health care provider stores records in an electronic or digital format, and provides the requested records and affidavit, if requested, in an electronic or digital format, not more than five dollars plus fifty cents per page or twenty-five dollars total, whichever is less;**

(2) Postage, to include packaging and delivery cost; and

(3) Notary fee, not to exceed two dollars, if requested.

3. Notwithstanding provisions of this section to the contrary, providers may charge for the reasonable cost of all duplications of health care record material or information which cannot routinely be copied or duplicated on a standard commercial photocopy machine.

4. The transfer of the patient’s record done in good faith shall not render the provider liable to the patient or any other person for any consequences which resulted or may result from disclosure of the patient’s record as required by this section.

5. Effective February first of each year, the fees listed in subsection 2 of this section shall be increased or decreased annually based on the annual percentage change in the unadjusted, U.S. city average, annual average inflation rate of the medical care component of the Consumer Price Index for All Urban Consumers (CPI-U). The current reference base of the index, as published by the Bureau of Labor Statistics of the United States Department of Labor, shall be used as the reference base. For purposes of this subsection, the annual average inflation rate shall be based on a twelve-month calendar year beginning in January and ending in December of each preceding calendar year. The department of health and senior services shall

report the annual adjustment and the adjusted fees authorized in this section on the department's Internet website by February first of each year.”; and

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

In which the concurrence of the Senate is respectfully requested.

### **CONFERENCE COMMITTEE APPOINTMENTS**

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **HCS** for **SB 59**, as amended: Senators Keaveny, Goodman, Crowell, Ridgeway and Justus.

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **HCS** for **SS** for **SB 226**, as amended: Senators Engler, Dixon, Parson, Callahan and Keaveny.

### **HOUSE BILLS ON THIRD READING**

Senator Engler moved that **HB 71**, with **SS** and **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SA 1** was again taken up.

Senator Chappelle-Nadal offered **SA 1** to **SA 1**, which was read:

#### **SENATE AMENDMENT NO. 1 TO SENATE AMENDMENT NO. 1**

Amend Senate Amendment No. 1 to Senate Substitute for House Bill No. 71, Page 2, Section 84.344, Lines 7-8 of said amendment page, by striking the following: “or voluntary”; and further amend said amendment page, Lines 19 to 21, by striking said lines and inserting in lieu thereof the following:

“Further amend said bill, Page 4, Section 84.346, Line 12 of said page.”.

Senator Chappelle-Nadal moved that the above amendment be adopted, which motion prevailed.

**SA 1**, as amended, was again taken up.

Senator Crowell offered **SA 2** to **SA 1**:

#### **SENATE AMENDMENT NO. 2 TO SENATE AMENDMENT NO. 1**

Amend Senate Amendment No. 1 to Senate Substitute for House Bill No. 71, Page 1, Lines 4-5, by striking the following: “, **or any manager of the highest rank regardless of that person's title**,”; and further amend lines 9 to 13 by striking all of said lines; and further amend lines 19 to 21 by striking all of said lines; and further amend said amendment page 2, line 1 by striking all of said line; and

Further renumber the remaining subdivisions accordingly.

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

**SA 1**, as amended, was again taken up.

Senator Chappelle-Nadal moved that the above amendment be adopted, which motion prevailed.

Senator Engler moved that **SS** for **HB 71**, as amended, be adopted, which motion prevailed.

At the request of Senator Engler, **SS** for **HB 71**, as amended, was placed on the Informal Calendar.

### **COMMUNICATIONS**

President Pro Tem Mayer submitted the following:

May 9, 2011

Ms. Terry Spieler  
Secretary of the Senate  
State Capitol  
Jefferson City, MO 65101

Dear Ms. Spieler:

Please be advised I am rescinding my appointment of Senator Ron Richard to the Missouri State Capitol Commission.  
Should you have any questions please feel free to contact me.

Sincerely,  
/s/ Robert N. Mayer  
ROBERT N. MAYER  
President Pro Tem

### **INTRODUCTIONS OF GUESTS**

Senator Lamping introduced to the Senate, his wife, Caryn and their daughters, Emma, Shelby and Charlotte, St. Louis; and Emma and Shelby were made honorary pages.

Senator Schmitt introduced to the Senate, his wife, Jaime and their daughters, Sophia and Olivia, Glendale; and Sophia was made an honorary page.

Senator Goodman introduced to the Senate, his sons, Jack Elliott and William True Goodman, Mt. Vernon; and Jack Elliott and William True were made honorary pages.

On motion of Senator Dempsey, the Senate adjourned under the rules.

### **SENATE CALENDAR**

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SIXTY-SIXTH DAY—TUESDAY, MAY 10, 2011

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### **FORMAL CALENDAR**

### **VETOED BILLS**

SCS for SB 188-Lager, et al

### **HOUSE BILLS ON SECOND READING**

HCS for HB 999

HCS for HB 732

HCS for HBs 504, 505 & 874  
HB 658-Schatz, et al

HCS for HB 707  
HB 138-Thomson, et al

### THIRD READING OF SENATE BILLS

SCS for SB 11-McKenna (In Fiscal Oversight)

SB 204-Dempsey, et al (In Fiscal Oversight)

### SENATE BILLS FOR PERFECTION

- |  |                            |
|--|----------------------------|
| 1. SB 260-Wasson, with SCS                   | 11. SB 223-Mayer           |
| 2. SB 425-Goodman, with SCS                  | 12. SB 119-Schaefer        |
| 3. SB 400-Kraus, with SCS                    | 13. SB 150-Munzlinger      |
| 4. SB 392-Rupp, with SCS                     | 14. SB 84-Wright-Jones     |
| 5. SB 403-Nieves                             | 15. SB 45-Wright-Jones     |
| 6. SB 329-Nieves                             | 16. SB 14-Pearce, with SCS |
| 7. SB 353-Engler                             | 17. SB 281-Kraus           |
| 8. SJR 16-Goodman, with SCS                  | 18. SB 399-Kraus           |
| 9. SB 391-Lager                              | 19. SB 44-Wright-Jones     |
| 10. SB 253-Callahan and Cunningham, with SCS |                            |

### HOUSE BILLS ON THIRD READING

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| 1. HCS for HB 431, with SCS (Justus)<br>(In Fiscal Oversight)          | 15. HB 167-Nolte, et al, with SCA 1 (Nieves)         |
| 2. HB 151-Kelly (24) and Molendorp (Schaefer)<br>(In Fiscal Oversight) | 16. HB 402-Diehl and Korman (Wasson)                 |
| 3. HCS for HB 412, with SCS (Wasson)                                   | 17. HCS for HBs 470 & 429, with SCS (Rupp)           |
| 4. HCS for HB 407 (Parson)   | 18. HCS for HB 38, with SCS (Wright-Jones)           |
| 5. HCS for HB 265, with SCS (Wasson)                                   | 19. HB 68-Scharnhorst (Nieves)                       |
| 6. HB 484-Faith (Stouffer)   | 20. HCS for HB 161, with SCS (Parson)                |
| 7. HCS for HB 430, with SCS (Stouffer)                                 | 21. HB 184-Dugger, with SCS (Purgason)               |
| 8. HB 1008-Long, et al, with SCS (Dempsey)                             | 22. HCS for HB 664, with SCS (Schmitt)               |
| 9. HCS for HB 604, with SCS (Rupp)                                     | 23. HCS for HB 366 (Justus)<br>(In Fiscal Oversight) |
| 10. HCS for HB 111, with SCS (Goodman)                                 | 24. HB 675-Largent and Hoskins (Parson)              |
| 11. HCS for HB 562, with SCS (Schmitt)                                 | 25. HCS for HJR 3 (Brown)<br>(In Fiscal Oversight)   |
| 12. HB 525-Molendorp (Rupp)  | 26. HB 458-Loehner, et al (Brown)                    |
| 13. HCS for HB 523, with SCS (Pearce)                                  |  |
| 14. HB 139-Smith (150), et al (Cunningham)<br>(In Fiscal Oversight)    |  |

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SCS for SB 18-Schmitt

SS for SB 231-Lager

SENATE BILLS FOR PERFECTION

SBs 1 & 206-Ridgeway, with SCS & SA 1

(pending)

SBs 7, 5, 74 & 169-Goodman, with SCS

SB 10-Rupp

SB 23-Keaveny, with SCS & SS for SCS

(pending)

SB 25-Schaaf, with SCS & SS for SCS

(pending)

SB 28-Brown

SB 37-Lembke, with SCS

SB 52-Cunningham

SB 72-Kraus, with SS (pending)

SBs 88 & 82-Schaaf, with SCS & SA 1

(pending)

SB 120-Stouffer, with SS (pending)

SB 130-Rupp, with SCS & SS for SCS

(pending)

SB 155-Rupp, with SCS

SB 175-Munzlinger, et al, with SA 1

(pending)

SB 176-Munzlinger, et al

SBs 189, 217, 246, 252 & 79-Schmitt,

with SCS

SB 200-Crowell

SB 203-Schmitt, et al, with SS (pending)

SB 208-Lager

SB 209-Lager

SB 228-Pearce

SB 242-Cunningham, with SCS & SS for SCS

(pending)

SB 247-Pearce, with SS (pending)

SB 264-Rupp, with SCS

SB 278-Munzlinger, et al

SB 280-Purgason, et al, with SCS & SS

for SCS (pending)

SBs 291, 184 & 294-Pearce, with SCS & SA 4

(pending)

SB 299-Munzlinger, with SCS (pending)

SB 326-Wasson

SBs 369 & 370-Cunningham, with SCS

SB 390-Schmitt, et al

SBs 408 & 80-Crowell, with SCS

SB 420-Mayer, with SCS

SJR 11-Munzlinger, with SCS

SJR 15-Nieves, et al, with SS (pending)

HOUSE BILLS ON THIRD READING

HCS for HB 61

SS for HB 71-Nasheed, et al (Engler)

HCS for HB 89, with SCS & SS for SCS

(pending) (Lager)

HCS for HBs 112 & 285, with SCS (Brown)

HCS for HB 143 (Goodman)

HB 183-Silvey (Kraus)

HCS for HBs 294, 123, 125, 113, 271 & 215,

with SCS & SS for SCS (pending)

(Munzlinger)

HCS for HB 336 (Schmitt)

HB 361-Leara (Cunningham)

HB 442-Franz, with SA 2 (pending) (Parson)

HB 462-Pollock, with SCS (Lager)

HCS for HB 464, with SCS & SA 2 (pending)

(Wasson)

HCS for HB 545, with SCS & SS for SCS

(pending) (Schaaf)

HCS for HB 556

HCS#2 for HB 609, with SCS (pending) (Wasson)

HB 661-Wells, et al, with SCS (Lamping)  
 HB 667-Carter, et al (Wright-Jones)  
 HCS for HB 697, with SCS (pending) (Dixon)  
 HB 738-Nasheed, et al, with SCS (pending)  
 (Cunningham)

HJR 2-McGhee, et al (Goodman)  
 HJR 6-Cierpiot, et al (Cunningham)  
 HJR 29-Solon, et al, with SA 1 (pending)  
 (Munzlinger)

#### SENATE BILLS WITH HOUSE AMENDMENTS

SB 3-Stouffer, with HCS#2, as amended  
 SCS for SB 29-Brown, with HCS, as amended  
 SS for SCS for SB 58-Stouffer and Lembke,  
 with HCS, as amended  
 SB 71-Parson, with HSA 1 for HA 1,  
 as amended & HA 2

SB 97-Engler, with HCS#2, as amended  
 SS for SB 118-Stouffer, with HCS, as amended  
 SB 187-Lager, et al, with HCS  
 SCS for SB 219-Wasson, with HCS, as amended  
 SB 250-Kehoe, with HCS, as amended

#### BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

##### In Conference

SS#2 for SCS for SB 8-Goodman, with HCS,  
 as amended  
 SB 59-Keaveny, with HCS, as amended  
 SB 61-Keaveny, with HCS, as amended  
 SS for SB 135-Schaefer, with HCS, as amended  
 SB 145-Dempsey, with HCS, as amended  
 SB 173-Dixon and Kehoe, with HCS,  
 as amended

SB 220-Wasson, with HCS, as amended  
 SS for SB 226-Engler, with HCS, as amended  
 SB 282-Engler, with HCS, as amended  
 SB 322-Schaefer, with HCS, as amended  
 HB 101-Loehner, with SCS, as amended  
 (Cunningham)  
 HB 142-Gatschenberger, with SCS,  
 as amended (Dempsey)

#### RESOLUTIONS

##### Reported from Committee

SR 179-Purgason  
 HCS for HCR 23 (Dixon)

HCR 37-Franklin, et al (Wright-Jones)  
 HCR 42-Funderburk, et al (Lembke)

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