Journal of the Senate

SECOND REGULAR SESSION

SEVENTY-THIRD DAY—FRIDAY, MAY 12, 2000

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The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl Gauck offered the following prayer:

A French Philosopher wrote: "I expect to pass through this world but once. Any good therefore that I can do, or any kindness that I can show to any fellow creature, let me do it now. Let me not defer it or neglect it, for I shall not pass this way again."

Gracious God, we have been motivated this week to do what is required of us for it must be done now. We recognize that our efforts, completed or not come to an end this day. We must do what good we can realizing there is never enough time to do all we might want to do. So grant us wisdom and perseverance, energy and caring to complete our work this day, efficiently and competently. And for those who serve here and especially those who shall not return here, may You look at our efforts and bless what we have done in keeping with Your will. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

President Wilson assumed the Chair.

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

The Journal of the previous day was read and approved.

Photographers from KRCG-TV, KOMU-TV, the Associated Press, Daily Journal-Park Hills, KMIZ-TV and the St. Louis Post Dispatch were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Maxwell
Mueller	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—34		

Absent with leave—Senators—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Singleton offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 1840

WHEREAS, the members of the Missouri Senate were truly saddened by the death of longtime Neosho resident Herbert H. Douglas who passed away on May 5, 2000, at the age of eighty-six; and

WHEREAS, born on April 29, 1914, in Bolivar, Missouri, Herbert Douglas married his beloved Thelma Breshears in 1937, the same year he began the practice of law in Neosho in an upstairs office on the southeast corner of the town's square; and

WHEREAS, a graduate of Southwest Baptist College in Bolivar, Missouri, and the University of Missouri School of Law, Herbert Douglas served in the U.S. Army from 1944 to 1946 which led to his subsequent membership in American Legion Post 163; and

WHEREAS, joined by his brother, Garland, Herbert Douglas established the firm Douglas & Douglas and moved his law office to the Douglas Building in 1957, added his son to the firm in 1970, and retired from the practice of law in 1993 after fifty-five years; and

WHEREAS, a former prosecuting attorney for Newton

County, Herbert Douglas was active in Republican politics and enjoyed election to the office of president of the Missouri Association of Republicans in 1944 and then for more than forty years served as the historian whose collection of original records spanning a century were recently accepted for preservation by the Missouri Historical Society; and

WHEREAS, Herbert Douglas was a devout member of First Christian Church (Disciples of Christ) who was widely respected as a teacher, trustee, deacon, elder, and chairman of the board during construction of the present church facility; and

WHEREAS, a board member of the Crowder College Foundation for thirty years, Herbert Douglas was a loving family man who is survived by his wife, Thelma; children Dwight and Bonnie Douglas and Janice and Cecil Denney; sisters Marjorie Olive and Delma Burhans; grandchildren Doug Denney, Brad Denney, Steven Douglas, and Rebecca Keesling; and three great-grandchildren:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, join unanimously to commend the impressive life and good works of the late Herbert Douglas and to convey to his family, friends, and colleagues our heartfelt condolences at the passing of his light and warmth from their daily lives; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution in memory of the late Herbert H. Douglas of Neosho, Missouri.

Senator Wiggins offered the following resolution:

SENATE RESOLUTION NO. 1841

WHEREAS, the treaty known as the "Convention of the Rights of the Child" recognizes the rights of children to health care services, protection against discrimination on the basis of race, sex or religion, and the right not to be exploited or tortured or subjected to cruel and inhumane treatment; and

WHEREAS, the treaty sets forth a promise to protect and assist in the development of children and reminds us how important each child is and what responsibilities we have as leaders and citizens; and

WHEREAS, since the treaty's establishment on November 20, 1989, over two hundred sovereign nations have signed the Convention of the Rights of the Child with one hundred ninety-one of those nations ratifying it; and

WHEREAS, while President Clinton finally signed the treaty in 1995, he has failed to send the treaty to Congress for ratification, resulting in the United States remaining as one of a handful of sovereign nations which have not yet ratified the Convention of the Rights of the Child; and

WHEREAS, the United States has strong involvement in all fifty-four articles of the treaty, particularly in the proposals ensuring the rights of freedom of speech, association, assembly and privacy; and

WHEREAS, the Missouri Senate is equally committed to the principles and ideals expressed in the Convention of the Rights of the Child as well as the establishment, preservation and strengthening of laws regarding the rights and protection of children:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, hereby urge the President of the United States to send the treaty known as the "Convention of the Rights of the Child" to the United States Congress for ratification so that the United States may join the one hundred ninety-one sovereign nations that have already ratified this treaty; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States and each member of the Missouri Congressional delegation.

Senator Goode offered Senate Resolution No. 1842, regarding Franklin Theodore Luechtefeld, Leslie, which was adopted.

Senator Russell offered Senate Resolution No. 1843, regarding Marge Adams, Dixon, which was adopted.

Senator Graves offered Senate Resolution No. 1844, regarding Robert Rice, Maryville, which was adopted.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has granted the Senate a further conference on **HS** for **HCS** for **SB 856**, as amended. Conferees reappointed: Representatives Harlan, Foley, Wilson 42, Reinhart and Shields.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **SS** for **SCS** for **HS** for **HCS** for **HBs 1566** and **1810**, as amended: Representatives Bray, VanZandt, Riback Wilson, Gibbons and Hegeman.

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CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HS** for **HCS** for **SB 856**, as amended: Senators Maxwell, Wiggins, Carter, Singleton and Bentley.

HOUSE BILLS ON THIRD READING

Senator Caskey moved that **HS** for **HB 1615**, with **SCS**, **SS No. 2** for **SCS**, **SA 2** and the point of order (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 Caskey, his point of order was withdrawn.

SA 2 was again taken up.

Senator Sims offered **SSA 1** for **SA 2**:

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

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 77, Section 198.532, Line 17 of said page, by inserting after all of said line the following:

"208.152. 1. Benefit payments for medical assistance shall be made on behalf of those eligible needy persons who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the division of medical services, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the division of medical services shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the medicaid children's diagnosis length-of-stay schedule; and provided further that the division of medical services shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the division of medical services may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the division of medical services not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for recipients, except to persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health or a nursing home licensed by the division of aging or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX, of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities. The division of medical services may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of medicaid patients. The division of medical services when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for recipients of benefit payments [under] **pursuant to** subdivision (4) of this section for those days, which shall not exceed twelve per any period of six consecutive months, during which the recipient is on a temporary leave of absence from the hospital or nursing home, provided that no such recipient shall

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be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a recipient is away from the hospital or nursing home overnight because he **or she** is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Dental services;

(8) Services of podiatrists as defined in section 330.010, RSMo; serve of chiropractors

(9) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist;

(10) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments. The department of social services may conduct demonstration projects related to the provision of medically necessary transportation to recipients of medical assistance under this chapter. Such demonstration projects shall be funded only by appropriations made for the purpose of such demonstration projects. If funds are appropriated for such demonstration projects, the department shall submit to the general assembly a report on the significant aspects and results of such demonstration projects;

(11) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of section 6403 of P.L.53 101-239 and federal regulations promulgated thereunder;

(12) Home health care services;

(13) Optometric services as defined in section 336.010, RSMo;

(14) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the medicaid agency that, in his professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(15) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(16) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

(17) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage [under] **pursuant to** Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted [under] **pursuant to** Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(18) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his **or her** physician on an outpatient, rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the recipient's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one recipient one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time;

(19) Mental health services. The state plan for providing medical assistance [under] **pursuant to**

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Title XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility. The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, "mental health professional" and "alcohol and drug abuse professional" shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, division of medical services, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the division of medical services. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(20) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive and behavioral function. The division of medical services shall establish by administrative rule the definition and criteria for designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism;

(21) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. Beginning July 1, 1990, the rate of reimbursement paid by the division of medical services to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

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(22) Such additional services as defined by the division of medical services to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(23) Beginning July 1, 1990, the services of a certified pediatric or family nursing practitioner to the extent that such services are provided in accordance with chapter 335, RSMo, and regulations promulgated thereunder, regardless of whether the nurse practitioner is supervised by or in association with a physician or other health care provider;

(24) Subject to appropriations, the department of social services shall conduct demonstration projects for nonemergency, physician-prescribed transportation for pregnant women who are recipients of medical assistance [under] **pursuant to** this chapter in counties selected by the director of the division of medical services. The funds appropriated pursuant to this subdivision shall be used for the purposes of this subdivision and for no other purpose. The department shall not fund such demonstration projects with revenues received for any other purpose. This subdivision shall not authorize transportation of a pregnant woman in active labor. The division of medical services shall notify recipients of nonemergency transportation services [under] **pursuant to** this subdivision of such other transportation services which may be appropriate during active labor or other medical emergency;

(25) Nursing home costs for recipients of benefit payments [under] **pursuant to** subdivision (4) of this subsection to reserve a bed for the recipient in the nursing home during the time that the recipient is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of medicaid certified licensed beds, according to the most recent quarterly census provided to the division of aging which was taken prior to when the recipient is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made [under] **pursuant to** this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a recipient pursuant to this subdivision during any period of six consecutive months such recipient shall, during the same period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided [under] **pursuant to** subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the recipient or the recipient's responsible party that the recipient intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the recipient or the recipient's responsible party prior to release of the reserved bed.

2. Benefit payments for medical assistance for surgery as defined by rule duly promulgated by the division of medical services, and any costs related directly thereto, shall be made only when a second medical opinion by a licensed physician as to the need for the surgery is obtained prior to the surgery being performed.

3. The division of medical services may require any recipient of medical assistance to pay part of the charge or cost, as defined by rule duly promulgated by the division of medical services, for dental services, drugs and medicines, optometric services, eye glasses, dentures, hearing aids, and other services, to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber

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according to section 338.056, RSMo, and a generic drug is substituted for a name brand drug, the division of medical services may not lower or delete the requirement to make a copayment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described [under] **pursuant to** this section must collect from all recipients the partial payment that may be required by the division of medical services under authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by recipients [under] **pursuant to** this section shall be in addition to, and not in lieu of, any payments made by the state for goods or services described herein.

4. The division of medical services shall have the right to collect medication samples from recipients in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services [under] **pursuant to** subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for medical assistance at least to the extent that such care and services are available to the general population in the geographic area, as required [under] **pursuant to** subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for medical assistance [under] **pursuant to** section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health. Such notification and referral shall conform to the requirements of section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the medicaid program shall not increase payments in excess of the increase that would result from the application of section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

10. The department of social services, division of medical services, may enroll qualified residential care facilities, as defined in chapter 198, RSMo, as medicaid personal care providers.

11. The department of social services shall, in connection with medical assistance provided for in section 208.152.1(4), RSMo, make payment through rates determined in accordance with methods and standards developed by the department of social services which take into account the costs, including the costs of services required to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident eligible for benefits under the Missouri Medicaid program, of complying with subsection's (b) (other than paragraph (3)(F) thereof), (c) and(d) of 42 U.S.C. Section 1396r(b), (c) and(d) and provide (in the case of a nursing facility with a waiver under 42 U.S.C. Section 1396r(b)(4)(C)(ii)) for an appropriate reduction to take into account the lower costs, if any, of the facility for nursing care and which the division of medical services finds, and makes assurances satisfactory to the director of the department of social services, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards. The payments required by this section are subject to appropriations.";

Further amend the title, enacting clause, and

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intersectional references accordingly.

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

Senator Singleton offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, (3788S.12F), Page 31, Section 190.142, Line 9, by deleting the word "continued".

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

Senator Childers offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 27, Section 187.084, Line 12, by deleting the word "and"; and

Further amend said bill, page 27, section 187.084, line 14, by deleting the period on said line and inserting in lieu thereof the following: "; and

(4) Disclose if the applicant is listed on the division of family services' central registry for child abuse and neglect pursuant to sections 210.109 to 210.183, RSMo, or if the person's foster care license has been refused, suspended or revoked pursuant to section 210.496, RSMo, or if the person is disqualified for employment by the department of mental health pursuant to section 630.170, RSMo.".

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

Senator Klarich offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 76, Section 198.532, Line 17 of said page, by inserting after all of said line the following:

"208.010. 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there shall be disregarded such amounts per month of earned income in making such determination as shall be required for federal participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When federal law or regulations require the exemption of other income or resources, the division of family services may provide by rule or regulation the amount of income or resources to be disregarded.

2. Benefits shall not be payable to any claimant who:

(1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given away or sold a resource within the time and in the manner specified in this subdivision. In determining the resources of an individual, unless prohibited by

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federal statutes or regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this subsection, and subsection 5 of this section) any resource or interest therein owned by such individual or spouse within the twenty-four months preceding the initial investigation, or at any time during which benefits are being drawn, if such individual or spouse gave away or sold such resource or interest within such period of time at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits, including but not limited to benefits based on December, 1973, eligibility requirements, as follows:

(a) Any transaction described in this subdivision shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose;

(b) The resource shall be considered in determining eligibility from the date of the transfer for the number of months the uncompensated value of the disposed of resource is divisible by the average monthly grant paid or average Medicaid payment in the state at the time of the investigation to an individual or on his or her behalf under the program for which benefits are claimed, provided that:

a. When the uncompensated value is twelve thousand dollars or less, the resource shall not be used in determining eligibility for more than twenty-four months; or

b. When the uncompensated value exceeds twelve thousand dollars, the resource shall not be used in determining eligibility for more than sixty months;

(2) The provisions of subdivision (1) of subsection 2 of this section shall not apply to a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes convincing evidence that the uncompensated value of the disposed of resource or any part thereof is no longer possessed or owned by the person to whom the resource was transferred;

(3) Has received, or whose spouse with whom he or she is living has received, benefits to which he or she was not entitled through misrepresentation or nondisclosure of material facts or failure to report any change in status or correct information with respect to property or income as required by section 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for such period of time from the date of discovery as the division of family services may deem proper; or in the case of overpayment of benefits, future benefits may be decreased, suspended or entirely withdrawn for such period of time as the division may deem proper;

(4) Owns or possesses resources in the sum of [one] **two** thousand **five hundred** dollars or more; provided, however, that if such person is married and living with spouse, he or she, or they, individually or jointly, may own resources not to exceed [two] **five** thousand dollars; and provided further, that in the case of a temporary assistance for needy families claimant, the provision of this subsection shall not apply;

(5) Prior to October 1, 1989, owns or possesses property of any kind or character, excluding amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, or has an interest in property, of which he or she is the record or beneficial owner, the value of such property, as determined by the division of family services, less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living together with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds such amount;

(6) In the case of temporary assistance for needy families, if the parent, stepparent, and child or children in the home owns or possesses property of any kind or character, or has an interest in property for which he or she is a record or beneficial owner, the value of such property, as determined by the division of family services and as allowed by federal law or regulation, less encumbrances of record, exceeds one thousand

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dollars, excluding the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, one automobile which shall not exceed a value set forth by federal law or regulation and for a period not to exceed six months, such other real property which the family is making a good-faith effort to sell, if the family agrees in writing with the division of family services to sell such property and from the net proceeds of the sale repay the amount of assistance received during such period. If the property has not been sold within six months, or if eligibility terminates for any other reason, the entire amount of assistance paid during such period shall be a debt due the state;

(7) Is an inmate of a public institution, except as a patient in a public medical institution.

3. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the income and resources of a relative or other person living in the home shall be taken into account to the extent the income, resources, support and maintenance are allowed by federal law or regulation to be considered.

4. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the value of burial lots or any amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, shall not be taken into account or considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as defined in section 214.270, RSMo, and any memorial, monument, marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436, RSMo, of an irrevocable prearranged funeral or burial contract receives any public assistance benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in interest cancel or amend the contract so that any person will be entitled to a refund, such refund shall be paid to the state of Missouri up to the amount of public assistance benefits provided pursuant to this chapter with any remainder to be paid to those persons designated in chapter 436, RSMo.

5. In determining the total property owned pursuant to subdivision (5) of subsection 2 of this section, or resources, of any person claiming or for whom public assistance is claimed, there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or any two or more policies or contracts, or any combination of policies and contracts, which provides for the payment of one thousand five hundred dollars or less upon the death of any of the following:

(1) A claimant or person for whom benefits are claimed; or

(2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living.

If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or burial contract, or any two or more contracts, which provides for the payment of one thousand five hundred dollars or less per family member.

6. Beginning September 30, 1989, when determining the eligibility of institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall comply with the provisions of the federal statutes and regulations. As necessary, the division shall by rule or regulation implement the federal law and regulations which shall include but not be limited to the establishment of income and resource standards and limitations. The division shall require:

(1) That at the beginning of a period of continuous institutionalization that is expected to last for thirty days or more, the institutionalized spouse, or the community spouse, may request an assessment by the division of family services of

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total countable resources owned by either or both spouses;

(2) That the assessed resources of the institutionalized spouse and the community spouse may be allocated so that each receives an equal share;

(3) That upon an initial eligibility determination, if the community spouse's share does not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the community spouse a resource allowance to increase the community spouse's share to twelve thousand dollars;

(4) That in the determination of initial eligibility of the institutionalized spouse, no resources attributed to the community spouse shall be used in determining the eligibility of the institutionalized spouse, except to the extent that the resources attributed to the community spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;

(5) That beginning in January, 1990, the amount specified in subdivision (3) of this subsection shall be increased by the percentage increase in the consumer price index for all urban consumers between September, 1988, and the September before the calendar year involved; and

(6) That beginning the month after initial eligibility for the institutionalized spouse is determined, the resources of the community spouse shall not be considered available to the institutionalized spouse during that continuous period of institutionalization.

7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to the provisions of section 208.080.

9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the home of the applicant or recipient when the home is providing shelter to the applicant or recipient, or his or her spouse or dependent child. The division of family services shall establish by rule or regulation in conformance with applicable federal statutes and regulations a definition of the home and when the home shall be considered a resource that shall be considered in determining eligibility.

10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts as determined due pursuant to the applicable provisions of federal regulations pertaining to Title XVIII Medicare Part B, except the applicable Title XIX cost sharing.

11. A “community spouse” is defined as being the noninstitutionalized spouse.

208.151. 1. For the purpose of paying medical assistance on behalf of needy persons and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. section 301 et seq.) as amended, the following needy persons shall be eligible to receive medical assistance to the extent and in the manner hereinafter provided:

(1) All recipients of state supplemental payments for the aged, blind and disabled;

(2) All recipients of aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040;

(3) All recipients of blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the division of family services, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one

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years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All recipients of family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were recipients of old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance [under] **pursuant to** 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The division of family services shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the division of family services shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide Medicaid coverage [under] **pursuant to** this subdivision, the department of social services may revise the state Medicaid plan to extend coverage [under] **pursuant to** 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The following children with family income which does not exceed two hundred percent of the federal poverty guideline for the applicable family size:

(a) Infants who have not attained one year of age with family income greater than one hundred eighty-five percent of the federal poverty guideline for the applicable family size;

(b) Children who have attained one year of age but have not attained six years of age with family income greater than one hundred thirty-three percent of the federal poverty guideline for the applicable family size; and

(c) Children who have attained six years of

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age but have not attained nineteen years of age with family income greater than one hundred percent of the federal poverty guideline for the applicable family size. Coverage under this subdivision shall be subject to the receipt of notification by the director of the department of social services and the revisor of statutes of approval from the secretary of the U.S. Department of Health and Human Services of applications for waivers of federal requirements necessary to promulgate regulations to implement this subdivision. The director of the department of social services shall apply for such waivers. The regulations may provide for a basic primary and preventive health care services package, not to include all medical services covered by section 208.152, and may also establish co-payment, coinsurance, deductible, or premium requirements for medical assistance [under] **pursuant to** this subdivision. Eligibility for medical assistance [under] **pursuant to** this subdivision shall be available only to those infants and children who do not have or have not been eligible for employer-subsidized health care insurance coverage for the six months prior to application for medical assistance. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The division of family services may establish a resource eligibility standard in assessing eligibility for persons [under] **pursuant to** this subdivision. The division of medical services shall define the amount and scope of benefits which are available to individuals [under] **pursuant to** this subdivision in accordance with the requirement of federal law and regulations. Coverage [under] **pursuant to** this subdivision shall be subject to appropriation to provide services approved [under] **pursuant to** the provisions of this subdivision;

(16) The division of family services shall not establish a resource eligibility standard in assessing eligibility for persons [under] **pursuant to** subdivision (12), (13) or (14) of this subsection. The division of medical services shall define the amount and scope of benefits which are available to individuals eligible [under] **pursuant to** each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder except that the scope of benefits shall include case management services;

(17) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. section 1396r-1, as amended;

(18) A child born to a woman eligible for and receiving medical assistance [under] **pursuant to** this section on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the division of family services shall assign a medical assistance eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(19) Pregnant women and children eligible for medical assistance pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical assistance benefits be required to apply for aid to families with dependent children. The division of family services shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for medical assistance. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for medical assistance benefits [under] **pursuant to** subdivision (12), (13) or (14) shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the division of family services for assessing eligibility [under] **pursuant to** this chapter shall be as simple as practicable;

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(20) Subject to appropriations necessary to recruit and train such staff, the division of family services shall provide one or more full-time, permanent case workers to process applications for medical assistance at the site of a health care provider, if the health care provider requests the placement of such case workers and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such case workers. The division may provide a health care provider with a part-time or temporary case worker at the site of a health care provider if the health care provider requests the placement of such a case worker and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such a case worker. The division may seek to employ such case workers who are otherwise qualified for such positions and who are current or former welfare recipients. The division may consider training such current or former welfare recipients as case workers for this program;

(21) Pregnant women who are eligible for, have applied for and have received medical assistance [under] **pursuant to** subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum medical assistance provided [under] **pursuant to** section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(22) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized [under] **pursuant to** the provisions of chapter 192, RSMo, or chapter 205, RSMo, or a city health department operated under a city charter or a combined city-county health department or other department of health designees. To the greatest extent possible the department of social services and the department of health shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of mental retardation program and the prenatal care program administered by the department of health. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective Medicaid-eligible high-risk mothers and enroll them in the state's Medicaid program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the Medicaid program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any Medicaid prepaid, case-managed programs;

(23) By January 1, 1988, the department of social services and the department of health shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207, RSMo;

(24) All recipients who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(25) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, under the eligibility standards in effect December 31, 1973, or those supplemental security income recipients who would be determined eligible for general relief benefits under the eligibility standards in effect December 31, 1973, except income; or less restrictive standards as established by rule of the division of family services. If federal law or regulation authorizes the division of family services to, by rule, exclude the

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income or resources of a parent or parents of a person under the age of eighteen and such exclusion of income or resources can be limited to such parent or parents, then notwithstanding the provisions of section 208.010:

(a) The division may by rule exclude such income or resources in determining such person's eligibility for permanent and total disability benefits; and

(b) Eligibility standards for permanent and total disability benefits shall not be limited by age;

(26) Within thirty days of the effective date of an initial appropriation authorizing medical assistance on behalf of "medically needy" individuals for whom federal reimbursement is available [under] **pursuant to** 42 U.S.C. 1396a (a)(10)(c), the department of social services shall submit an amendment to the Medicaid state plan to provide medical assistance on behalf of, at a minimum, an individual described in subclause (I) or (II) of clause 42 U.S.C. 1396a (a)(10)(C)(ii).

2. **The department of social services shall expand eligibility under the Medicaid program by increasing the current asset limits to two thousand five hundred dollars for a single person and five thousand dollars for a married couple. The department shall apply to the United States Secretary of Health and Human Services for any necessary waivers or amendments to current waivers to increase such asset limits.**

3. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064, RSMo, and chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

[3.] **4.** After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for medical assistance for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six months. The division of medical services may provide by rule the scope of medical assistance coverage to be granted to such families.

[4.] **5.** For purposes of section 1902(1), (10) of Title XIX of the federal Social Security Act, as amended, any individual who, for the month of August, 1972, was eligible for or was receiving aid or assistance pursuant to the provisions of Titles I, X, XIV, or Part A of Title IV of such act and who, for such month, was entitled to monthly insurance benefits [under] **pursuant to** Title II of such act, shall be deemed to be eligible for such aid or assistance for such month thereafter prior to October, 1974, if such individual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under Title II of such act resulting from enactment of Public Law 92-336 amendments to the federal Social Security Act (42 U.S.C. 301 et seq.), as amended, not been applicable to such individual.

[5.] **6.** When any individual has been determined to be eligible for medical assistance, such medical assistance will be made available to him for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual

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was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid."; and

Further amend the title and enacting clause accordingly.

Senator Klarich moved that the above amendment be adopted.

Senator Stoll assumed the Chair.

Senator Caskey offered **SSA 1** for **SA 5**:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR SENATE AMENDMENT NO. 5

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 76, Section 198.532, Line 17 of said page, by inserting after all of said line the following:

"208.010. 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there shall be disregarded such amounts per month of earned income in making such determination as shall be required for federal participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When federal law or regulations require the exemption of other income or resources, the division of family services may provide by rule or regulation the amount of income or resources to be disregarded.

2. Benefits shall not be payable to any claimant who:

(1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given away or sold a resource within the time and in the manner specified in this subdivision. In determining the resources of an individual, unless prohibited by federal statutes or regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this subsection, and subsection 5 of this section) any resource or interest therein owned by such individual or spouse within the twenty-four months preceding the initial investigation, or at any time during which benefits are being drawn, if such individual or spouse gave away or sold such resource or interest within such period of time at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits, including but not limited to benefits based on December, 1973, eligibility requirements, as follows:

(a) Any transaction described in this subdivision shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose;

(b) The resource shall be considered in determining eligibility from the date of the transfer for the number of months the uncompensated value of the disposed of resource is divisible by the average monthly grant paid or average Medicaid

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payment in the state at the time of the investigation to an individual or on his or her behalf under the program for which benefits are claimed, provided that:

a. When the uncompensated value is twelve thousand dollars or less, the resource shall not be used in determining eligibility for more than twenty-four months; or

b. When the uncompensated value exceeds twelve thousand dollars, the resource shall not be used in determining eligibility for more than sixty months;

(2) The provisions of subdivision (1) of subsection 2 of this section shall not apply to a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes convincing evidence that the uncompensated value of the disposed of resource or any part thereof is no longer possessed or owned by the person to whom the resource was transferred;

(3) Has received, or whose spouse with whom he or she is living has received, benefits to which he or she was not entitled through misrepresentation or nondisclosure of material facts or failure to report any change in status or correct information with respect to property or income as required by section 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for such period of time from the date of discovery as the division of family services may deem proper; or in the case of overpayment of benefits, future benefits may be decreased, suspended or entirely withdrawn for such period of time as the division may deem proper;

(4) Owns or possesses resources in the sum of [one] **two** thousand **five hundred** dollars or more; provided, however, that if such person is married and living with spouse, he or she, or they, individually or jointly, may own resources not to exceed [two] **five** thousand dollars; and provided further, that in the case of a temporary assistance for needy families claimant, the provision of this subsection shall not apply;

(5) Prior to October 1, 1989, owns or possesses property of any kind or character, excluding amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, or has an interest in property, of which he or she is the record or beneficial owner, the value of such property, as determined by the division of family services, less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living together with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds such amount;

(6) In the case of temporary assistance for needy families, if the parent, stepparent, and child or children in the home owns or possesses property of any kind or character, or has an interest in property for which he or she is a record or beneficial owner, the value of such property, as determined by the division of family services and as allowed by federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, one automobile which shall not exceed a value set forth by federal law or regulation and for a period not to exceed six months, such other real property which the family is making a good-faith effort to sell, if the family agrees in writing with the division of family services to sell such property and from the net proceeds of the sale repay the amount of assistance received during such period. If the property has not been sold within six months, or if eligibility terminates for any other reason, the entire amount of assistance paid during such period shall be a debt due the state;

(7) Is an inmate of a public institution, except as a patient in a public medical institution.

3. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the income and resources of a relative or other person living in the home shall be taken into account to the extent the income, resources, support and maintenance are allowed by federal law or regulation to be considered.

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4. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the value of burial lots or any amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, shall not be taken into account or considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as defined in section 214.270, RSMo, and any memorial, monument, marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436, RSMo, of an irrevocable prearranged funeral or burial contract receives any public assistance benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in interest cancel or amend the contract so that any person will be entitled to a refund, such refund shall be paid to the state of Missouri up to the amount of public assistance benefits provided pursuant to this chapter with any remainder to be paid to those persons designated in chapter 436, RSMo.

5. In determining the total property owned pursuant to subdivision (5) of subsection 2 of this section, or resources, of any person claiming or for whom public assistance is claimed, there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or any two or more policies or contracts, or any combination of policies and contracts, which provides for the payment of one thousand five hundred dollars or less upon the death of any of the following:

(1) A claimant or person for whom benefits are claimed; or

(2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living.

If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or burial contract, or any two or more contracts, which provides for the payment of one thousand five hundred dollars or less per family member.

6. Beginning September 30, 1989, when determining the eligibility of institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall comply with the provisions of the federal statutes and regulations. As necessary, the division shall by rule or regulation implement the federal law and regulations which shall include but not be limited to the establishment of income and resource standards and limitations. The division shall require:

(1) That at the beginning of a period of continuous institutionalization that is expected to last for thirty days or more, the institutionalized spouse, or the community spouse, may request an assessment by the division of family services of total countable resources owned by either or both spouses;

(2) That the assessed resources of the institutionalized spouse and the community spouse may be allocated so that each receives an equal share;

(3) That upon an initial eligibility determination, if the community spouse's share does not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the community spouse a resource allowance to increase the community spouse's share to twelve thousand dollars;

(4) That in the determination of initial eligibility of the institutionalized spouse, no resources attributed to the community spouse shall be used in determining the eligibility of the institutionalized spouse, except to the extent that the resources attributed to the community spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;

(5) That beginning in January, 1990, the amount specified in subdivision (3) of this subsection shall be increased by the percentage increase in the consumer price index for all urban consumers between September, 1988, and the

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September before the calendar year involved; and

(6) That beginning the month after initial eligibility for the institutionalized spouse is determined, the resources of the community spouse shall not be considered available to the institutionalized spouse during that continuous period of institutionalization.

7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to the provisions of section 208.080.

9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the home of the applicant or recipient when the home is providing shelter to the applicant or recipient, or his or her spouse or dependent child. The division of family services shall establish by rule or regulation in conformance with applicable federal statutes and regulations a definition of the home and when the home shall be considered a resource that shall be considered in determining eligibility.

10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts as determined due pursuant to the applicable provisions of federal regulations pertaining to Title XVIII Medicare Part B, except the applicable Title XIX cost sharing.

11. A “community spouse” is defined as being the noninstitutionalized spouse.

208.151. 1. For the purpose of paying medical assistance on behalf of needy persons and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. section 301 et seq.) as amended, the following needy persons shall be eligible to receive medical assistance to the extent and in the manner hereinafter provided:

(1) All recipients of state supplemental payments for the aged, blind and disabled;

(2) All recipients of aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040;

(3) All recipients of blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the division of family services, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All recipients of family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were recipients of old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer

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receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance [under] **pursuant to** 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The division of family services shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the division of family services shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide Medicaid coverage [under] **pursuant to** this subdivision, the department of social services may revise the state Medicaid plan to extend coverage [under] **pursuant to** 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The following children with family income which does not exceed two hundred percent of the federal poverty guideline for the applicable family size:

(a) Infants who have not attained one year of age with family income greater than one hundred eighty-five percent of the federal poverty guideline for the applicable family size;

(b) Children who have attained one year of age but have not attained six years of age with family income greater than one hundred thirty-three percent of the federal poverty guideline for the applicable family size; and

(c) Children who have attained six years of age but have not attained nineteen years of age with family income greater than one hundred percent of the federal poverty guideline for the applicable family size. Coverage under this subdivision shall be subject to the receipt of notification by the director of the department of social services and the revisor of statutes of approval from the secretary of the U.S. Department of Health and Human Services of applications for waivers of federal requirements necessary to promulgate regulations to implement this subdivision. The director of the department of social services shall apply for such waivers. The regulations may provide for a basic primary and preventive health care services package, not to include all medical services covered by section 208.152, and may also establish co-payment, coinsurance, deductible, or premium requirements for medical assistance [under] **pursuant to** this subdivision. Eligibility for medical assistance [under] **pursuant to** this subdivision shall be available only to those infants and children who do not have or have not been eligible for employer-subsidized health care insurance coverage for the six months prior to application for medical assistance. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The division of family services may establish a resource

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eligibility standard in assessing eligibility for persons [under] **pursuant to** this subdivision. The division of medical services shall define the amount and scope of benefits which are available to individuals [under] **pursuant to** this subdivision in accordance with the requirement of federal law and regulations. Coverage [under] **pursuant to** this subdivision shall be subject to appropriation to provide services approved [under] **pursuant to** the provisions of this subdivision;

(16) The division of family services shall not establish a resource eligibility standard in assessing eligibility for persons [under] **pursuant to** subdivision (12), (13) or (14) of this subsection. The division of medical services shall define the amount and scope of benefits which are available to individuals eligible [under] **pursuant to** each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder except that the scope of benefits shall include case management services;

(17) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. section 1396r-1, as amended;

(18) A child born to a woman eligible for and receiving medical assistance [under] **pursuant to** this section on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the division of family services shall assign a medical assistance eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(19) Pregnant women and children eligible for medical assistance pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical assistance benefits be required to apply for aid to families with dependent children. The division of family services shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for medical assistance. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for medical assistance benefits [under] **pursuant to** subdivision (12), (13) or (14) shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the division of family services for assessing eligibility [under] **pursuant to** this chapter shall be as simple as practicable;

(20) Subject to appropriations necessary to recruit and train such staff, the division of family services shall provide one or more full-time, permanent case workers to process applications for medical assistance at the site of a health care provider, if the health care provider requests the placement of such case workers and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such case workers. The division may provide a health care provider with a part-time or temporary case worker at the site of a health care provider if the health care provider requests the placement of such a case worker and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such a case worker. The division may seek to employ such case workers who are otherwise qualified for such positions and who are current or former welfare recipients. The division may consider training such current or former welfare recipients as case workers for this program;

(21) Pregnant women who are eligible for, have applied for and have received medical assistance [under] **pursuant to** subdivision (2), (10), (11) or (12) of this subsection shall continue

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to be considered eligible for all pregnancy-related and postpartum medical assistance provided [under] **pursuant to** section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(22) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized [under] **pursuant to** the provisions of chapter 192, RSMo, or chapter 205, RSMo, or a city health department operated under a city charter or a combined city-county health department or other department of health designees. To the greatest extent possible the department of social services and the department of health shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of mental retardation program and the prenatal care program administered by the department of health. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective Medicaid-eligible high-risk mothers and enroll them in the state's Medicaid program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the Medicaid program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any Medicaid prepaid, case-managed programs;

(23) By January 1, 1988, the department of social services and the department of health shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207, RSMo;

(24) All recipients who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(25) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, under the eligibility standards in effect December 31, 1973, or those supplemental security income recipients who would be determined eligible for general relief benefits under the eligibility standards in effect December 31, 1973, except income; or less restrictive standards as established by rule of the division of family services. If federal law or regulation authorizes the division of family services to, by rule, exclude the income or resources of a parent or parents of a person under the age of eighteen and such exclusion of income or resources can be limited to such parent or parents, then notwithstanding the provisions of section 208.010:

(a) The division may by rule exclude such income or resources in determining such person's eligibility for permanent and total disability benefits; and

(b) Eligibility standards for permanent and total disability benefits shall not be limited by age;

(26) Within thirty days of the effective date of an initial appropriation authorizing medical assistance on behalf of "medically needy" individuals for whom federal reimbursement is available [under] **pursuant to** 42 U.S.C. 1396a (a)(10)(c), the department of social services shall submit an amendment to the Medicaid state plan to provide medical assistance on behalf of, at a minimum, an individual described in subclause (I) or (II) of clause 42 U.S.C. 1396a (a)(10)(C)(ii).

2. **The department of social services shall expand eligibility under the Medicaid program by increasing the current asset limits to two thousand five hundred dollars for a single person and five thousand dollars for a married**

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couple, subject to appropriations. The department shall apply to the United States Secretary of Health and Human Services for any necessary waivers or amendments to current waivers to increase such asset limits.

3. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064, RSMo, and chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

[3.] **4.** After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for medical assistance for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six months. The division of medical services may provide by rule the scope of medical assistance coverage to be granted to such families.

[4.] **5.** For purposes of section 1902(1), (10) of Title XIX of the federal Social Security Act, as amended, any individual who, for the month of August, 1972, was eligible for or was receiving aid or assistance pursuant to the provisions of Titles I, X, XIV, or Part A of Title IV of such act and who, for such month, was entitled to monthly insurance benefits [under] **pursuant to** Title II of such act, shall be deemed to be eligible for such aid or assistance for such month thereafter prior to October, 1974, if such individual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under Title II of such act resulting from enactment of Public Law 92-336 amendments to the federal Social Security Act (42 U.S.C. 301 et seq.), as amended, not been applicable to such individual.

[5.] **6.** When any individual has been determined to be eligible for medical assistance, such medical assistance will be made available to him for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid."; and

Further amend the title and enacting clause accordingly.

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

Senator Ehlmann offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 2, Section A, Line 7, by inserting after all of said line the following:

"**33.850. 1. Sections 33.850 to 33.895 shall be known and may be cited as the "Missouri False Claims Act".**

2. As used in sections 33.850 to 33.895, the following terms shall mean:

(1) "Claim", includes any request or demand regarding health care for the elderly, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other person if the state

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provides any portion of the money or property which is requested or demanded regarding health care for the elderly, or if the state will reimburse such contractor, grantee, or other person for any portion of the money or property which is requested or demanded regarding health care for the elderly;

(2) "Custodian", the custodian, or any deputy custodian, designated by the attorney general pursuant to section 33.883;

(3) "Documentary material", includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery;

(4) "Exempt official", any of the following officials: any state official listed in article IV, section 12 of the Constitution of the state of Missouri and all other persons appointed by the governor by and with the consent of the senate;

(5) "Guard", the Missouri national guard;

(6) "Investigation", any inquiry conducted by an investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of sections 33.850 to 33.895;

(7) "Investigator", a person who is charged by the attorney general with the duty of conducting any investigation pursuant to sections 33.850 to 33.895, or any officer or employee of the state acting under the direction and supervision of the department of public safety, through the Missouri state highway patrol, with an investigation;

(8) "Knowing" and "knowingly", that a person, with respect to information:

(a) Has actual knowledge of the information; and

(b) Acts in deliberate ignorance of the truth or falsity of the information; or

(c) Acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required;

(9) "Original source", an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the state before filing an action pursuant to sections 33.850 to 33.895 which is based on the information;

(10) "Product of discovery" includes:

(a) The original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

(b) Any digest, analysis, selection, compilation, or derivation of any item listed in paragraph (a) of this subdivision; and

(c) Any index or other manner of access to any item listed in paragraph (a) of this subdivision.

33.853. 1. Sections 33.850 to 33.895 are intended to provide for civil recovery for false or fraudulent claims paid by the state.

2. Any person who:

(1) Knowingly presents, or causes to be presented, to an officer or employee of the state or a member of the guard a false or fraudulent claim for payment or approval;

(2) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the state;

(3) Conspires to defraud the state by getting a false or fraudulent claim allowed or paid;

(4) Has possession, custody, or control of property or money used, or to be used, by the state regarding health care for the elderly and, intending to defraud the state or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for

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which the person receives a certificate or receipt;

(5) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state regarding health care for the elderly and, intending to defraud the state, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(6) Knowingly buys, or receives as a pledge on an obligation or debt regarding health care for the elderly, public property from an officer or employee of the state, or a member of the guard, who lawfully may not sell or pledge the property; or

(7) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state regarding health care for the elderly, is liable to the state for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars, plus three times the amount of damages which the state sustains because of the act of that person. A person found guilty of violating this section shall also be liable to the state for the costs of a civil action brought to recover any such penalty or damages.

3. This section does not apply to claims, records, or statements made pursuant to chapter 143, RSMo.

33.856. 1. The attorney general shall diligently investigate a civil violation pursuant to sections 33.850 to 33.895. If the attorney general finds that a person has violated or is violating section 33.853, the attorney general may bring a civil action pursuant to this section against the person.

2. A person may bring a civil action for a violation of section 33.853 for the person and for the state. The action shall be brought in the name of the state. The action may be dismissed only if the court and the attorney general give written consent to the dismissal and their reasons for consenting.

3. A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the attorney general for the state. The complaint shall be filed in camera, shall remain under seal for at least sixty days, and shall not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within sixty days after it receives both the complaint and the material evidence and information.

4. The state may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal pursuant to subsection 3 of this section. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed pursuant to this section until thirty days after the complaint is unsealed and served upon the defendant.

5. Before the expiration of the sixty-day period or any extensions obtained pursuant to subsection 4 of this section, the state shall:

(1) Proceed with the action, in which case the action shall be conducted by the state; or

(2) Notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

6. When a person brings an action pursuant to this section, no person other than the state may intervene or bring a related action based on the facts underlying the pending action.

7. If the false or fraudulent claim involves the attorney general's office, then the state auditor shall assume all powers, duties and obligations that the attorney general has pursuant to sections 33.850 to 33.856.

33.859. 1. If the state proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the

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limitations set forth in subsection 2 of this section.

2. (1) The state may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the state of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(2) The state may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(3) Upon a showing by the state that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:

(a) Limiting the number of witnesses the person may call;

(b) Limiting the length of the testimony of such witnesses;

(c) Limiting the person's cross-examination of witnesses; or

(d) Otherwise limiting the participation by the person in the litigation.

(4) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

3. If the state elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the state so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the state's expense. When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the state to intervene at a later date upon a showing of good cause.

4. Whether or not the state proceeds with the action, upon a showing by the state that certain actions of discovery by the person initiating the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. Such a showing shall be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

5. The state may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued pursuant to this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action pursuant to this section.

33.862. 1. If the state proceeds with an action brought by a person pursuant to section 33.856, such person shall receive at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, the court may award such

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sums as it considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. The state shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred by the attorney general, including reasonable attorneys' fees and costs, and the amount received shall be deposited in the whistleblower reward and protection fund created in section 33.895. All such expenses, fees, and costs shall be awarded against the defendant upon a finding of guilt.

2. If the state does not proceed with an action pursuant to this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five percent and not more than thirty percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

3. Whether or not the state proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 33.853 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive pursuant to this section, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 33.853, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the state to continue the action.

4. If the state does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

33.865. 1. No court shall have jurisdiction over an action brought by a former or present member of the guard against a member of the guard arising out of such person's service in the guard.

2. (1) No court shall have jurisdiction over an action brought pursuant to section 33.856 against a member of the general assembly, a member of the judiciary, or an exempt official if the action is based on evidence or information known as the violation to the state when the action was brought.

(2) In no event may a person bring an action pursuant to section 33.856 which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil penalty proceeding in which the state is already a party.

(3) No court shall have jurisdiction over an action pursuant to this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or auditor report, hearing, audit, or investigation, or from the news media, unless the action is brought by the attorney general or the person bringing the action is an original source of the information.

3. The state is not liable for expenses which a person incurs in bringing an action pursuant to section 33.856.

4. Any employee who is discharged,

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demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done pursuant to sections 33.850 to 33.895, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the seniority status such employee would have had but for the discrimination, interest on the back pay which would have been otherwise due, two times the amount of back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate circuit court for the relief provided in this subsection.

33.868. 1. A subpoena requiring the attendance of a witness at a trial or hearing conducted pursuant to section 33.859 may be served at any place in the state.

2. A civil action pursuant to section 33.856 may not be brought:

(1) More than six years after the date on which the alleged violation of section 33.853 is committed; or

(2) More than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of the state charged with responsibility to act in the circumstances, whichever occurs last.

3. In any action brought pursuant to section 33.856, the state or the person shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

4. Notwithstanding any other provision of law, a final judgment rendered in favor of the state in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought pursuant to subdivision (1) or (2) of subsection 5 of section 33.856.

33.871. 1. When it appears to the attorney general that a person has engaged in, is engaging in or is about to engage in any violation of section 33.853 or when he or she believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in, or is about to engage in any such act or practice he or she may issue and cause to be served a civil investigative demand to assist in the investigation of the matter. The issuance and enforcement of each civil investigative demand shall be conducted in compliance with all of the terms and provisions of sections 407.040 to 407.090, except as provided for in sections 33.850 to 33.895.

2. Any person served a civil investigative demand shall have the right to the assistance of counsel.

33.874. Any civil investigative demand issued pursuant to section 33.871 may be served as the Missouri rules of civil procedure prescribes for service of process. To the extent that the courts of this state can assert jurisdiction over any person outside the state consistent with due process, the courts of this state shall have the same jurisdiction to take any action respecting compliance with this section against any such person that such court would have if such person were personally within the jurisdiction of such court.

33.877. A verified return by the individual serving any civil investigative demand issued pursuant to section 33.871 or any petition filed pursuant to section 33.856 setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

33.880. 1. The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the county within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by

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the investigator conducting the examination and such person.

2. When the testimony is fully transcribed, the investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days after being afforded a reasonable opportunity to examine it, the officer or investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given therefor.

33.883. 1. The attorney general shall designate the Missouri state highway patrol to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received pursuant to sections 33.850 to 33.895, and shall designate additional employees of the Missouri state highway patrol as the attorney general determines from time to time to be necessary to serve as deputies to the custodian.

2. An investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony pursuant to this section shall transmit them to the custodian. The custodian shall take physical possession of such material, and shall be responsible for the use made of them and for their return pursuant to subsection 5 of this section. The custodian may cause the preparation of such copies of such material as may be required for official use.

3. Nothing in this section is intended to prevent disclosure to the general assembly, including any committee or subcommittee of the general assembly, or to any other state agency for use by such agency in furtherance of its statutory responsibilities. Disclosure of information to any such other agency shall be allowed only upon application, made by the attorney general to a circuit court, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities.

4. Whenever any attorney has been designated to appear on behalf of the state before any court, grand jury, or state agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received pursuant to this section shall deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding.

5. Material produced in the course of any investigation pursuant to a civil investigative demand shall be returned, upon written request of the person who produced such material, to such person except authorized copies or those which have passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding, if:

(1) Any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any state agency involving such material, has been completed; or

(2) No case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation.

33.886. 1. At any time during which any

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custodian is in custody or control of any material received pursuant to section 33.871, such person as provided the material, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the circuit court of the county within which the office of such custodian holding any of the material is situated, and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

2. Whenever any petition is filed in any circuit court pursuant to this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal in the same manner as appeals of other final orders in civil matters. Any disobedience of any final order entered pursuant to this section by any court shall be punished as a contempt of the court.

33.889. Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand shall be a closed record pursuant to chapter 610, RSMo.

33.892. The Missouri rules of civil procedure shall apply to all proceedings pursuant to sections 33.850 to 33.895, except when rules are inconsistent with sections 33.850 to 33.895.

33.895. 1. There is hereby created the "Whistleblower Reward and Protection Fund" within the state treasury. All proceeds of an action or settlement of a claim brought pursuant to sections 33.850 to 33.895 shall be transmitted to the director of revenue for deposit in the fund.

2. Moneys in the fund shall be allocated, subject to appropriation, as follows: One-sixth of the moneys shall be paid to the attorney general and one-sixth of the moneys shall be paid to the Missouri state highway patrol for state law enforcement purposes. The remaining two-thirds of the moneys in the fund shall be used for payment of awards to citizen plaintiffs, for attorneys' fees and expenses, and as otherwise specified in sections 33.850 to 33.895. The attorney general shall direct the state treasurer to make disbursement of funds as provided in court orders setting those awards, fees, and expenses. The state treasurer shall transfer any fund balances in excess of those required for these purposes to the general revenue fund at the end of each biennium."; and

Further amend the title and enacting clause accordingly.

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

Senator Clay offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 128, Section 21, Line 4 of said page, by inserting immediately after said line the following:

"**Section 22. The medical assistance program established in section 208.151, RSMo, shall provide coverage of nonsystemic prescription drugs for the treatment of obesity, which are approved by the federal Food and Drug Administration, for eligible persons who have a body mass index equal to or greater than thirty kg/m² or twenty-seven kg/m² in the presence of another risk factor including diabetes, cardiovascular disease, hypertension, stroke or elevated cholesterol. Such coverage may be subject to prior authorization.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Flotron offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 128, Section 21, Line 4, by inserting after said line a new section to read as follows:

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"Section 22. The provisions of sections 198.039 and 208.156 notwithstanding, a person entitled by those aforementioned statutory sections to a hearing pursuant to chapter 621, RSMo may elect to bring its action before the circuit court of the county wherein it resides or in which its facility is located or the circuit court of Cole County pursuant to the provisions of section 536.150, RSMo. An appeal of a decision the circuit court from such action may be appealed to the court of appeals for the appropriate district."; and

Further amend the title and enacting clause accordingly.

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

Senator Steelman offered **SA 9**, which was read:

SENATE AMENDMENT NO. 9

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Bill No. 1615, Page 128, Section 21, Line 4, by adding one new section:

"Section 22. All enforcement provisions of this law relating to long term care facilities, with the exception of those provisions relating to the employee disqualification list, shall become effective only when the Division of Medical Services has adequate appropriation to pay a Medicaid rate equal to the 1998 audited actual allowable costs for Medicaid as determined by audit of the Department of Social Services.".

Senator Steelman moved that the above amendment be adopted.

Senator Caskey requested a roll call vote be taken on the adoption of **SA 9** and was joined in his request by Senators Bentley, Childers, Goode and Johnson.

At the request of Senator Steelman, **SA 9** was withdrawn.

Senator Caskey moved that **SS No. 2** for **SCS** for **HS** for **HB 1615**, as amended, be adopted, which motion prevailed.

Senator Caskey was recognized to close on the bill.

President Pro Tem Quick referred **SS No. 2** for **SCS** for **HS** for **HB 1615**, as amended, to the Committee on State Budget Control.

PRIVILEGED MOTIONS

Senator Quick moved that the Senate refuse to concur in **HS** for **HCS** for **SCS** for **SB 894**, as amended, and request the House to recede from its position and, 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 refuses to adopt **SCS** for **HCS** for **HBs 1386** and **1086**, as amended, and requests the Senate to recede from its position, or failing to do so, grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HB 1292**, as amended, and has taken up and passed **CCS** for **SCS** for **HB 1292**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 934**, **546**, **578**, **579** and **782**, entitled:

An Act to repeal sections 302.160 and 577.010, RSMo 1994, and sections 302.010, 302.060, 302.302, 302.304, 302.309, 302.505, 302.510, 302.520, 302.530, 302.540, 302.541, 302.545, 577.001, 577.012, 577.021, 577.023, 577.037, 577.041, 577.600 and 577.602, RSMo Supp. 1999, relating to driving with excessive blood alcohol content, and to enact in lieu thereof twenty-four new sections relating to the same subject, with penalty provisions.

With House Substitute Amendment No. 1 for

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House Amendment No. 1, House Amendments Nos. 2, 3, 4, 5, 6, 7, 8, House Substitute Amendment No. 1 for House Amendment No. 9, House Amendments Nos. 10 and 11.

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

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 934, 546, 578, 579 & 782, Page 12, Section 302.302, Line 24 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 13, Section 302.302, Line 4 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Pages 29 and 30, Section 302.505, Lines 24 and 1 of said pages, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 30, Section 302.505, Line 11 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 31, Section 302.510, Line 6 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 31, Section 302.510, Line 8 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 31, Section 302.510, Lines 16 and 17 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 32, Section 302.520, Line 14 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 32, Section 302.520, Line 18 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 38, Section 302.541, Line 11 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 38, Section 302.541, Line 15 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 38, Section 302.541, Lines 22 to 23 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 39, Section 302.545, Line 8 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 42, Section 577.012, Lines 21 to 22 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 49, Section 577.037, Lines 20 to 21 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 50, Section 577.037, Line 20 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 52, Section 577.041, Line 21 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

Further amend said bill, Page 55, Section 577.041, Line 4 of said page, by deleting the words "**eighty-five thousandths**" and inserting in lieu thereof the words "**eight-hundredths**"; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Substitute for

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Senate Committee Substitute for Senate Bills Nos. 934, 546, 578, 579 and 782, Page 62, Line 6, by inserting immediately after said line the following:

"50.550. 1. The annual budget shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions; the actual or estimated operating deficits or surpluses from prior years; all interest and debt redemption charges during the year and expenditures for capital projects.

2. The budget shall contain adequate provisions for the expenditures necessary for the care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs of holding circuit court in the county that are chargeable against the county, for the repair and upkeep of bridges other than on state highways and not in any special road district, and for the salaries, office expenses and deputy and clerical hire of all county officers and agencies.

3. In addition, the budget shall set forth in detail the anticipated income and other means of financing the proposed expenditures.

4. All receipts of the county for operation and maintenance shall be credited to the general fund, and all expenditures for these purposes shall be charged to this fund; except, that receipts from the special tax levy for roads and bridges shall be kept in a special fund and expenditures for roads and bridges may be charged to the special fund.

5. All receipts from the sale of bonds for any purpose shall be credited to the bond fund created for the purpose, and all expenditures for this purpose shall be charged to the fund. All receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue, and all payments to retire the issue shall be charged to the fund. All receipts for interest on outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

6. Subject to the provisions of Section 50.555 the county commission may create a fund to be known as "The .... County Crime Reduction Fund".

7. [6.] The county commission may create other funds as are necessary from time to time.

50.555. 1. A county commission may establish by resolution a fund whose proceeds may be expended only for the purposes provided for in subsection 3 of this section. The fund shall be designated as a county crime reduction fund and shall be under the supervision of a board of trustees consisting of one citizen of the county appointed by the presiding commissioner of the county, one citizen of the county appointed by the sheriff of the county, and one citizen of the county appointed by the county prosecuting attorney.

2. Money from the county crime reduction fund shall only be expended upon the approval of a majority of the members of the county crime reduction fund's board of trustees and only for the purposes provided for by subsection 3 of this section.

3. Money from the county crime reduction fund shall only be expended for the following purposes:

(1) narcotics investigation, prevention and intervention;

(2) payment of rewards through the sheriff's employees;

(3) purchase of law enforcement related equipment and supplies for the sheriff's office;

(4) matching funds for federal or state law enforcement grants;

(5) funding for the reporting of all state and federal crime statistics or information; and

(6) any law enforcement related expense, including those of the prosecuting attorney, approved by the board of trustees for the county crime fund that is reasonably related to investigation, preparation, trial and disposition of criminal cases before the

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courts of the State of Missouri.

4. The county commission may not reduce any law enforcement agency's budget as a result of funds the law enforcement agency receives from the county crime reduction fund. The crime reduction fund is to be used only as a supplement to the law enforcement agency's funding received from other county, state or federal funds.

5. County crime reduction funds shall be audited as are all other county funds.

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558.019. 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set minimum terms of sentences, or the provisions of subsections 2 through 5 of section 559.115, RSMo, relating to probation.

2. The provisions of this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of a defendant after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the defendant has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the defendant must serve shall be forty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(2) If the defendant has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the defendant must serve shall be fifty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the defendant has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the defendant must serve shall be eighty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first. For purposes of this section, the phrase "sentence imposed by the court" means the total aggregate sentence actually imposed by the sentencing court.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive

sentences for crimes committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the defendant before he is eligible for parole, conditional release or other early release by the department of corrections. Except that the board of probation and parole, in the case of consecutive sentences imposed at the same time pursuant to a course of conduct constituting a common scheme or plan, shall be authorized to convert consecutive sentences to concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit attorney, that the sum of the terms results in an unreasonably excessive total term, taking into consideration all factors related to the crime or crimes committed and the sentences received by others similarly situated.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for defendants convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

(a) The nature and severity of each offense;

(b) The record of prior offenses by the offender;

(c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and

(d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) The commission shall publish and distribute its system of recommended sentences on or before July 1, 1995. The commission shall study the implementation and use of the system of recommended sentences until July 1, 1998, and return a final report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, 1998,

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report, the commission may revise the recommended sentences every three years.

(5) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(6) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(7) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. If the imposition or execution of a sentence is suspended, the court may consider ordering restorative justice methods pursuant to section 217.777, RSMo, including any or all of the following, or any other method that the court finds just or appropriate:

(1) Restitution to any victim for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community services;

(4) Work release programs in local facilities; and

(5) Community based residential and nonresidential programs; and

8. If the imposition or execution of a sentence is suspended for a misdemeanor, in addition to the provisions of subsection 7 of this section, the court may order the assessment and payment of a designated amount of money to a county crime reduction fund established by the county commission pursuant to § 50.555, RSMo. Said contribution shall not exceed $1,000 for any misdemeanor offense. Any money deposited into the county crime reduction fund pursuant to this section shall only be expended pursuant to the provisions of section 50.555 RSMo. An annual audit of the fund shall be conducted by the county auditor or the state auditor.

9. [8.] The provisions of this section shall apply only to offenses occurring on or after August 28, 1994.

559.021. 1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law. When a defendant is placed on probation he shall be given a certificate explicitly stating the conditions on which he is being released.

2. In addition to such other authority as exists to order conditions of probation, the court may order such conditions as the court believes will serve to compensate the victim, any dependent of the victim, or society. Such conditions may include, but shall not be limited to:

(1) Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge; and

(2) The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge.

3. In addition to such other authority as exists to order conditions of probation, in the case of a plea of guilty in a misdemeanor case or finding of guilt in a misdemeanor case, the court may order the assessment and payment of a designated amount of money to a county crime reduction fund established by the county commission pursuant to §50.555, RSMo. Said contribution shall not exceed $1,000 for any misdemeanor offense. Any money deposited into the county crime reduction fund pursuant to this section shall only be expended pursuant to the provisions of section 50.555 RSMo.

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[3.] **4.** The defendant may refuse probation conditioned on the performance of free work. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, person, organization, or agency, or employee of a county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the defendant or any person deriving a cause of action from him if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services performed by the defendant shall not be deemed employment within the meaning of the provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

[4.] **5.** The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

6. The defendant may refuse probation conditioned on a payment to a county crime reduction fund. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. A judge may order payment to a crime reduction fund only if such fund had been created prior to sentencing by ordinance or resolution of a county of the state of Missouri. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering the probationers to make payments. A defendant who fails to make a payment or payments to a crime reduction fund may not have his probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.".

HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 934, 546, 578, 579 and 782, Page 40, Section 302.545, Line 3, by inserting the following at the end of said section:

"**311.299. 1. Any establishment that is licensed pursuant to chapter 311, RSMo, to sell or serve alcoholic beverages at any establishment shall place on the premises of such establishment a warning sign as described in this section. Such sign shall be at least eleven inches by fourteen inches and shall read "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects.". The licensee shall display such sign in a conspicuous place on the licensed premises.**

2. Any employee of the supervisor of liquor control may report a violation of this section to the supervisor, and the supervisor shall issue a warning to the licensee of the violation."; and

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 934, 546, 578, 579 and 782, Page 43, Section 577.012, Line 9 of said page, by inserting after all of said line the following:

"577.020. 1. Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent to, subject to the provisions of sections 577.020 to 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

(1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(2) If the person is under the age of

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twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(3) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent or greater; or

(4) If the person is under the age of twenty-one, has been stopped at a sobriety checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent or greater**; or**

(5) If the person was operating a motor vehicle and involved in an accident; except that only a chemical test for drug content shall be performed pursuant to this subdivision and only if there was probable cause to believe the operator was intoxicated at the time of the accident.

The test shall be administered at the direction of the law enforcement officer whenever the person has been arrested or stopped for any reason**, or by a law enforcement officer or licensed medical personnel whenever the person has been involved in an accident pursuant to subdivision (5) of this subsection**.

2. The implied consent to submit to the chemical tests listed in subsection 1 of this section shall be limited to not more than two such tests arising from the same arrest, incident or charge.

3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid pursuant to the provisions of sections 577.020 to 577.041 shall be performed according to methods approved by the state department of health by licensed medical personnel or by a person possessing a valid permit issued by the state department of health for this purpose.

4. The state department of health shall approve satisfactory techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of sections 577.020 to 577.041 and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health.

5. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

6. Upon the request of the person who is tested, full information concerning the test shall be made available to him.

7. Any person given a chemical test of the person's breath pursuant to subsection 1 of this section or a field sobriety test may be videotaped during any such test at the direction of the law enforcement officer. Any such video recording made during the chemical test pursuant to this subsection or a field sobriety test shall be admissible as evidence at either any trial of such person for either a violation of any state law or county or municipal ordinance, or any license revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo."; and

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

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Substitute #2 for Senate Committee Substitute for Senate Bills Nos. 934, 546, 578, 579 and 782, Page 40, Section 302.545, Line 3, by inserting at the end of said section the following:

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"478.001. **1.** Drug **and alcohol abuse** courts may be established by any circuit court pursuant to sections 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which stem from drug **and alcohol** use. A drug **and alcohol abuse** court shall combine judicial supervision, drug **and alcohol** testing and treatment of drug **and alcohol abuse** court participants. Except for good cause found by the court, a drug **and alcohol abuse** court making a referral for substance abuse treatment, when such program will receive state or federal funds in connection with such referral, shall refer the person only to a program which is certified by the department of mental health, unless no appropriate certified treatment program is located within the same county as the drug **and alcohol abuse** court. Upon successful completion of the treatment program, the charges, petition or penalty against a drug **and alcohol abuse** court participant may be dismissed, reduced or modified. Any fees received by a court from a defendant as payment for substance treatment programs shall not be considered court costs, charges or fines.

2. A court shall determine if an assessment for drug or alcohol abuse is appropriate for a defendant in any drug or alcohol-related prosecution. Such assessment shall be made before sentencing.

478.003. In any judicial circuit of this state, a majority of the judges of the circuit court may designate a judge to hear cases arising in the circuit subject to the provisions of sections 478.001 to 478.006. In lieu thereof and subject to appropriations or other funds available for such purpose, a majority of the judges of the circuit court may appoint a person or persons to act as drug **and alcohol abuse** court commissioners. Each commissioner shall be appointed for a term of four years, but may be removed at any time by a majority of the judges of the circuit court. The qualifications and compensation of the commissioner shall be the same as that of an associate circuit judge. If the compensation of a commissioner appointed pursuant to this section is provided from other than state funds, the source of such fund shall pay to and reimburse the state for the actual costs of the salary and benefits of the commissioner. The commissioner shall have all the powers and duties of a circuit judge, except that any order, judgment or decree of the commissioner shall be confirmed or rejected by an associate circuit or circuit judge by order of record entered within the time the judge could set aside such order, judgment or decree had the same been made by the judge. If so confirmed, the order, judgment or decree shall have the same effect as if made by the judge on the date of its confirmation.

478.005. 1. Each circuit court shall establish conditions for referral of proceedings to the drug **and alcohol abuse** court. The defendant in any criminal proceeding accepted by a drug **and alcohol abuse** court for disposition shall be a nonviolent person, as determined by the prosecuting attorney. Any proceeding accepted by the drug **and alcohol abuse** court program for disposition shall be upon agreement of the parties.

2. Any statement made by a participant as part of participation in the drug **and alcohol abuse** court program, or any report made by the staff of the program, shall not be admissible as evidence against the participant in any criminal, juvenile or civil proceeding. Notwithstanding the foregoing, termination from the drug **and alcohol abuse** court program and the reasons for termination may be considered in sentencing or disposition.

3. Notwithstanding any other provision of law to the contrary, drug **and alcohol abuse** court staff shall be provided with access to all records of any state or local government agency relevant to the treatment of any program participant. Upon general request, employees of all such agencies shall fully inform a drug **and alcohol abuse** court staff of all matters relevant to the treatment of the participant. All such records and reports and the contents thereof shall be treated as closed records and shall not be disclosed to any person outside of the drug **and alcohol abuse** court, and shall be maintained by the court in a confidential file not available to the public.

478.009. 1. In order to coordinate the allocation of resources available to drug and alcohol abuse courts throughout the state, there is hereby established a "Drug and Alcohol

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Abuse Courts Coordinating Commission" in the judicial department. The drug and alcohol abuse courts coordinating commission shall consist of one member selected by the director of the department of corrections; one member selected by the director of the department of social services; one member selected by the director of the department of mental health; one member selected by the director of the department of public safety; one member selected by the state courts administrator; and three members selected by the supreme court. The supreme court shall designate the chair of the commission. The commission shall periodically meet at the call of the chair; evaluate resources available for assessment and treatment of persons assigned to drug and alcohol abuse courts or for operation of drug and alcohol abuse courts; secure grants, funds and other property and services necessary or desirable to facilitate drug and alcohol abuse court operation; and allocate such resources among the various drug and alcohol abuse courts within the state.

2. There is hereby established in the state treasury a "Drug and Alcohol Abuse Court Resources Fund", which shall be administered by the drug and alcohol abuse courts coordinating commission. Funds available for allocation or distribution by the drug and alcohol abuse courts coordinating commission may be deposited into the drug and alcohol abuse court resources fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the drug and alcohol abuse court resources fund shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each biennium, but shall remain deposited to the credit of the drug and alcohol abuse court resources fund."; and

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

HOUSE AMENDMENT NO. 6

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 934, 546, 578, 579 and 782, Page 61, Section 577.700, by deleting said section; and

Further amend on Page 45, Subsection 2, Line 20, by adding after the word "felony" "[.] **where such prior offense occurred within five years of the occurrence of the intoxication related traffic offense for which the person is charged.**".

HOUSE AMENDMENT NO. 7

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 934, 546, 578, 579 and 782, Page 11, Section 302.060, Line 3, by inserting immediately after the word "license" the following: "**;**

(13) To any person who is found to be a dangerous persistent offender pursuant to section 577.023, RSMo"; and

Further amend said bill, Page 26, Section 302.309, Line 13, by deleting the following: "**or (12)**" and inserting in lieu thereof the following: "**, (12) or (13)**"; and

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

HOUSE AMENDMENT NO. 8

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 934, 546, 578, 579 and 782, Page 62, Section 577.700, Line 6 of said page, by inserting after all of said line the following:

"**Section 1. No municipal court in any city with a population of less than fifty thousand inhabitants shall have jurisdiction over any alcohol-related traffic offense as defined in section 590.010, RSMo, and any such offense shall be tried in the circuit court.**"; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 9

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2

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for Senate Committee Substitute for Senate Bill Nos. 934, 546, 578, 579 & 782, Page 40, Section 575.012(2), Lines 18, 19 and 23, by inserting before the word "eluding" on Line 18, the word: "**purposely**".

HOUSE AMENDMENT NO. 10

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill Nos. 934, 546, 578, 579 & 782, Page 13, Section 302.302, Line 1 of said page, by inserting immediately after the word "weight" the following: "**or driving with a blood alcohol content of fifteen-hundredths of one percent or more by weight**"; and

Further amend said bill, Page 13, Section 302.302, Line 4 of said page, by inserting immediately after the word "weight" the following: "**or driving with a blood alcohol content of fifteen-hundredths of one percent or more by weight**"; and

Further amend said bill, Page 33, Section 302.520, Line 23 of said page, by inserting after all of said line the following:

"302.525. 1. The license suspension or revocation shall become effective fifteen days after the subject person has received the notice of suspension or revocation as provided in section 302.520, or is deemed to have received the notice of suspension or revocation by mail as provided in section 302.515. If a request for a hearing is received by or postmarked to the department within that fifteen-day period, the effective date of the suspension or revocation shall be stayed until a final order is issued following the hearing; provided, that any delay in the hearing which is caused or requested by the subject person or counsel representing that person without good cause shown shall not result in a stay of the suspension or revocation during the period of delay.

2. The period of license suspension or revocation under this section shall be as follows:

(1) If the person's driving record shows no prior alcohol related enforcement contacts during the immediately preceding five years, the period of suspension shall be thirty days after the effective date of suspension, followed by a sixty-day period of restricted driving privilege issued by the director of revenue for the limited purpose of driving in connection with the person's business, occupation, or employment, and to and from an alcohol education or treatment program. The restricted driving privilege shall not be issued until he or she has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall restricted driving privileges be issued pursuant to this section or section 302.535 until the person has completed the first thirty days of a suspension under this section;

(2) The period of revocation shall be one year if the person's driving record shows one or more prior alcohol related enforcement contacts during the immediately preceding five years.

3. For purposes of this section, "alcohol related enforcement contacts" shall include any suspension or revocation under sections 302.500 to 302.540, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving a vehicle while having an unlawful alcohol concentration.

4. Where a license is suspended or revoked under this section and the person is also convicted on charges arising out of the same occurrence for a violation of section 577.010 [or]**,** 577.012 **or 577.014**, RSMo, or for a violation of any county or municipal ordinance prohibiting driving while intoxicated or alcohol related traffic offense, both the suspension or revocation under this section and any other suspension or revocation under this chapter shall be imposed, but the period of suspension or revocation under sections 302.500 to 302.540 shall be credited against any other suspension or revocation imposed under this chapter, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods."; and

Further amend said bill, Page 43, Section 577.012, Line 9 of said page, by inserting after all of said line the following:

"**577.014. 1. A person commits the crime of "driving with extreme blood alcohol content" if such person operates a motor vehicle in this**

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state with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For purposes of determining the alcoholic content of a person's blood pursuant to this section, the test shall be conducted pursuant to the provisions of sections 577.020 to 577.041.

3. For the first offense, driving with extreme blood alcohol content is a class A misdemeanor."; and

Further amend said bill, Page 43, Section 577.021, Line 13 of said page, by deleting the word "or" and inserting in lieu thereof the word "[or]**,**"; and

Further amend said bill, Page 43, Section 577.021, Line 14 of said page, by inserting immediately after the number "577.012" the following: "**or 577.014**"; and

Further amend said bill, Page 43, Section 577.023, Line 24 of said page, by inserting immediately after the word "content," the following: "**driving with extreme blood alcohol content,**"; and

Further amend said bill, Page 45, Section 577.023, Line 20 of said page, by inserting immediately after the word "**felony**." the following: "**Any person who pleads guilty to or is found guilty of a violation of section 577.014 who is alleged and proved to be a prior offender is guilty of a class D felony.**"; and

Further amend said bill, Page 45, Section 577.023, Line 24 of said page, by inserting immediately after the word "felony." the following: "**Any person who pleads guilty to or is found guilty of a violation of section 577.014 who is alleged and proved to be a persistent offender is guilty of a class C felony.**"; and

Further amend said bill, Page 49, Section 577.037, Line 9 of said page, by deleting "or 577.012" and inserting in lieu thereof the following: "[or]**,** 577.012 **or 577.014**"; and

Further amend said bill, Page 50, Section 577.037, Lines 13 to 14 of said page, by deleting "or 577.012" and inserting in lieu thereof the following: "[or]**,** 577.012 **or 577.014**"; and

Further amend said bill, Page 51, Section 577.037, Line 9 of said page, by inserting after all of said line the following:

"577.039. An arrest without a warrant by a law enforcement officer, including a uniformed member of the state highway patrol, for a violation of section 577.010 [or]**,** 577.012 **or 577.014** is lawful whenever the arresting officer has reasonable grounds to believe that the person to be arrested has violated the section, whether or not the violation occurred in the presence of the arresting officer and when such arrest without warrant is made within one and one-half hours after such claimed violation occurred, unless the person to be arrested has left the scene of an accident or has been removed from the scene to receive medical treatment, in which case such arrest without warrant may be made more than one and one-half hours after such violation occurred."; and

Further amend said bill, Page 51, Section 577.041, Line 16 of said page, by deleting "or 577.012" and inserting in lieu thereof the following: "[or]**,** 577.012 **or 577.014**"; and

Further amend said bill, Page 57, Section 577.041, Line 13 of said page, by inserting after all of said line the following:

"577.048. Upon a plea of guilty or a finding of guilty for an offense of violating the provisions of section 577.010 [or]**,** 577.012 **or 577.014** or violations of county or municipal ordinances involving alcohol or drug related traffic offenses, the court may, in addition to imposition of any penalties provided by law, order the convicted person to reimburse the state or local law enforcement agency which made the arrest for the costs associated with such arrest. Such costs shall include the reasonable cost of making the arrest, including the cost of any chemical test made [under] **pursuant to** this chapter to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking and holding such person in custody. The state and each

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local law enforcement agency may establish a schedule of such costs; however, the court may order the costs reduced if it determines that the costs are excessive.

577.049. 1. Upon a plea of guilty or a finding of guilty for an offense of violating the provisions of section 577.010 [or]**,** 577.012 **or 577.014** or violations of county or municipal ordinances involving alcohol or drug related traffic offenses, the court shall order the person to participate in and successfully complete a substance abuse traffic offender program defined in section 577.001.

2. The fees for the substance abuse traffic offender program, or a portion thereof, to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolling in the program. Any person who attends the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo."; and

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

HOUSE AMENDMENT NO. 11

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Bills Nos. 934, 546, 578, 579 and 782, Page 43, Section 577.010, Line 9, by inserting the following at the end of said section:

"577.017. 1. No person shall consume [any] **an** alcoholic beverage [while operating a moving motor vehicle upon the highways, as defined in section 301.010, RSMo] **or possess an open alcoholic beverage container in the passenger area of the motor vehicle in any motor vehicle operated on a public highway or the right-of-way of a public highway**.

2. Any person found guilty of violating the provisions of this section is guilty of a class C misdemeanor.

3. Any infraction under this section shall not reflect on any records with the department of revenue.".

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 concurred in **SA 1** to **HCS** for **HB 1967** but refuses to concur in **SCA 1** as amended to **HCS** for **HB 1967** and has taken up and passed **HCS** for **HB 1967** as amended by **SA 1** and requests the Senate recede from its position on **SCA 1** as amended and take up and pass the bill.

Emergency Clause adopted on **HCS** for **HB 1967**, as amended.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HCS** for **SS** for **SS No. 3** for **SJR 35**, as amended: Senators Goode, Schneider, Mathewson, Flotron and Kinder.

HOUSE BILLS ON THIRD READING

Senator Childers moved that **HB 1082**, with **SCS** 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 Jacob, the above amendment was withdrawn.

Senator Childers offered **SS** for **SCS** for **HB 1082**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1082

An Act to repeal section 12.010, RSMo 1994, relating to consent of the state to the acquisition of land by the federal government, and to enact in lieu thereof one new section relating to the same subject.

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Senator Childers moved that **SS** for **SCS** for **HB 1082** be adopted, which motion prevailed.

On motion of Senator Childers, **SS** for **SCS** for **HB 1082** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Rohrbach	Russell	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senator Goode—1

Absent—Senators

Schneider Scott—2

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

CONCURRENT RESOLUTIONS

Senator DePasco moved that **HCR 28** be taken up for adoption, which motion prevailed.

On motion of Senator DePasco, **HCR 28** was adopted by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Maxwell	Mueller
Quick	Rohrbach	Russell	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senators

Mathewson Schneider Scott—3

Absent with leave—Senators—None

President Wilson assumed the Chair.

HOUSE BILLS ON THIRD READING

HS for **HCS** for **HBs 1652** and **1433**, with **SCAs 1**, **2**, **3**, **4**, **5** and **6**, entitled:

An Act to repeal sections 149.015, 149.071, 407.927, 407.929 and 407.931, RSMo 1994, relating to sale of tobacco products to minors, and to enact in lieu thereof twelve new sections relating to the same subject, with penalty provisions, with an effective date.

Was taken up by Senator Caskey.

SCA 1 was taken up.

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

SCA 2 was taken up.

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

SCA 3 was taken up.

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

SCA 4 was taken up.

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

SCA 5 was taken up.

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

SCA 6 was taken up.

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

Senator Caskey offered **SS** for **HS** for **HCS** for **HBs 1652** and **1433**, entitled:

SENATE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 1652 and 1433

An Act to repeal sections 407.911, 407.913,

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407.927, 407.929 and 407.931, RSMo 1994, relating to tobacco products, and to enact in lieu thereof thirteen new sections relating to the same subject, with penalty provisions and an effective date.

Senator Caskey moved that **SS** for **HS** for **HCS** for **HBs 1652** and **1433** be adopted.

Senator Ehlmann raised the point of order that **SS** for **HS** for **HCS** for **HBs 1652** and **1433** is out of order as it goes beyond the scope and purpose of the original bills as introduced in the House.

The point of order was referred to the President Pro Tem, who ruled it not well taken, stating that it has always been the practice in the Senate to not look beyond the perfected version of the House bill as received from the House for determining germaneness.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Substitute for House Committee Substitute for House Bills Nos. 1652 and 1433, Page 2, Section 196.1014, Line 13, by deleting "April 10, 2001" on said line and replace in lieu thereof, the following: "August 30, 2001".

Senator Klarich moved that the above amendment be adopted.

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

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

Amend Senate Substitute for House Substitute for House Committee Substitute for House Bills Nos. 1652 and 1433, Pages 1 and 2, Section 196.1014, by removing all of said section 196.1014 and further amend the title and enacting clause accordingly.

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

Senator Johnson assumed the Chair.

Senator Caskey moved that **SS** for **HS** for **HCS** for **HBs 1652** and **1433**, as amended, be adopted, which motion prevailed.

On motion of Senator Caskey, **SS** for **HS** for **HCS** for **HBs 1652** and **1433**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Carter	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Russell	Schneider	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins—30		

NAYS—Senators

Rohrbach	Scott	Yeckel—3

Absent—Senator Bland—1

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SCS** for **SBs 678** and **742**, entitled:

An Act to repeal sections 56.085, 193.185, 196.790, 211.029, 320.091, 426.220, 426.230, 429.270, 429.360, 451.080, 479.150, 512.180, 534.350, 534.360, 535.110, 537.045, 541.020, 550.120, 565.030, 621.055, 621.155, 621.165, 621.175, 621.185, 621.189 and 621.198, RSMo 1994, and sections 43.503, 67.133, 104.312, 210.865, 211.185, 286.010, 303.041, 351.025, 354.065, 375.1220, 452.556, 455.040, 455.050, 455.205, 476.690, 482.330, 483.310, 483.500, 487.030, 494.455, 534.070, 534.380, 535.030, 537.675 and 610.105, RSMo Supp. 1999, relating to judicial and administrative procedures, and to enact in lieu thereof fifty-seven new sections relating to the same subject, with penalty provisions and an effective date for certain sections.

With House Amendments Nos. 1, 2, 3, 4, 5, 6,

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7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, House Amendment No. 1 to House Amendment No. 19, House Amendment No. 19, as amended, House Amendments Nos. 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44 and 45.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 30, Section 537.675, Line 29, by deleting the word "may" and replacing in lieu thereof after the word "which" the word "shall".

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 14, Section 429.145, by striking all of said section; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 4, Section 67.133, Line 14, by inserting after all of said line the following:

"70.300. Whenever the contracting party is a political subdivision of this state, the execution of all contracts shall be authorized by a majority vote of the members of the governing body. Each **cooperative** contract shall be in writing and a copy filed in the office of the secretary of state [and in the office of the recorder of deeds in the county in which each contracting municipality or political subdivision is situated]."; and

Further amend title, enacting clause and intersectional references accordingly.

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Pages 14-15, Section 429.270, Lines 16-20, by striking all of the bold-faced language on said lines and inserting in lieu thereof the following:

"**It shall be a complete defense to a mechanic's lien filed against real estate in this state for the owner or lessee thereof to show that the full consideration agreed upon by the owner or lessee has been paid to the person or persons with whom the owner or lessee entered into an agreement for the improvements to the real estate to which the lien relates or would otherwise attach unless the lien claimant provides written notice to the owner or lessee via certified mail before the expiration of thirty days after the lien claimant first performs any work or delivers any materials for the improvements to the real estate. The notice required by this section shall state the name and business address of the potential lien claimant and shall identify the date upon which the potential lien claimant first performed work or delivered materials. The provisions of this section shall not apply to residential property as defined by section 429.013.**".

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 10, Section 286.010, Line 24 of said page, by inserting immediately after said line the following:

"302.535. 1. Any person aggrieved by a decision of the department may file a petition for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not as an appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be filed in the circuit court of the county where the arrest occurred. The case shall be decided by the judge sitting without a jury. The presiding judge of the circuit court may assign a [traffic judge, pursuant to section 479.500, RSMo 1994, a] circuit judge or an associate circuit judge to hear such petition.

2. The filing of a petition for trial de novo shall not result in a stay of the suspension or revocation order. But upon the filing of such petition, a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or

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formal program of secondary, postsecondary or higher education shall be issued by the department if the person's driving record shows no prior alcohol related enforcement contact during the immediately preceding five years. Such limited driving privilege shall terminate on the date of the disposition of the petition for trial de novo.

3. In addition to the limited driving privilege as permitted in subsection 2 of this section, the department may upon the filing of a petition for trial de novo issue a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education. In determining whether to issue such a restrictive driving privilege, the department shall consider the number and the seriousness of prior convictions and the entire driving record of the driver.

4. Such time of restricted driving privilege pending disposition of trial de novo shall be counted toward any time of restricted driving privilege imposed pursuant to section 302.525. Nothing in this subsection shall be construed to prevent a person from maintaining his restricted driving privilege for an additional sixty days in order to meet the conditions imposed by section 302.540 for reinstating a person's driver's license."; and

Further amend said bill, page 74, section 479.150, line 13 of said page, by inserting immediately after said line the following:

"479.500. 1. In the twenty-first judicial circuit, a majority of the circuit judges, en banc, may establish a traffic court, which shall be a division of the circuit court, and may authorize the appointment of not more than three municipal judges who shall be known as traffic judges. The traffic judges shall be appointed by a traffic court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the county executive of St. Louis County, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the traffic court judicial commission shall be established by circuit court rule.

2. Traffic judges may be authorized to act as commissioners to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by circuit court rule. Traffic judges may also be authorized to hear in the first instance violations of county and municipal ordinances involving motor vehicles, and other county ordinance violations, as provided by circuit court rule.

3. In the event that a county municipal court is established pursuant to section 66.010, RSMo, which takes jurisdiction of county ordinance violations the circuit court may then authorize the appointment of no more than two traffic judges authorized to hear municipal ordinance violations other than county ordinance violations, and to act as commissioner to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by rule. [These traffic court judges also may be authorized to act as commissioners to hear in the first instance petitions to review decisions of the department of revenue or the director of revenue filed pursuant to sections 302.309, 302.311, 302.535 and 302.750, RSMo.]

4. In establishing a traffic court, the circuit may be divided into such sectors as may be established by a majority of the circuit and associate circuit judges, en banc. The traffic court in each sector shall hear those cases arising within the territorial limits of the sector unless a case arising within another sector is transferred as provided by operating procedures.

5. Traffic judges shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of St. Louis County, and shall receive from the state as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Each judge shall devote approximately one-third of his working time to the performance of his duties

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as a traffic judge. Traffic judges shall not accept or handle cases in their practice of law which are inconsistent with their duties as a traffic judge and shall not be a judge or prosecutor for any other court. Traffic judges shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges.

6. A majority of the judges, en banc, shall establish operating procedures for the traffic court which shall provide for regular sessions in the evenings after 6:00 p.m. and for Saturday or other sessions as efficient operation and convenience to the public may require. Proceedings in the traffic court, except when a judge is acting as a commissioner pursuant to this section, shall be conducted as provided in supreme court rule 37. The hearing shall be before a traffic judge without jury, and the judge shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. No term of imprisonment or confinement may be assessed by a traffic judge. In the event a jury trial is requested, the cause shall be certified to the circuit court for trial by jury as otherwise provided by law. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

7. In establishing operating procedure, provisions shall be made for appropriate circumstances whereby defendants may enter not guilty pleas and obtain trial dates by telephone or written communication without personal appearance, or to plead guilty and deliver by mail or electronic transfer or other approved method the specified amount of the fine and costs as otherwise provided by law, within a specified period of time.

8. Operating procedures shall be provided for electronic recording of proceedings, except that if adequate recording equipment is not provided at county expense, then, in that event, a person aggrieved by a judgment of a traffic judge or commissioner shall have the right of a trial de novo. The procedures for perfecting the right of a trial de novo shall be the same as that provided under sections 512.180 to 512.320, RSMo, except that the provisions of subsection 2 of section 512.180, RSMo, shall not apply to such cases.

9. The circuit court shall only have the authority to appoint two commissioners with the jurisdiction provided in subsection 3 of this section.

10. All costs to establish and operate a county municipal court under section 66.010, RSMo, and this section shall be borne by such county."; and

Further amend the title and enacting clause accordingly.

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HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 44, Section B, Line 3, by adding the following at the end of said line:

"Section 3. If a child is emancipated pursuant to any section of law, the amount of child support paid for such child shall automatically be terminated by the court at the time of emancipation. In determining the amount of child support to be paid for any other children for whom the parent is obligated to pay support, the court may use the most recent form 14 submitted to the court by both parents to recalculate the amount of child support to be paid for any other children. Either parent may file a new form 14 with the court to rebut the presumed child support amount determined by the court in accordance with this subsection."; and

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

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 23, Section 483.310, by deleting all of said section from the bill; and

Further amend said bill, Page 20, Section 476.690, by deleting all of said section from the bill; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 8

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 37, Section 537.693, Line 43 of said page, by inserting after all of said line the following:

"540.105. [An official reporter of the circuit court, when directed by the judge thereof, shall take down and transcribe for the use of the prosecuting or circuit attorney any or all evidence given before the grand jury.] **1. All witness testimony before a grand jury shall be recorded stenographically or by an electronic recording device. The recording or reporter's notes or any transcript prepared therefrom shall remain in the custody or control of the circuit clerk unless otherwise ordered by the court in a particular case.** Before taking down any [such] evidence, [however, such] **the** reporter shall be sworn by the foreperson of such grand jury not to divulge any of the proceedings or testimony before the grand jury or the names of any witnesses except to the prosecuting or circuit attorney or to any attorney lawfully assisting [him] in the prosecution of an indictment brought by such grand jury.

2. All testimony recorded or transcribed pursuant to this section is a closed record as provided in chapter 610, RSMo, and shall be accessible to the parties only as provided by supreme court rule.

3. Any party requesting a transcript of such testimony shall be responsible for the costs of such transcript."; and

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

HOUSE AMENDMENT NO. 9

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 26, Section 512.180, Line 1, by deleting the opening bracket on said line; and

Further amend said section, Line 6, by deleting the first closing bracket on said line; and

Further amend said section, Line 13, by deleting the "2" and inserting in lieu thereof "3".

HOUSE AMENDMENT NO. 10

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 4, Section 67.133, Line 14, by adding after said line the following:

"34.040. 1. All purchases in excess of three thousand dollars shall be based on competitive bids, except as otherwise provided in this chapter.

2. On any purchase where the estimated expenditure shall be twenty-five thousand dollars or over, except as provided in subsection 5 of this section, the commissioner of administration shall:

(1) Advertise for bids in at least two daily newspapers of general circulation in such places as are most likely to reach prospective bidders and may advertise in at least two weekly minority newspapers and may provide such information through an electronic medium available to the general public at least five days before bids for such purchases are to be opened. Other methods of advertisement, which may include minority business purchase councils, however, may be adopted by the commissioner of administration when such other methods are deemed more advantageous for the supplies to be purchased;

(2) Post a notice of the proposed purchase in his or her office; and

(3) Solicit bids by mail or other reasonable method generally available to the public from prospective suppliers. All bids for such supplies shall be mailed or delivered to the office of the commissioner of administration so as to reach such office before the time set for opening bids.

3. The contract shall be let to the lowest and best bidder. The commissioner of administration shall have the right to reject any or all bids and advertise for new bids, or purchase the required supplies on the open market if they can be so purchased at a better price. When bids received pursuant to this section are unreasonable or unacceptable as to terms and conditions, noncompetitive, or the low bid exceeds available funds and it is determined in writing by the commissioner of administration that time or other circumstances will not permit the delay required to

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resolicit competitive bids, a contract may be negotiated pursuant to this section, provided that each responsible bidder who submitted such bid under the original solicitation is notified of the determination and is given a reasonable opportunity to modify their bid and submit a best and final bid to the state. In cases where the bids received are noncompetitive or the low bid exceeds available funds, the negotiated price shall be lower than the lowest rejected bid of any responsible bidder under the original solicitation.

4. All bids shall be based on standard specifications wherever such specifications have been approved by the commissioner of administration. The commissioner of administration shall make rules governing the delivery, inspection, storage and distribution of all supplies so purchased and governing the manner in which all claims for supplies delivered shall be submitted, examined, approved and paid. The commissioner shall determine the amount of bond or deposit and the character thereof which shall accompany bids or contracts.

5. **The state auditor shall annually audit cost-plus contracts to determine if the state is receiving the best price.**

6. The commissioner of administration shall adopt rules to clearly delineate procedures for distributing potential bids to businesses, including publishing and receiving bids by the Internet.

7. The department of natural resources may, without the approval of the commissioner of administration required pursuant to this section, enter into contracts of up to five hundred thousand dollars to abate illegal waste tire sites pursuant to section 260.276, RSMo, when the director of the department determines that urgent action is needed to protect public health, safety, natural resources or the environment. The department shall follow bidding procedures pursuant to this section and may promulgate rules necessary to establish such procedures. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

34.046. The commissioner of administration may contract directly with other governmental entities for the purchase of supplies. The commissioner of administration may also participate in, sponsor, conduct or administer a cooperative purchasing agreement whereby supplies are procured in accordance with a contract established by another governmental entity**, including but not limited to the federal governmental services administration,** provided that such contract was established in accordance with the laws and regulations applicable to the establishing governmental entity.

34.070. In making purchases, the commissioner of administration shall give preference to all commodities manufactured, **assembled,** mined, produced or grown within the state of Missouri [and] **by awarding bids** to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals, when quality is equal or better and delivered price is the same or less. **If more than one bid is deemed of equal quality and price, there shall be a lottery conducted by the division of purchasing to determine the successful bidder.**

34.076. 1. To the extent permitted by federal laws and regulations, whenever the state of Missouri, or any department, agency or institution thereof or any political subdivision shall let for bid any contract to a contractor for any public works or product, the contractor or bidder domiciled outside the boundaries of the state of Missouri shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible contractor or bidder domiciled in Missouri as would be required for such a Missouri domiciled contractor or bidder to succeed over the bidding contractor or bidder domiciled outside

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Missouri on a like contract or bid being let in the person's domiciliary state and, further, the contractor or bidder domiciled outside the boundaries of Missouri shall be required to submit an audited financial statement **and comply with any other requirements** as would be required of a Missouri domiciled contractor or bidder on a like contract or bid being let in the domiciliary state of that contractor or bidder.

2. Subsection 1 of this section shall not apply to any contractor who is qualified for bidding purposes with the department of transportation and submits a successful bid wherein part of or all funds are furnished by the United States.

3. Subsection 1 of this section shall not apply to any public works or product transportation where the bid is less than five thousand dollars.

> [34.165. 1. In making purchases for this state, its governmental agencies or political subdivisions, the commissioner of administration shall give a bidding preference consisting of a five-point bonus on bids for products and services manufactured, produced or assembled in qualified nonprofit organizations for the blind established pursuant to the provisions of 41 U.S.C. sections 46 to 48c, as amended and in sheltered workshops holding a certificate of approval from the department of elementary and secondary education pursuant to section 178.920, RSMo.
>
> 2. The commissioner of administration shall make such rules and regulations regarding specifications, quality standards, time of delivery, performance and other relevant matters as shall be necessary to carry out the purpose of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.
>
> 3. At the request of the commissioner of administration, the state auditor may examine all records, books and data of any qualified nonprofit organization for the blind to determine the costs of manufacturing products or rendering services and the manner and efficiency of production and administration of such nonprofit organization with relation to any product or services purchased by this state, its governmental agencies or political subdivisions and to furnish the results of such examination to the commissioner for appropriate action.]

37.020. 1. As used in this section, the following words and phrases mean:

(1) "Certification", the determination, through whatever procedure is used by the office of administration, that a legal entity is a socially and economically disadvantaged small business concern for purposes of this section;

(2) "Department", the office of administration and any public institution of higher learning in the state of Missouri;

(3) "Minority business enterprise", a business that is:

(a) A sole proprietorship owned and controlled by a minority;

(b) A partnership or joint venture owned and controlled by minorities in which at least fifty-one percent of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or

(c) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least fifty-one percent owned by one or more minorities, or if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities;

(4) "Socially and economically disadvantaged individuals", individuals, regardless of gender, who have been subjected to racial, ethnic, or sexual prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities and whose ability to compete in the free enterprise system has been impaired due to

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diminished capital and credit opportunities as compared to others in the same business area. In determining the degree of diminished credit and capital opportunities the office of administration shall consider, but not be limited to, the assets and net worth of such individual;

(5) "Socially and economically disadvantaged small business concern", any small business concern:

(a) Which is at least fifty-one percentum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least fifty-one percentum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(b) Whose management and daily business operations are controlled by one or more of such individuals;

(6) "Women's business enterprise", a business that is:

(a) A sole proprietorship owned and controlled by a woman;

(b) A partnership or joint venture owned and controlled by women in which at least fifty-one percent of the ownership interest is held by women and the management and daily business operations of which are controlled by one or more of the women who own it; or

(c) A corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and which is at least fifty-one percent owned by women, or if stock is issued, at least fifty-one percent of the stock is owned by one or more women.

2. The office of administration, in consultation with each department, shall establish and implement a plan to increase and maintain the **meaningful** participation of certified socially and economically disadvantaged small business concerns or minority business enterprises, directly or indirectly, in contracts for supplies, services, and construction contracts[, consistent with goals determined after an appropriate study conducted to determine the availability of socially and economically disadvantaged small business concerns and minority business enterprises in the marketplace. Such study shall be completed by December 31, 1991. The commissioner of administration shall appoint an oversight review committee to oversee and review the results of such study. The committee shall be composed of nine members, four of whom shall be members of business, three of whom shall be from staff of selected departments, one of whom shall be a member of the house of representatives, and one of whom shall be a member of the senate].

3. The goals to be pursued by each department under the provisions of this section shall be construed to overlap with those imposed by federal law or regulation, if any, shall run concurrently therewith and shall be in addition to the amount required by federal law only to the extent the percentage set by this section exceeds those required by federal law or regulations.

4. The office of administration shall regularly, and at least annually, audit minority business enterprise participation reports.

5. The office of administration shall conduct at least annually a public conference to discuss the state minority business enterprise program to include the latest rules, participation reports, and MBE/WBE procedures. The date and proposed agenda are to be put out on the state web site ninety days prior for public comment.

34.041. With respect to exempt sales at retail of tangible personal property and materials for the purpose of constructing, repairing or remodeling facilities for any department or agency of the state pursuant to section 8.310 or section 227.100, the department or agency shall be authorized to utilize and shall comply with, procedures established pursuant to section 144.062.".

HOUSE AMENDMENT NO. 11

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Pages 39-40, Section 565.030, Lines 55-60, by striking all of

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said lines and inserting in lieu thereof the following:

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

HOUSE AMENDMENT NO. 12

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 13, Section 375.1220, Line 31 of said page, by inserting after all of said line the following:

"407.820. Any person who is engaged or engages directly or indirectly in purposeful contacts within the state of Missouri in connection with the offering, advertising, purchasing, selling, or contracting to purchase or to sell new motor vehicles, or who, being a motor vehicle franchisor, is transacting or transacts any business with a motor vehicle franchisee who maintains a place of business within the state and with whom he has a franchise, shall be subject to the jurisdiction of the courts **and administrative agencies** of the state of Missouri, upon service of process in accordance with the provisions of section 506.510, RSMo, irrespective of whether such person is a manufacturer, importer, distributor or dealer in new motor vehicles.

407.822. 1. Any party seeking relief pursuant to the provisions of sections 407.810 to 407.835 may file an application for a hearing with the administrative hearing commission within the time periods specified in this section. The application for a hearing shall comply with the requirements for a request for agency action set forth in chapter 536, RSMo. Simultaneously, with the filing of the application for a hearing with the administrative hearing commission, the applicant shall send by certified mail, return receipt requested, a copy of the application to the party or parties against whom relief is sought. [Within ten days of] **Upon** receiving a timely application for a hearing, the administrative hearing commission shall enter an order fixing a date, time and place for a hearing on the record. [Such hearing shall be within forty-five days of the date of the order but the administrative hearing commission may continue the hearing date up to forty-five additional days by agreement of the parties or upon a finding of good cause.] The administrative hearing commission shall send by certified mail, return receipt requested, a copy of the order to the party seeking relief and to the party or parties against whom relief is sought. The order shall also state that the party against whom relief is sought shall not proceed with the initiation of its activity or activities until the administrative hearing commission issues its final decision or order**, and the party against whom relief is sought shall, within thirty days of such order, file its answer or other responsive pleading directed to each claim for relief set forth in the application for hearing. Failure to answer or otherwise respond within such time frame may be deemed by the administrative hearing commission as an admission of the grounds for relief as set forth in the application for hearing**.

2. Unless otherwise expressly provided in sections 407.810 to 407.835, the provisions of chapter 536, RSMo, shall govern hearings and prehearing procedures conducted pursuant to the authority of this section. **Any party may obtain discovery in the same manner, and under the same conditions and requirements, as is or may hereafter be provided for with respect to discovery in civil actions by rule of the supreme court of Missouri for use in the circuit courts, and the administrative hearing commission may enforce discovery by the same methods as provided by supreme court rule for use in civil cases.** The administrative hearing commission shall issue **a** final decision or order, in proceedings arising pursuant to the provisions of sections 407.810 to 407.835[, within sixty days from the conclusion of the hearing]. **In any proceeding initiated pursuant to sections 407.810 to 407.835 involving a matter requiring a franchisor to**

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show good cause for any intended action being protested by a franchisee, the franchisor shall refrain from taking the protested action if, after a hearing on the matter before the administrative hearing commission, the administrative hearing commission determines that good cause does not exist for the franchisor to take such action. The franchisee may, if necessary, seek enforcement of the decision of the administrative hearing commission pursuant to the provisions of section 407.835. Venue for such proceedings shall be in the circuit court of Cole County, Missouri. In determining any relief necessary for enforcement of the decision of the administrative hearing commission, the court shall defer to the commission's factual findings, and review shall be limited to a determination of whether the commission's decision was authorized by law and whether the commission abused its discretion. Any final decisions **of the administrative hearing commission** shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part of the hearing, is held and by delivery of copies of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice of the final decision in such a case. **Appeal of the administrative hearing commission's decision pursuant to this section shall not preclude any action authorized by section 407.835, brought in a court of competent jurisdiction, requesting an award of legal or equitable relief, provided that if such an action is brought solely for the purpose of enforcing a decision of the administrative hearing commission which is on appeal pursuant to this section, the court in which such action is pending may hold in abeyance its judgment pending issuance of a decision by the court of appeals.** Review pursuant to this section shall be exclusive and decisions of the administrative hearing commission reviewable pursuant to this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise, except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission with the appropriate court of appeals.

3. Any franchisee receiving a notice from a franchisor pursuant to the provisions of sections 407.810 to 407.835, or any franchisee adversely affected by a franchisor's acts or proposed acts described in the provisions of sections 407.810 to 407.835, shall be entitled to file an application for a hearing before the administrative hearing commission for a determination as to whether the franchisor has good cause for its acts or proposed acts.

4. Not less than sixty days before the effective date of the initiation of any enumerated act pursuant to subdivisions (5), (6), (7) and (14) of subsection 1 of section 407.825, a franchisor shall give written notice to the affected franchisee or franchisees, by certified mail, return receipt requested, except as follows:

(1) Upon the initiation of an act pursuant to subdivision (5) of subsection 1 of section 407.825, such notice shall be given not less than fifteen days before the effective date of such act only if the grounds for the notice include the following:

(a) Transfer of any ownership or interest in the franchised dealership without the consent of the motor vehicle franchisor;

(b) Material misrepresentation by the motor vehicle franchisee in applying for the franchise;

(c) Insolvency of the motor vehicle franchisee or the filing of any petition by or against the motor vehicle franchisee under any bankruptcy or receivership law;

(d) Any unfair business practice by the motor vehicle franchisee after the motor vehicle franchisor has issued a written warning to the motor vehicle franchisee to desist from such practice;

(e) Conviction of the motor vehicle franchisee of a crime which is a felony;

(f) Failure of the motor vehicle franchisee to conduct customary sales and service operations during customary business hours for at least seven

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consecutive business days unless such closing is due to an act of God, strike or labor difficulty or other cause over which the motor vehicle franchisee has no control; or

(g) Revocation of the motor vehicle franchisee's license;

(2) Upon initiation of an act pursuant to subdivision (7) of subsection 1 of section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a written proposal to consummate such sale or transfer and the receipt of all necessary information and documents generally used by the franchisor to conduct its review. **The franchisor shall acknowledge in writing to the applicant the receipt of the information and documents and if the franchisor requires additional information or documents to complete its review, the franchisor shall notify the applicant within fifteen days of the receipt of the information and documents. If the franchisor fails to request additional information and documents from the applicant within fifteen days after receipt of the initial forms, the sixty-day time period for approval shall be deemed to run from the initial receipt date. Otherwise, the sixty-day time period for approval shall run from receipt of the supplemental requested information. In no event shall the total time period for approval exceed seventy-five days from the date of the receipt of the initial information and documents.** The franchisor's notice of disapproval shall also specify the reasonable standard which the franchisor contends is not satisfied and the reason the franchisor contends such standard is not satisfied. Failure on the part of the franchisor to provide such notice shall be conclusively deemed an approval by the franchisor of the proposed sale or transfer to the proposed transferee. A franchisee's application for a hearing shall be filed with the administrative hearing commission within twenty days from receipt of such franchisor's notice;

(3) Pursuant to paragraphs (a) and (b) of subdivision (14) of subsection 1 of section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a deceased or incapacitated franchisee's designated family member's intention to succeed to the franchise or franchises or of the franchisor's receipt of the personal and financial data of the designated family member, whichever is later.

5. A franchisor's notice to a franchisee or franchisees pursuant to subdivisions (5), (6), (7) and (14) of subsection 1 of section 407.825 shall contain a statement of the particular grounds supporting the intended action or activity which shall include any reasonable standards which were not satisfied. The notice shall also contain at a minimum, on the first page thereof, a conspicuous statement which reads as follows: "NOTICE TO FRANCHISEE: YOU MAY BE ENTITLED TO FILE A PROTEST WITH THE MISSOURI ADMINISTRATIVE HEARING COMMISSION IN JEFFERSON CITY, MISSOURI, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE CONTENTS OF THIS NOTICE. ANY ACTION MUST BE FILED WITHIN TWENTY DAYS FROM RECEIPT OF THIS NOTICE."

6. When more than one application for a hearing is filed with the administrative hearing commission, the administrative hearing commission may consolidate the applications into one proceeding to expedite the disposition of all relevant issues.

7. In all proceedings before the administrative hearing commission pursuant to this section, section 407.825 and section 621.053, RSMo, where the franchisor is required to give notice pursuant to subsection 4 of this section, the franchisor shall have the burden of proving by a preponderance of the evidence that good cause exists for its actions. In all other actions, the franchisee shall have the burden of proof."; and

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

HOUSE AMENDMENT NO. 13

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 40, Section 565.030, Line 62 of said page, by inserting after all of said line the following:

"595.030. 1. No compensation shall be paid

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unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred for medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars. [Fifty dollars shall be deducted from any award granted under sections 595.010 to 595.075, except that an award to a person sixty-five years of age or older is not subject to any deduction.]

2. No compensation shall be paid unless the division of workers' compensation finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the division of workers' compensation finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the division of family services personnel; or by any other member of the victim's family.

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

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

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

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

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

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

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

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

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

595.035. 1. For the purpose of determining the amount of compensation payable pursuant to sections 595.010 to 595.075, the division of workers' compensation shall, insofar as practicable, formulate standards for the uniform application of sections 595.010 to 595.075, taking into consideration the provisions of sections 595.010 to 595.075, the rates and amounts of compensation payable for injuries and death [under] **pursuant to** other laws of this state and of the United States, excluding pain and suffering, and the availability of

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funds appropriated for the purpose of sections 595.010 to 595.075. All decisions of the division of workers' compensation on claims heard [under] **pursuant to** sections 595.010 to 595.075 shall be in writing, setting forth the name of the claimant, the amount of compensation and the reasons for the decision. The division of workers' compensation shall immediately notify the claimant in writing of the decision and shall forward to the state treasurer a certified copy of the decision and a warrant for the amount of the claim. The state treasurer, upon certification by the commissioner of administration, shall, if there are sufficient funds in the crime victims' compensation fund, pay to or on behalf of the claimant the amount determined by the division.

2. The crime victims' compensation fund is not a state health program and is not intended to be used as a primary payor to other health care assistance programs, but is a public, quasi-charitable fund whose fundamental purpose is to assist victims of violent crimes through a period of financial hardship, as a payor of last resort. Accordingly, any compensation paid pursuant to sections 595.010 to 595.075 shall be reduced by the amount of any payments, benefits or awards received or to be received as a result of the injury or death:

(1) From or on behalf of the offender;

(2) Under private or public insurance programs, including champus, medicare, medicaid and other state or federal programs**, but not including any life insurance proceeds**; or

(3) From any other public or private funds, including an award payable [under] **pursuant to** the workers' compensation laws of this state.

3. In determining the amount of compensation payable, the division of workers' compensation shall determine whether, because of the victim's consent, provocation, incitement or negligence, the victim contributed to the infliction of the victim's injury or death, and shall reduce the amount of the compensation or deny the claim altogether, in accordance with such determination; provided, however, that the division of workers' compensation may disregard the responsibility of the victim for his **or her** own injury where such responsibility was attributable to efforts by the victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his **or her** presence, or to apprehend a person who had committed a crime in his **or her** presence or had in fact committed a felony.

4. In determining the amount of compensation payable pursuant to sections 595.010 to 595.070, monthly social security disability or retirement benefits received by the victim shall not be considered by the division as a factor for reduction of benefits.

5. The division shall not be liable for payment of compensation for any out-of-pocket expenses incurred more than three years following the date of the occurrence of the crime upon which the claim is based."; and

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

HOUSE AMENDMENT NO. 14

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 35, Section 537.687, Lines 1-9, by deleting all of said lines and inserting in lieu thereof the following:

"**537.687. Upon request by the division for verification of injuries of victims, the claimant shall submit the information requested by the division and any costs to the claimant for providing such information may be submitted as part of the claim.**".

HOUSE AMENDMENT NO. 15

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 9, Section 286.010, Lines 1-24, by deleting all of said lines; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 16

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 44, by

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inserting after all of said line, the following:

"**221.510. 1. This section hereafter shall be known as "Jake's Law" in honor of Jake Robel.**

2. Every chief law enforcement official, sheriff, public jailer, private jailer, department of corrections officials and all regional jail district officials shall conduct an inquiry of pending outstanding warrants on all prisoners about to be released, whether convicted or being held on suspicion of charges.

3. No prisoner, whether convicted or being held on suspicion of charges, shall be released from one correctional facility to another prior to having a warrant check conducted by an authorized member of the correctional facility.

4. If any prisoner's warrant check indicates outstanding charges or outstanding warrants from another jurisdiction, it shall be the duty of the official requesting the warrant check to inform the agency that issued the warrant that the correctional facility has such person in custody and that prisoner shall not be released unless to the custody of the jurisdictional authority that had issued the warrant, unless the warrant has been satisfied or dismissed, or unless the warrant issuing agency has notified the correctional facility holding the prisoner that they do not wish the prisoner be transferred or the warrant to be pursued.

5. Any person may make a report to the Missouri highway patrol for violations of this section, which shall conduct an investigation. If, in the opinion of the superintendent of the highway patrol, the investigation yields reasonable grounds to believe that a violation of this section is occurring or has occurred, he or she shall refer such information to either the attorney general or the county prosecutor of the county where the violations are alleged to have occurred.

6. If an authorized member of the correctional facility fails to perform a warrant check which results in the release of a prisoner with outstanding warrants, that individual shall be guilty of a class A misdemeanor."; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 17

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 37, Section 541.020, Line 5, by inserting immediately after said line the following:

"548.131. **1.** Whenever any person within this state shall be charged on the oath of any credible person before any judge or associate circuit judge of this state with the commission of any crime in any other state and, except in cases arising [under] **pursuant to** section 548.061, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of [his] **such person's** bail, probation or parole, or whenever complaint shall have been made before any judge or associate circuit judge in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising [under] **pursuant to** section 548.061, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of [his] **such person's** bail, probation or parole, and is believed to be in this state, the judge or associate circuit judge shall issue a warrant directed to any peace officer commanding [him] **such officer** to apprehend the person named [therein] **in such warrant**, wherever [he] **such person** may be found in this state, and to bring [him] **such person** before the same or any other judge, associate circuit judge or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant, provided that when a complaint shall be made against any person [under] **pursuant to** the terms of this chapter, the judge or associate circuit judge [shall] **may** take from the prosecutor a bond, to the clerk of the court, with sufficient security, to secure the payment of the

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costs and expenses which may accrue by occasion of the arrest and detention of the party charged, which bond shall be certified and returned, with the examination, to the office of the circuit clerk and when any such recognizance shall be forfeited, it shall inure to the benefit of the state.

2. In lieu of a bond pursuant to subsection 1 of this section, the court may order the prosecutor to place sufficient funds on deposit with the court treasury to secure the payment of costs and expenses of the accused."; and

Further amend the title and enacting clause of said bill accordingly.

HOUSE AMENDMENT NO. 18

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 2, Section A, Line 13, by inserting the following after said line:

"34.055. 1. Except as otherwise provided in section 34.057, all invoices for supplies and services purchased by the state, duly approved and processed, shall be subject to interest charges or late payment charges as provided in this section.

2. After the forty-fifth day following the later of the date of delivery of the supplies and services or the date upon which the invoice is duly approved and processed, interest retroactive to the thirtieth day shall be paid on any unpaid balance[, except balances for services provided by a gas corporation, electrical corporation, water corporation, or sewer corporation which has received authorization from the public service commission to impose late payment charges on delinquent utility bills,] upon application of the vendor thereof. The rate of such interest shall be three percentage points above the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System. **After the thirtieth day following the later of the date of delivery of the supplies and services or the date upon which the invoice is duly approved and processed, a penalty of two percent of the amount due the vendor shall be paid to the vendor. The penalty shall increase by two percent for every thirty-day period thereafter in which the vendor is not paid, except that no such penalty shall exceed eighteen percent in one year.**

3. **The interest and penalties authorized in subsection 2 of this section shall not apply to balances for services provided by a gas corporation, electrical corporation, water corporation, or sewer corporation which has received authorization from the public service commission to impose late payment charges on delinquent utility bills. Balances for such services shall be subject to the interest and penalties authorized pursuant to this subsection.** The state shall be liable for late payment charges on any delinquent bill for services purchased by the state from a gas corporation, electrical corporation, water corporation, or sewer corporation which has received authorization from the public service commission to impose late payment charges on delinquent utility bills. The rate of such late payment charges shall be as established for each such corporation by order of the public service commission, but bills rendered to the state shall not be considered delinquent until thirty days after rendition of the bill by the corporation.

4. Any [such] interest charges or late payment charges authorized pursuant to this section shall be paid from appropriations which were made for the fiscal year in which the supplies or services were delivered to the respective departments purchasing such supplies or services. The commissioner of administration shall be responsible for the timely implementation of this section and all officers, departments, institutions and agencies of state government shall fully cooperate with the commissioner of administration in the implementation of this section. No late payment penalty shall be assessed against, nor payable by, the state unless pursuant to the provisions of this section.

5. Notwithstanding any other provision of this section, recipients of funds from the low-income energy assistance program shall be exempt from interest charges imposed by such section for the duration of the recipient's participation in the program."; and

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

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HOUSE AMENDMENT NO. 1
TO HOUSE AMENDMENT NO. 19

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 1, Section 56.066, Line 3, by deleting the word "seven" and inserting in lieu thereof the word "**four**".

HOUSE AMENDMENT NO. 19

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 4, Section 43.503, Line 78, by inserting immediately after said line the following:

"56.066. **1.** In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of seven hundred and fifty persons but less than one thousand five hundred persons, the prosecuting attorney shall receive ten thousand dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of one thousand five hundred persons but less than three thousand persons, the prosecuting attorney shall receive twelve thousand five hundred dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of three thousand persons but less than four thousand persons, the prosecuting attorney shall receive fifteen thousand dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average inmate population in excess of four thousand persons, the prosecuting attorney shall receive twenty thousand dollars per annum in addition to all other compensation provided by law. The compensation provided in connection with the average inmate population shall not be considered for purposes of determining any increase in compensation from January 1, 1988. The amounts provided in this subsection shall be included in the computation of the maximum allowable compensation as that term is used in section 50.333, RSMo.

2. Notwithstanding the provisions of section 56.360, the prosecuting attorney of any county of the fourth classification with a population of at least forty-eight thousand and not more than fifty thousand inhabitants shall devote full time to the prosecutor's office, and, except for the performance of official duties, shall not engage in the practice of law."; and

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

HOUSE AMENDMENT NO. 20

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 8, Section 211.029, Line 14, by inserting after all of said line the following:

"211.071. 1. If a petition alleges that a child between the ages of twelve and seventeen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, RSMo, second degree murder under section 565.021, RSMo, first degree assault under section 565.050, RSMo, forcible rape under section 566.030, RSMo, forcible sodomy under section 566.060, RSMo, first degree robbery under section 569.020, RSMo, or distribution of drugs under section 195.211, RSMo, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under the general law.

2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly committed by any person between seventeen and twenty-one

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years of age over whom the juvenile court has retained continuing jurisdiction shall automatically terminate and that offense shall be dealt with in the court of general jurisdiction as provided in section 211.041.

3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any action or proceeding which occurs based upon the misrepresentation. Any evidence obtained during the period of time in which a child misrepresents his age may be used against the child and will be subject only to rules of evidence applicable in adult proceedings.

4. Written notification of a transfer hearing shall be given to the juvenile and his custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the hearing is to determine whether the child is a proper subject to be dealt with under the provisions of this chapter, and that if the court finds that the child is not a proper subject to be dealt with under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the child under the general law.

5. The juvenile officer may consult with the office of prosecuting attorney concerning any offense for which the child could be certified as an adult under this section. The prosecuting or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses and all other records or reports relating to the offense alleged to have been committed by the child. The prosecuting or circuit attorney shall have access to the disposition records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information regarding the child and the offense until the juvenile court at a judicial hearing has determined that the child is not a proper subject to be dealt with under the provisions of this chapter.

6. A written report shall be prepared in accordance with this chapter developing fully all available information relevant to the criteria which shall be considered by the court in determining whether the child is a proper subject to be dealt with under the provisions of this chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice system. These criteria shall include but not be limited to:

(1) The seriousness of the offense alleged and whether the protection of the community requires transfer to the court of general jurisdiction;

(2) Whether the offense alleged involved viciousness, force and violence;

(3) Whether the offense alleged was against persons or property with greater weight being given to the offense against persons, especially if personal injury resulted;

(4) Whether the offense alleged is a part of a repetitive pattern of offenses which indicates that the child may be beyond rehabilitation under the juvenile code;

(5) The record and history of the child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions and other placements;

(6) The sophistication and maturity of the child as determined by consideration of his home and environmental situation, emotional condition and pattern of living;

(7) The age of the child;

(8) The program and facilities available to the juvenile court in considering disposition;

(9) Whether or not the child can benefit from the treatment or rehabilitative programs available to the juvenile court; and

(10) Racial disparity in certification.

7. If the court dismisses the petition to permit the child to be prosecuted under the general law, the court shall enter a dismissal order containing:

(1) Findings showing that the court had jurisdiction of the cause and of the parties;

(2) Findings showing that the child was represented by counsel;

(3) Findings showing that the hearing was held in the presence of the child and his counsel; and

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(4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

8. A copy of the petition and order of the dismissal shall be sent to the prosecuting attorney.

9. [When a petition has been dismissed thereby permitting a child to be prosecuted under the general law, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a violation of a state law or municipal ordinance.

10. If a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense committed by that child which would be considered a misdemeanor or felony if committed by an adult, subject to the certification provisions of this section.

11.] If the court does not dismiss the petition to permit the child to be prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in section 211.171.

211.073. 1. The court may, in a case when the offender is [under] **less than** seventeen years of age and has been transferred to a court of general jurisdiction pursuant to section 211.071, and whose prosecution results in a conviction or a plea of guilty, invoke dual jurisdiction of both the criminal and juvenile codes, as set forth in this section. The court is authorized to impose a juvenile disposition [under] **pursuant to** this chapter and simultaneously impose an adult criminal sentence, the execution of which shall be suspended pursuant to the provisions of this section. **The court may suspend imposition of an adult criminal sentence in addition to such juvenile disposition.** Successful completion of the juvenile disposition ordered shall be a condition of the suspended adult criminal sentence. The court may order an offender into the custody of the division of youth services pursuant to this section if:

(1) A facility is designed and built by the division of youth services specifically for offenders sentenced pursuant to this section and if the division determines that there is space available, based on design capacity, in the facility; and

(2) Upon agreement of the division.

2. If there is probable cause to believe that the offender has violated a condition of the suspended sentence or committed a new offense, the court shall conduct a hearing on the violation charged, unless the offender waives such hearing. If the violation is established and found the court may continue or revoke the juvenile disposition, impose the adult criminal sentence, or enter such other order as it may see fit.

3. When an offender has received a suspended sentence pursuant to this section and the division determines the child is beyond the scope of its treatment programs, the division of youth services may petition the court for a transfer of custody of the offender. The court shall hold a hearing and shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections; or

(2) Direct that the offender be placed on probation.

4. When an offender who has received a suspended sentence reaches the age of seventeen, the court shall hold a hearing. The court shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections;

(2) Direct that the offender be placed on probation; or

(3) Direct that the offender remain in the custody of the division of youth services if the division agrees to such placement.

5. The division of youth services shall petition the court for a hearing before it releases an offender who comes within subsection 1 of this section at any time before the offender reaches the age of twenty-one years. The court shall:

(1) Revoke the suspension and direct that the offender be taken into immediate custody of the department of corrections; or

(2) Direct that the offender be placed on

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probation.

6. If the suspension of the adult criminal sentence is revoked, all time served by the offender [under] **pursuant to** the juvenile disposition shall be credited toward the adult criminal sentence imposed.

7. A child certified as an adult pursuant to section 211.071 shall not be considered certified as an adult for any other purposes without a separate recertification hearing.

211.181. 1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and [make] **upon making** a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, [and] the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his **or her** own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child or person seventeen years of age in a family home; **or**

(4) Cause the child or person seventeen years of age to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child or person seventeen years of age requires it, cause the child or person seventeen years of age to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child or person seventeen years of age whose parents or guardian in good faith are providing other remedial treatment recognized or permitted [under] **pursuant to** the laws of this state.

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his **or her** own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if [he] **the child** is presently under the court's supervision after an adjudication [under] **pursuant to** the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the

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state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted [under] **pursuant to** the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court. Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and [make] **upon making** a finding of fact upon which [it] **the court** exercises its jurisdiction over the child, [and] the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his **or her** own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive [it] **the child** in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

(4) Place the child in a family home;

(5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted [under] **pursuant to** the laws of this state;

(6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;

(7) Order the child to make restitution or reparation for the damage or loss caused by [his] **the child's** offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and [his] **the child's** attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

(8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child

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[under] **pursuant to** this subdivision, or who benefits from any services performed as a result of an order issued [under] **pursuant to** this subdivision, shall be immune from any suit by the child ordered to perform services [under] **pursuant to** this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services [under] **pursuant to** this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services [under] **pursuant to** this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;

(9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court**;**

(10) The imposition of any disposition pursuant to subdivision (3) of subsection 3 of this section may, in the court's discretion, be suspended upon such terms and conditions as the court deems just and proper. The records of any disposition, the imposition of which has been suspended, shall be closed records to the same extent as provided pursuant to section 610.105, RSMo, for a suspended imposition of sentence in a court of general jurisdiction.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed [under] **pursuant to** the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185."; and

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

HOUSE AMENDMENT NO. 21

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Pages 20 to 21, Section 478.009, by deleting all of said section and inserting in lieu thereof the following:

"478.001. **1.** Drug **and alcohol abuse** courts may be established by any circuit court pursuant to sections 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which stem from drug **and alcohol** use. A drug **and alcohol abuse** court shall combine judicial supervision, drug **and alcohol** testing and

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treatment of drug **and alcohol abuse** court participants. Except for good cause found by the court, a drug **and alcohol abuse** court making a referral for substance abuse treatment, when such program will receive state or federal funds in connection with such referral, shall refer the person only to a program which is certified by the department of mental health, unless no appropriate certified treatment program is located within the same county as the drug **and alcohol abuse** court. Upon successful completion of the treatment program, the charges, petition or penalty against a drug **and alcohol abuse** court participant may be dismissed, reduced or modified. Any fees received by a court from a defendant as payment for substance treatment programs shall not be considered court costs, charges or fines.

2. A court shall determine if an assessment for drug or alcohol abuse is appropriate for a defendant in any drug or alcohol-related prosecution. Such assessment shall be made before sentencing.

478.003. In any judicial circuit of this state, a majority of the judges of the circuit court may designate a judge to hear cases arising in the circuit subject to the provisions of sections 478.001 to 478.006. In lieu thereof and subject to appropriations or other funds available for such purpose, a majority of the judges of the circuit court may appoint a person or persons to act as drug **and alcohol abuse** court commissioners. Each commissioner shall be appointed for a term of four years, but may be removed at any time by a majority of the judges of the circuit court. The qualifications and compensation of the commissioner shall be the same as that of an associate circuit judge. If the compensation of a commissioner appointed pursuant to this section is provided from other than state funds, the source of such fund shall pay to and reimburse the state for the actual costs of the salary and benefits of the commissioner. The commissioner shall have all the powers and duties of a circuit judge, except that any order, judgment or decree of the commissioner shall be confirmed or rejected by an associate circuit or circuit judge by order of record entered within the time the judge could set aside such order, judgment or decree had the same been made by the judge. If so confirmed, the order, judgment or decree shall have the same effect as if made by the judge on the date of its confirmation.

478.005. 1. Each circuit court shall establish conditions for referral of proceedings to the drug **and alcohol abuse** court. The defendant in any criminal proceeding accepted by a drug **and alcohol abuse** court for disposition shall be a nonviolent person, as determined by the prosecuting attorney. Any proceeding accepted by the drug **and alcohol abuse** court program for disposition shall be upon agreement of the parties.

2. Any statement made by a participant as part of participation in the drug **and alcohol abuse** court program, or any report made by the staff of the program, shall not be admissible as evidence against the participant in any criminal, juvenile or civil proceeding. Notwithstanding the foregoing, termination from the drug **and alcohol abuse** court program and the reasons for termination may be considered in sentencing or disposition.

3. Notwithstanding any other provision of law to the contrary, drug **and alcohol abuse** court staff shall be provided with access to all records of any state or local government agency relevant to the treatment of any program participant. Upon general request, employees of all such agencies shall fully inform a drug **and alcohol abuse** court staff of all matters relevant to the treatment of the participant. All such records and reports and the contents thereof shall be treated as closed records and shall not be disclosed to any person outside of the drug **and alcohol abuse** court, and shall be maintained by the court in a confidential file not available to the public.

478.009. 1. In order to coordinate the allocation of resources available to drug and alcohol abuse courts throughout the state, there is hereby established a "Drug and Alcohol Abuse Courts Coordinating Commission" in the judicial department. The drug and alcohol abuse courts coordinating commission shall consist of one member selected by the director of the department of corrections; one member selected by the director of the department of social services; one member selected by the director of the department of mental health; one

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member selected by the director of the department of public safety; one member selected by the state courts administrator; and three members selected by the supreme court. The supreme court shall designate the chair of the commission. The commission shall periodically meet at the call of the chair; evaluate resources available for assessment and treatment of persons assigned to drug and alcohol abuse courts or for operation of drug and alcohol abuse courts; secure grants, funds and other property and services necessary or desirable to facilitate drug and alcohol abuse court operation; and allocate such resources among the various drug and alcohol abuse courts within the state.

2. There is hereby established in the state treasury a "Drug and Alcohol Abuse Court Resources Fund", which shall be administered by the drug and alcohol abuse courts coordinating commission. Funds available for allocation or distribution by the drug and alcohol abuse courts coordinating commission may be deposited into the drug and alcohol abuse court resources fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the drug and alcohol abuse court resources fund shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each biennium, but shall remain deposited to the credit of the drug and alcohol abuse court resources fund."; and

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

HOUSE AMENDMENT NO. 23

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 25, Line 21, by inserting after all of said line the following:

"494.425. The following persons shall be disqualified from serving as a petit or grand juror:

(1) Any person who is less than [twenty-one] **eighteen** years of age;

(2) Any person not a citizen of the United States;

(3) Any person not a resident of the county or city not within a county served by the court issuing the summons;

(4) Any person who has been convicted of a felony, unless such person has been restored to [his] **such person's** civil rights;

(5) Any person unable to read, speak and understand the English language;

(6) Any person on active duty in the armed forces of the United States or any member of the organized militia on active duty under order of the governor;

(7) Any licensed attorney at law;

(8) Any judge of a court of record;

(9) Any person who, in the judgment of the court or the board of jury commissioners, is incapable of performing the duties of a juror because of mental or physical illness or infirmity."; and

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

HOUSE AMENDMENT NO 24

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 20, Section 476.690, Line 29, by adding after said line, the following:

"**476.777. 1. There is hereby established in the state treasury a special fund, to be known as the "Missouri CASA Fund". The state treasurer shall credit to and deposit in the Missouri CASA fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources. The general assembly may appropriate moneys into the fund to support the court-appointed special advocate (CASA) program throughout the state.**

2. The state treasurer shall invest moneys in the Missouri CASA fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the fund shall be credited to the Missouri CASA fund.

3. The state courts administrator shall

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administer and disburse moneys in the Missouri CASA fund based on the following requirements:

(1) The office of state courts administrator shall set aside funding for new start-up CASA programs throughout the state;

(2) Every recognized CASA program shall receive a base rate allocation, with availability of additional funding based on the number of children with abuse or neglect cases under the jurisdiction of the court; and

(3) All CASA programs being considered for funding shall be recognized by and affiliated with the state and national CASA associations.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri CASA fund shall not revert to the credit of the general revenue fund at the end of the biennium."; and

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

HOUSE AMENDMENT NO. 25

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 43, Section 2, Line 5, by inserting after said line the following:

"**105.1225. 1. The office of administration and the departments of agriculture, conservation, economic development, elementary and secondary education, health, higher education, insurance, labor and industrial relations, mental health, natural resources, public safety, revenue, social services, and transportation shall each develop a technology master plan to study methods of improving the delivery and efficiency of services to members of the public. Each technology master plan shall include the description of at least one pilot project which will allow easier access and availability of agency services through Internet web site connections and other technologies. The office of administration may contract for information technology consulting services and other services deemed necessary to conduct the study. Each agency shall submit a copy of its technology master plan to the commissioner of the office of administration no later than December 31, 2000. The commissioner shall compile the master plans and submit a unified report to the speaker of the house of representatives and the president pro tempore of the senate no later than March 1, 2001.**

2. The office of administration, as one of the pilot projects required pursuant to subsection 1 of this section, shall design and implement a purchasing system for supplies, as defined in section 34.010, RSMo, which may be used through the office of administration's Internet web site connection. The online purchasing system shall be available no later than January 1, 2002.

3. Each state agency shall make all of its forms available to the public via the Internet and each agency shall accept completed forms from the public via the Internet and by e-mail. Each state agency shall also develop an Internet-based flowchart detailing the process of how its services are accessible to Missouri citizens.

161.640. The department of elementary and secondary education shall establish, as one of the pilot projects in the technology master plan required pursuant to section 105.1225, RSMo, a grant program to provide funds, as appropriated by law, for any county of the fourth classification with a population of at least twenty thousand and not more than twenty-five thousand inhabitants containing a habilitation facility of the Missouri department of mental health to purchase computer software designed for the reactive acquisition of vocabulary elements.

575.060. 1. A person commits the crime of making a false declaration if, with the purpose to mislead a public servant in the performance of [his] **such public servant's** duty, [he] **the person**:

(1) Submits any written false statement, which [he] **the person** does not believe to be true

(a) In an application for any pecuniary benefit or other consideration; or

(b) On a form bearing notice, authorized by law, that false statements made therein are

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punishable; or

(2) Submits or invites reliance on

(a) Any writing which [he] **the person** knows to be forged, altered or otherwise lacking in authenticity; or

(b) Any sample, specimen, map, boundary mark, or other object which [he] **the person** knows to be false[.]**; or**

(3) Knowingly submits a false report to the state.

2. The falsity of the statement or the item [under] **pursuant to** subsection 1 of this section must be as to a fact which is material to the purposes for which the statement is made or the item submitted; and the provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions [under] **pursuant to** subsection 1 of this section.

3. It is a defense to a prosecution [under] **pursuant to** subsection 1 of this section that the actor retracted the false statement or item but this defense shall not apply if the retraction was made after:

(1) The falsity of the statement or item was exposed; or

(2) The public servant took substantial action in reliance on the statement or item.

4. The defendant shall have the burden of injecting the issue of retraction [under] **pursuant to** subsection 3 of this section.

5. Making a false declaration is a class [B] **A** misdemeanor.

HOUSE AMENDMENT NO. 26

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 25, Line 21, by inserting at the end of said line the following:

"**491.076. 1. Any statement by an elderly or disabled person, as defined in section 660.053, RSMo, made at or near the time of an alleged crime while the person is still under the stress of excitement caused by the alleged crime shall be admissible into evidence in criminal, civil and administrative proceedings in this state as substantive evidence to prove the truth of the matter asserted if:**

(1) The elderly or disabled person testifies or the person is unavailable as a witness at the time of the criminal, civil or administrative proceeding due to the person's physical or mental condition; and

(2) The court finds, in a hearing conducted outside the presence of the jury that the time, content and circumstances of the statement provide sufficient indicia of reliability.

2. A statement may not be admitted in a criminal proceeding pursuant to this section unless the prosecuting attorney makes known to the accused or the accused's counsel his or her intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the accused or the accused's counsel with a fair opportunity to prepare to meet the statement.

3. Nothing in this section shall be construed to limit the admissibility of statements, admissions or confessions otherwise admissible by law.".

HOUSE AMENDMENT NO. 27

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 14, Section 429.145, Line 1, by inserting after said line the following:

"429.015. 1. Every registered architect or corporation registered to practice architecture, every registered professional engineer or corporation registered to practice professional engineering, every registered landscape architect or corporation registered to practice landscape architecture, and every registered land surveyor or corporation registered to practice land surveying, who does any landscape architectural, architectural, engineering or land surveying work upon or performs any landscape architectural, architectural, engineering or land surveying service directly connected with the erection or repair of any building or other improvement upon land [under or by virtue of] **pursuant to** any contract with the

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owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying with the provisions of this chapter, shall have for such person's landscape architectural, architectural, engineering or land surveying work or service so done or performed, a lien upon the building or other improvements and upon the land belonging to the owner or lessee on which the building or improvements are situated, to the extent of one acre. If the building or other improvement is upon any lot of land in any town, city or village, then the lien shall be upon such building or other improvements, and the lot or land upon which the building or other improvements are situated, to secure the payment for the landscape architectural, architectural, engineering or land surveying work or service so done or performed. For purposes of this section, a corporation engaged in the practice of architecture, engineering, landscape architecture, or land surveying, shall be deemed to be registered if the corporation itself is registered [under] **pursuant to** the laws of this state to practice architecture, engineering or land surveying.

2. Every mechanic or other person who shall do or perform any work or labor upon or furnish any material or machinery for the digging of a well to obtain water [under or by virtue of] **pursuant to** any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, upon complying with the provisions of sections 429.010 to 429.340 shall have for such person's work or labor done, or materials or machinery furnished, a lien upon the land belonging to such owner or lessee on which the same are situated, to the extent of one acre, to secure the payment of such work or labor done, or materials or machinery furnished as aforesaid.

3. Every mechanic or other person who shall do or perform any work or labor upon, or furnish any material, fixtures, engine, boiler or machinery, for the purpose of demolishing or razing a building or structure [under or by virtue of] **pursuant to** any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying with the provisions of sections 429.010 to 429.340, shall have for such person's work or labor done, or materials, fixtures, engine, boiler or machinery furnished, a lien upon the land belonging to such owner or lessee on which the same are situated, to the extent of one acre. If the building or buildings to be demolished or razed are upon any lot of land in any town, city or village, then the lien shall be upon the lot or lots or land upon which the building or other improvements are situated, to secure the payment for the labor and materials performed.

4. **If a city, town, village or county with a charter form of government has, with or without a contract, ordered a mechanic or other person to perform the work described in subsection 3 of this section, and if that city, town, village or county has paid the mechanic or other person in full at any time within one hundred twenty days after the mechanic or other person has completed such work, then that city, town, village or county shall, upon complying with the provisions of sections 429.010 to 429.340, have a lien on the property in lieu of the lien that the mechanic or other person would have had pursuant to subsection 3 of this section.**

5. The provisions of sections 429.030 to 429.060 and sections 429.080 to 429.430 applicable to liens of mechanics and other persons shall apply to and govern the procedure with respect to the liens provided for in subsections 1, 2 [and] **,** 3 **and 4** of this section.

[5.] **6.** Any design professional or corporation authorized to have lien rights [under] **pursuant to** subsection 1 of this section shall have a lien upon the building or other improvement and upon the land, whether or not actual construction of the planned work or improvement has commenced if:

(1) The owner or lessee thereof, or such owner's or lessee's agent or trustee, contracted for

such professional services directly with the design professional or corporation asserting the lien; [and]

(2) The owner or lessee is the owner or lessee of such real property either at the time the contract is made or at the time the lien is filed**; and**

(3) The agreement is in writing.

[6.] **7.** Priority between a design professional or corporation lien claimant and any other mechanic's lien claimant shall be determined pursuant to the provisions of section 429.260 on a pro rata basis.

[7.] **8.** In any civil action, the owner or lessee may assert defenses which include that the actual construction of the planned work or improvement has not been performed in compliance with the professional services contract, is impracticable or is economically infeasible.

[8. The agreement is in writing.] ; and

Further amend title and enacting clause and intersectional references accordingly.

HOUSE AMENDMENT NO. 28

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 43, Section 621.198, Lines 6-11, by deleting all of said lines from the bill.

HOUSE AMENDMENT NO. 29

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 27, Section 514.440, after Line 15, the following:

"514.440. **1. Except as provided in subsection 2,** the judges of the circuit court, en banc, in any circuit in this state, by rule of court adopted prior to January 1, [1997] **2001,** may require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge in the amount of not to exceed fifteen dollars in addition to all other deposits required by law or court rule. Sections 514.440 to 514.460 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

2. In any circuit wholly within a county of the first classification with a charter form of government having a courthouse in two different cities within the county, the judges of the circuit court, en banc, by rule of court adopted prior to January 1, 2001, may require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge in the amount of not to exceed twenty dollars in addition to all other deposits required by law or court rule.

3. Sections 514.440 to 514.460 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.".

HOUSE AMENDMENT NO. 30

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 9, Section 211.185, Line 41 of said page, by striking all of said line and inserting in lieu thereof the following: "pursuant to this section, Section 8.150 RSMo, and Section 537.045, RSMo, exceed four thousand dollars **for offenses which occur prior to September1, 2000; and twenty thousand dollars for offenses which occur on and after September 1, 2000.**"; and

Further amend said bill, Page 29, Section 537.045, Line 15 of said page, by striking all of said line and inserting in lieu thereof the following: "for that judgment up to an amount not to exceed two thousand **dollars for causes of action which accrue before September 1, 2000; and for causes of action which accrue on and after September 1, 2000, twenty thousand**".

HOUSE AMENDMENT NO. 32

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 15, Section 451.080, Line 23, by inserting immediately after said section the following:

"452.370. 1. Except as otherwise provided in subsection 6 of section 452.325, the provisions of any judgment respecting maintenance or support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support or maintenance

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judgment, the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the child support guidelines and criteria set forth in section 452.340 and applicable supreme court rules to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable, if the existing amount was based upon the presumed amount pursuant to the child support guidelines.

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, the child support shall be determined in conformity with criteria set forth in section 452.340 and applicable supreme court rules.

3. Unless otherwise agreed in writing or expressly provided in the judgment, the obligation to pay future statutory maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

4. Unless otherwise agreed in writing or expressly provided in the judgment, provisions for the support of a child are terminated by emancipation of the child. The parent entitled to receive child support shall have the duty to notify the parent obligated to pay support of the child's emancipation and failing to do so, the parent entitled to receive child support shall be liable to the parent obligated to pay support for child support paid following emancipation of a minor child, plus interest.

5. If a parent has made an assignment of support rights to the division of family services on behalf of the state as a condition of eligibility for benefits pursuant to the Temporary Assistance for Needy Families program and either party initiates a motion to modify the support obligation by reducing it, the state of Missouri shall be named as a party to the proceeding. The state shall be served with a copy of the motion by sending it by certified mail to the director of the division of child support enforcement.

6. The court shall have continuing personal jurisdiction over both the obligee and the obligor of a court order for child support or maintenance for the purpose of modifying such order. Both obligee and obligor shall notify, in writing, the clerk of the court in which the support or maintenance order was entered of any change of mailing address. If personal service of the motion cannot be had in this state, the motion to modify and notice of hearing shall be served outside the state as provided by supreme court rule 54.14. The order may be modified only as to support or maintenance installments which accrued subsequent to the date of personal service. For the purpose of 42 U.S.C. 666(a)(9)(C), the circuit clerk shall be considered the "appropriate agent" to receive notice of the motion to modify for the obligee or the obligor, but only in those instances in which personal service could not be had in this state.

7. If a responsive pleading raising the issues of custody or visitation is filed in response to a motion to modify child support filed at the request of the division of child support enforcement by a prosecuting attorney or circuit attorney or an attorney under contract with the division, such responsive pleading shall be severed upon request.

[8. Notwithstanding any provision of this section which requires a showing of substantial and continuing change in circumstances, in a IV-D case filed pursuant to this section by the division of child support enforcement as provided in section 454.400, RSMo, the court shall modify a support order in accordance with the guidelines and criteria set forth in supreme court rule 88.01 and any regulations thereunder if the amount in the current order differs from the amount which would be ordered in accordance with such guidelines or regulations.]"; and

Further amend said bill, Section 452.556, Page 16, Line 23, by inserting immediately after said line the following:

"454.498. 1. [Notwithstanding section 452.370, RSMo, and sections 454.496 and 454.500,

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or any other section requiring a showing of substantial and continuing change in circumstances to the contrary, and] as provided for in subdivision (13) of subsection 2 of section 454.400 and taking into account the best interest of the child, the director shall:

(1) Modify, if appropriate, a support order being enforced under Title IV-D of the Social Security Act in accordance with the guidelines and criteria set forth in supreme court rule 88.01 **and section 452.370, RSMo** [if the amount in the current order differs from the amount that would be awarded in accordance with such guidelines]; or

(2) Use automated methods (including automated comparisons with wage or state income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment and apply the adjustment to the orders eligible for adjustment under any threshold that may be established by the state.

2. If the division conducts a review pursuant to subdivision (2) of subsection 1 of this section, either party to the order may contest the adjustment within thirty days after the date of the notice of adjustment by requesting, if appropriate, a review and modification in accordance with the guidelines and criteria set forth in supreme court rule 88.01. If the review is timely requested, the division shall review and modify the order, if appropriate, in accordance with supreme court rule 88.01. The division may conduct a review pursuant to subdivision (2) of subsection 1 of this section only if the division is unable to conduct a review pursuant to subdivision (1) of subsection 1 of this section.

3. The division may review and adjust a support order upon request outside the three-year cycle [only] upon [a] demonstration by the requesting party **and in accordance with procedural rules established by the division by through rule pursuant to chapter 536** [of a substantial change in circumstances which shall be determined by the division. If the division determines that an adjustment shall not be made, the division shall, within fourteen days, mail notice of such determination to the parents or other child support agency, if any]." and

Further amend the title and enacting clause of said bill accordingly.

HOUSE AMENDMENT NO. 33

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 4, Section 43.503, Line 78, by inserting immediately following said line:

"50.550. 1. The annual budget shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions; the actual or estimated operating deficits or surpluses from prior years; all interest and debt redemption charges during the year and expenditures for capital projects.

2. The budget shall contain adequate provisions for the expenditures necessary for the care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs of holding circuit court in the county that are chargeable against the county, for the repair and upkeep of bridges other than on state highways and not in any special road district, and for the salaries, office expenses and deputy and clerical hire of all county officers and agencies.

3. In addition, the budget shall set forth in detail the anticipated income and other means of financing the proposed expenditures.

4. All receipts of the county for operation and maintenance shall be credited to the general fund, and all expenditures for these purposes shall be charged to this fund; except, that receipts from the special tax levy for roads and bridges shall be kept in a special fund and expenditures for roads and bridges may be charged to the special fund.

5. All receipts from the sale of bonds for any purpose shall be credited to the bond fund created for the purpose, and all expenditures for this purpose shall be charged to the fund. All receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue, and all payments to retire the issue shall be charged to the fund. All receipts for interest on outstanding bonds and all premiums and accrued interest on bonds

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sold shall be credited to the interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

6. Subject to the provisions of Section 50.555 the county commission may create a fund to be known as "The . . . . . County Crime Reduction Fund.

7. [6.] The county commission may create other funds as are necessary from time to time.

50.555. 1. A county commission may establish by resolution a fund whose proceeds may be expended only for the purposes provided for in subsection 3 of this section. The fund shall be designated as a county crime reduction fund and shall be under the supervision of a board of trustees consisting of one citizen of the county appointed by the presiding commissioner of the county, one citizen of the county appointed by the sheriff of the county, and one citizen of the county appointed by the county prosecuting attorney.

2. Money from the county crime reduction fund shall only be expended upon the approval of a majority of the members of the county crime reduction fund's board of trustees and only for the purposes provided for by subsection 3 of this section.

3. Money from the county crime reduction fund shall only be expended for the following purposes:

(1) narcotics investigation, prevention and intervention;

(2) payment of rewards through the sheriff's employees;

(3) purchase of law enforcement related equipment and supplies for the sheriff's office;

(4) matching funds for federal or state law enforcement grants;

(5) funding for the reporting of all state and federal crime statistics or information; and

(6) any law enforcement related expense, including those of the prosecuting attorney, approved by the board of trustees for the county crime fund that is reasonably related to investigation, preparation, trial and disposition of criminal cases before the courts of the State of Missouri.

4. The county commission may not reduce any law enforcement agency's budget as a result of funds the law enforcement agency receives from the county crime reduction fund. The crime reduction fund is to be used only as a supplement to the law enforcement agency's funding received from other county, state or federal funds.

5. County crime reduction funds shall be audited as are all other county funds."; and

Further amend said bill, Page 38, Section 550.120, Line 21, by inserting immediately following said line;

"558.019. 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set minimum terms of sentences, or the provisions of subsections 2 through 5 of section 559.115, RSMo, relating to probation.

2. The provisions of this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of a defendant after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the defendant has one previous

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prison commitment to the department of corrections for a felony offense, the minimum prison term which the defendant must serve shall be forty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(2) If the defendant has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the defendant must serve shall be fifty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the defendant has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the defendant must serve shall be eighty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first. For purposes of this section, the phrase "sentence imposed by the court" means the total aggregate sentence actually imposed by the sentencing court.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for crimes committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the defendant before he is eligible for parole, conditional release or other early release by the department of corrections. Except that the board of probation and parole, in the case of consecutive sentences imposed at the same time pursuant to a course of conduct constituting a common scheme or plan, shall be authorized to convert consecutive sentences to concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit attorney, that the sum of the terms results in an unreasonably excessive total term, taking into consideration all factors related to the crime or crimes committed and the sentences received by others similarly situated.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for defendants convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to

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what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

(a) The nature and severity of each offense;

(b) The record of prior offenses by the offender;

(c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and

(d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) The commission shall publish and distribute its system of recommended sentences on or before July 1, 1995. The commission shall study the implementation and use of the system of recommended sentences until July 1, 1998, and return a final report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, 1998, report, the commission may revise the recommended sentences every three years.

(5) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(6) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(7) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. If the imposition or execution of a sentence is suspended, the court may consider ordering restorative justice methods pursuant to section 217.777, RSMo, including any or all of the following, or any other method that the court finds just or appropriate:

(1) Restitution to any victim for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community services;

(4) Work release programs in local facilities; and

(5) Community based residential and nonresidential programs; and

8. If the imposition or execution of a sentence is suspended for a misdemeanor, in addition to the provisions of subsection 7 of this section, the court may order the assessment and payment of a designated amount of money to a county crime reduction fund established by the county commission pursuant to § 50.555, RSMo. Said contribution shall not exceed $1,000 for any misdemeanor offense. Any money deposited into the county crime reduction fund pursuant to this section shall only be expended pursuant

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to the provisions of section 50.555 RSMo. An annual audit of the fund shall be conducted by the county auditor or the state auditor.

9. [8.] The provisions of this section shall apply only to offenses occurring on or after August 28, 1994.

559.021. 1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law. When a defendant is placed on probation he shall be given a certificate explicitly stating the conditions on which he is being released.

2. In addition to such other authority as exists to order conditions of probation, the court may order such conditions as the court believes will serve to compensate the victim, any dependent of the victim, or society. Such conditions may include, but shall not be limited to:

(1) Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge; and

(2) The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge.

3. In addition to such other authority as exists to order conditions of probation, in the case of a plea of guilty in a misdemeanor case or finding of guilt in a misdemeanor case, the court may order the assessment and payment of a designated amount of money to a county crime reduction fund established by the county commission pursuant to §50.555, RSMo. Said contribution shall not exceed $1,000 for any misdemeanor offense. Any money deposited into the county crime reduction fund pursuant to this section shall only be expended pursuant to the provisions of section 50.555 RSMo.

[3.] **4.** The defendant may refuse probation conditioned on the performance of free work. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, person, organization, or agency, or employee of a county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the defendant or any person deriving a cause of action from him if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services performed by the defendant shall not be deemed employment within the meaning of the provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

[4.] **5.** The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

6. The defendant may refuse probation conditioned on a payment to a county crime reduction fund. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. A judge may order payment to a crime reduction fund only if such fund had been created prior to sentencing by ordinance or resolution of a county of the state of Missouri. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering the probationers to make payments. A defendant who fails to make a payment or payments to a crime reduction fund may not have his probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

HOUSE AMENDMENT NO. 34

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 29, Section 535.110, Line 6, by inserting immediately after said line the following:

"536.025. 1. A rule may be made, amended or rescinded by a state agency without following the provisions of section 536.021, only if the state agency:

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(1) Finds that an immediate danger to the public health, safety or welfare requires emergency action or the rule is necessary to preserve a compelling governmental interest that requires an early effective date as permitted pursuant to this section;

(2) Follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances;

(3) Follows procedures which comply with the protections extended by the Missouri and United States Constitutions; and

(4) Limits the scope of such rule to the circumstances creating an emergency and requiring emergency action.

2. At the time of or prior to the adoption of such rule, the agency shall file with the secretary of state**,** [and] the joint committee on administrative rules**, and the state representative and senator of the area impacted** the text of the rule together with the specific facts, reasons, and findings which support the agency's conclusion that the agency has fully complied with the requirements of subsection 1 of this section. If an agency finds that a rule is necessary to preserve a compelling governmental interest that requires an early effective date, the agency shall certify in writing the reasons therefor.

3. Material filed with the secretary of state and the joint committee on administrative rules under the provisions of subsection 2 of this section shall be published in the Missouri Register by the secretary of state as soon as practicable after the filing thereof. Any rule adopted pursuant to this section shall be reviewed by the secretary of state to determine compliance with the requirements for its publication and adoption established in this section, and in the event that the secretary of state determines that such proposed material does not meet those requirements, the secretary of state shall not publish the rule. The secretary of state shall inform the agency of its determination, and offer the agency a chance to either withdraw the rule or to have it published as a proposed rule.

4. The committee may file with the secretary of state any comments or recommendations that the committee has concerning a proposed or final order of rulemaking. Such comments shall be published in the Missouri Register.

5. The committee may refer comments or recommendations concerning such rule to the appropriations and budget committee of the house of representatives and the appropriations committee of the senate for further action.

6. Rules adopted under the provisions of this section shall be known as "emergency rules" and shall, along with the findings and conclusions of the state agency in support of its employment of emergency procedures, be judicially reviewable under section 536.050 or other appropriate form of judicial review. The secretary of state and any employee thereof, acting in the scope of employment, shall be immune from suit in actions regarding the adoption of rules pursuant to this section.

7. A rule adopted under the provisions of this section shall clearly state the interval during which it will be in effect. Emergency rules shall not be in effect for a period exceeding one hundred eighty calendar days or thirty legislative days, whichever period is longer. For the purposes of this section, a "legislative day" is each Monday, Tuesday, Wednesday and Thursday beginning the first Wednesday after the first Monday in January and ending the first Friday after the second Monday in May, regardless of whether the legislature meets.

8. A rule adopted under the provisions of this section shall not be renewable, nor shall an agency adopt consecutive emergency rules that have substantially the same effect, although a state agency may, at any time, adopt an identical rule under normal rulemaking procedures.

9. A rule adopted under the provisions of this section may be effective not less than ten days after the filing thereof in the office of the secretary of state, or at such later date as may be specified in the rule, and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the Missouri Register as soon as practicable after the filing thereof.

10. If it is found in a contested case by an administrative or judicial fact finder that an agency rule should not have been adopted as an emergency

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rule as provided by subsection 1 of this section, then the administrative or judicial fact finder shall award the nonstate party who prevails, as defined in this section, its reasonable fees and expenses, as defined in this section. This award shall constitute a reviewable order. If a state agency in a contested case grants the relief sought by the party prior to a finding by an administrative or judicial fact finder that the state agency's action was based on a statement of general applicability which should not have been adopted as an emergency rule, but was in fact adopted as an emergency rule pursuant to this section, then the affected party may bring an action in circuit court of Cole County for the nonstate party's reasonable fees and expenses, as defined in this section.

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

(1) "Prevails", obtains a favorable order, decision, judgment or dismissal in a civil action or agency proceeding;

(2) "Reasonable fees and expenses" includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test or project which is found by the court or agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees."; and

Further amend title, enacting clause and intersectional references accordingly.

HOUSE AMENDMENT NO. 35

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 43, Section 2, Line 5 of said page, by inserting after all of said line the following:

"**Section 3. 1. Notwithstanding any provision of law to the contrary, a court of competent jurisdiction may issue a restraining order against persons less than eighteen years of age if it would be appropriate to issue the restraining order if the person was at least eighteen years of age, unless such order is requested by the custodial parent of such child.**

2. Any person who violates a restraining order issued pursuant to this section is guilty of a class A misdemeanor."; and

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

HOUSE AMENDMENT NO. 36

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 7, Section 210.865, Line 13, by adding to the end of said section, the following:

"**This section and section 210.870 shall only apply to children who have been found by a juvenile division of a circuit court to have committed an act which would have been a criminal act if committed by an adult.**".

HOUSE AMENDMENT NO. 37

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 43, Section 2, Line 5, by inserting after said line the following:

"**Section 3. Revenue placed in the special trust fund pursuant to 67.582 RSMo, may also be utilized for capital improvement projects for law enforcement facilities and for the payment of any interest and principle in bonds issued for said capital improvements projects.**". ; and

Further amend title, enacting clause and intersectional references accordingly.

HOUSE AMENDMENT NO. 38

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 30, Section 537.045, Line 23, by adding the following Section thereto:

"**537.053. 1. Except as provided in subsection (2) and (3) of §537.053, the General Assembly finds and declares that the consumption of alcoholic beverages, rather than the sale or furnishing or serving such beverages, is the proximate cause of any injury, including death and property damage, inflicted by an intoxicated person upon himself or upon another person. Nothing in this section shall authorize the consumer of any alcoholic beverage to recover from the provider of such alcoholic beverage for injuries or damages suffered by such consumer of such beverages.**

2. A person or entity who sells, furnishes, or serves alcoholic beverages to a person of lawful

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drinking age shall not become liable for injury, death or damages to other persons caused by or resulting from the negligence or intoxication of such person; provided, however, a person or entity that knowingly sells, furnishes, or serves alcoholic beverages to a person who is in a state of noticeable intoxication, and has reason to know that such person may soon operate a motor vehicle shall be liable for injury, death or damage to another person if furnishing such alcoholic beverages directly causes or combines with the negligence of such intoxicated person to directly contribute to cause such injury, death, or damage to such other person.

3. A person or entity that sells, furnishes, or serves alcoholic beverages to a minor that such person or entity has reason to know is not of lawful drinking age and has reason to know that such minor may soon operate a motor vehicle shall be liable for injury, death, or damage to another person if furnishing such alcoholic beverages, directly causes or combines with the negligence of such minor not of lawful drinking age to directly cause such injury, death, or damage to such other person.

4. No person who owns or occupies a premises shall be liable for the conduct of any person who consumes alcoholic beverages on such premises without the knowledge and without the consent of such person who owns or occupies such premises."; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 39

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 43, Section 2, Line 5, by inserting immediately following said line the following:

"**Section 3. All functions of the ethics commission regarding the implementation, storage, processing and maintenance of any electronic reporting system pursuant to Chapter 105 RSMo and Chapter 130, RSMo, shall, effective January 1, 2001, be transferred to the data processing division established pursuant to Section 37.110, RSMo, within in the office of administration. The ethics commission shall retain its duties provided by law regarding the filing of reports and public access to reports.**"; and

Further amend the title and enacting clause of said bill accordingly.

HOUSE AMENDMENT NO. 42

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 40, Section 610.105, Line 12, by inserting immediately after said line the following:

"621.053. Any person authorized to protest any action taken by a motor vehicle**, motorcycle or all-terrain vehicle** manufacturer, distributor or representative pursuant to a [motor vehicle] franchise agreement may file a protest with the administrative hearing commission as provided in [sections 407.810 to 407.835, RSMo.] **chapter 407, RSMo. For cases arising pursuant to chapter 407, RSMo, the administrative hearing commission may, by rule, set a filing fee equal to the filing fee in the circuit court of Cole County.**"; and

Further amend said bill, Pages 42-43, Lines 1-21, by striking all of said section and inserting in lieu thereof the following:

"621.198. The administrative hearing commission shall publish and file with the secretary of state [independent sets of] rules of procedure for the conduct of proceedings before it. [One set of rules shall apply exclusively to proceedings in licensing cases under section 621.045. Another set of rules shall apply exclusively to challenges to agency authority brought under section 621.155. A third set of rules shall apply to sales and use and income tax disputes under section 621.050.] Rules of procedure adopted [under] **pursuant to** the authority of this section shall be designed to simplify the maintenance of actions and to enable review to be sought, where appropriate, without the need to be represented by independent counsel. [Each set of rules shall be promulgated under the procedures set forth in sections 536.020 to 536.035, RSMo.] **Any rule or portion of a rule, as that term is defined in**

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section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void."; and

Further amend the title and enacting clause of said bill accordingly.

HOUSE AMENDMENT NO. 43

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 40, Section 565.030, Line 62, by inserting after all of said 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 to committing, or attempting to commit, a felony offense of chapter 566, RSMo; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit one or more of the following offenses: kidnapping; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; incest; abuse of a child; used a child in a sexual performance; or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under [seventeen] **eighteen** years of age; 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) 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; or

(5) Any person who is a resident of this state [who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere in any other state or under federal jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a felony violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection] **and has been or is required to register in another state or has been or is required to register under federal or military law; or**

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis in Missouri. Part-time in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 applies shall, within ten days of coming into any county, register with the chief law enforcement official of the county in which such person resides. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town or village 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 or village law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 to 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.410. **1.** The chief law enforcement official shall forward the completed offender

registration form to the [central repository] within [ten] **three** days. The patrol shall enter the information into the Missouri uniform law enforcement system (MULES) where it is available to members of the criminal justice system upon inquiry.

2. The department of public safety shall develop and maintain a system for making the registry of persons who have pled guilty to or been convicted of a third or subsequent sexual offense requiring registration, and have demonstrated predatory behavior, available on its Internet web site. Notwithstanding the provisions of section 589.417 to the contrary, the information to be available on the Internet shall include the person's name; date of birth; address of residence; crime which requires registration; whether such person was sentenced as a predatory or persistent sexual offender pursuant to section 558.018, RSMo, date, place and brief description of such crime; of such conviction or plea regarding such crime; age and gender of the victim at the time of the offense; photograph, and such other information as the department of public safety may determine is necessary to preserve public safety. The system shall be secure and not capable of being altered except by or through the department of public safety.

3. The information shall be removed from the Internet after twenty years unless the offender has pled guilty to or been found guilty of a sexual offense pursuant to chapter 566, RSMo, during such time period.

589.414. 1. If any person required by sections 589.400 to 589.425 to register changes residence or address within the same county as such person's previous address, the person shall inform the chief law enforcement official in writing within ten days of such new address and phone number, if the phone number is also changed.

2. If any person required by [section] **sections** 589.400 to 589.425 to register changes such person's residence or address to a different 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 having jurisdiction over the new residence or address in writing within ten 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 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 having jurisdiction over the new residence or address within ten days of such new address. Whenever a registrant changes residence, the chief law enforcement official of the county where the person was previously registered shall promptly inform the Missouri state highway patrol of the change. When the registrant is changing the residence to a new state, the Missouri state highway patrol shall promptly inform the responsible official in the new state of residence.**

3. Any person required by sections 589.400 to 589.425 to register who officially changes such person's name shall inform the chief law enforcement officer of such name change within seven days after such change is made.

4. In addition to the requirements of subsections 1 and 2 of this section, the following offenders shall [contact] **report in person to** the county law enforcement agency every ninety days to verify the information contained in their statement made pursuant to section 589.407:

(1) Any offender registered as a predatory or persistent sexual offender **as defined in section 558.018, RSMo**;

(2) 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

(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.

5. In addition to the requirements of subsections 1 and 2 of this section, all registrants shall report annually in person in the month of their birth to the county law enforcement

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agency to verify the information contained in their statement made pursuant to section 589.407.

6. In addition to the requirements of subsections 1 and 2 of this section, all Missouri registrants who work or attend school or training on a full-time or part-time basis in any other state 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 fourteen days in any twelve-month period.

589.425. 1. Any person who is required to register pursuant to sections 589.400 to 589.425 and[:

(1) Includes any false information in such person's registration statement; or

(2) Fails to register; or

(3) Fails to timely verify registration information pursuant to section 589.414;] **does not meet all requirements of sections 589.400 to 589.425** is guilty of a class A misdemeanor.

2. Any person who commits a second or subsequent violation of subsection 1 of this section is guilty of a class D felony.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of [five] **ten** dollars shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of [five] **ten** dollars shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with [section 514.015] **sections 488.010 to 488.020**, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

[3.] **4.** The remaining funds collected [under] **pursuant to** subsection 1 of this section shall be **devoted to the payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system, which may include Internet capabilities, is established pursuant to subsection 3 of section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be** subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections

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595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100;

[4.] **5.** The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the division of workers' compensation and the department of public safety, respectively.

[5.] **6.** The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by [section 514.015] **sections 488.010 to 488.020**, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100.

[6.] **7.** These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

[7.] **8.** In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars if the conviction is for a class A or B felony; forty-six dollars if the conviction is for a class C or D felony; and ten dollars if the conviction is for any misdemeanor [under] **pursuant to** the following Missouri laws:

(1) Chapter 195, RSMo, relating to drug regulations;

(2) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;

(3) Chapter 491, RSMo, relating to witnesses;

(4) Chapter 565, RSMo, relating to offenses against the person;

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(5) Chapter 566, RSMo, relating to sexual offenses;

(6) Chapter 567, RSMo, relating to prostitution;

(7) Chapter 568, RSMo, relating to offenses against the family;

(8) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;

(9) Chapter 570, RSMo, relating to stealing and related offenses;

(10) Chapter 571, RSMo, relating to weapons offenses;

(11) Chapter 572, RSMo, relating to gambling;

(12) Chapter 573, RSMo, relating to pornography and related offenses;

(13) Chapter 574, RSMo, relating to offenses against public order;

(14) Chapter 575, RSMo, relating to offenses against the administration of justice;

(15) Chapter 577, RSMo, relating to public safety offenses. Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by [section 514.015] **sections 488.010 to 488.020**, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

[8.] **9.** The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

[9.] **10.** The clerks of the court shall report all delinquent payments to the department of revenue by October first of each year for the preceding fiscal year, and such sums may be withheld pursuant to subsection [14] **15** of this section.

[10.] **11.** The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection [17] **18** of this section and shall maintain separate records of collection for alcohol-related offenses.

[11.] **12.** Notwithstanding any other provision of law to the contrary, the provisions of subsections [8 and] 9 **and 10** of this section shall expire and be of no force and effect upon the effective date of the supreme court rule adopted pursuant to [section 514.015] **sections 488.010 to 488.020**, RSMo.

[12.] **13.** The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

[13.] **14.** All awards made to injured victims [under] **pursuant to** sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that

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award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

[14.] **15.** When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

[15.] **16.** All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

[16.] **17.** Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

[17.] **18.** Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines."; and

Further amend said bill, Page 43, Section 621.198, Line 21, by inserting after all of said line the following:

"**650.300. As used in sections 650.300 to 650.310, the following terms shall mean:**

(1) "Catastrophic crime", a violation of section 569.070, RSMo;

(2) "Office", the office for victims of crime;

(3) "Private agency", a private agency as defined in section 590.010, RSMo;

(4) "Public agency", a public agency as defined in section 590.010, RSMo;

(5) "Victim of crime", a person afforded rights as a victim or entitled to compensation or services as a victim pursuant to chapter 595, RSMo.

650.310. 1. The "Office for Victims of Crime" is hereby created within the department of public safety for the purpose of promoting the fair and just treatment of victims of crime, including victims of computer crimes. The office shall coordinate and promote the state's program for victims of crime and shall provide channels of communication among public and private agencies regarding their interrelation in the provision of victim services and other issues related to victims of crime. The office may directly assist victims of crime in seeking services and in exercising the rights afforded to victims of crime pursuant to chapter 595, RSMo, and the Missouri Constitution. In the event of a catastrophic crime, the office shall develop and coordinate the implementation of a response plan to meet the needs of any resulting victims of crime.

2. The department of corrections shall cooperate with the office for victims of crime in the establishment of a system to reimburse victims of crime for attending parole hearings. The office may reimburse a person for the costs of mileage and lost wages incurred by attendance at a parole hearing arising from a crime directly responsible for such person's status as a victim of crime.

3. The office for victims of crime shall assess and report to the governor the costs and

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benefits of establishing a statewide automated crime victim notification system within the criminal justice system and shall serve as the coordinating agency for the development, implementation, and maintenance of any such system. When the fiscal resources are available, the system may include Internet computer capabilities.

4. The department of public safety may promulgate reasonable rules to meet the objectives of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void."; and

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

HOUSE AMENDMENT NO. 44

Amend House Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 44, by inserting after said page the following:

"**374.695. Sections 374.695 to 374.775 may be known and shall be cited as the "Professional Bail Bondsman Licensing Act".**

> [374.700. As used in sections 374.700 to 374.775, the following terms shall mean:
>
> (1) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed under the provisions of sections 374.700 to 374.775, is employed by and is working under the authority of a licensed general bail bond agent;
>
> (2) "Department", the department of insurance of the state of Missouri;
>
> (3) "Director", the director of the department of insurance;
>
> (4) "General bail bond agent", a surety agent or a property bail bondsman, as defined in sections 374.700 to 374.775, who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his working time to the bail bond business in this state;
>
> (5) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;
>
> (6) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor.]

374.700. For the purposes of sections 374.700 to 374.775, the following terms mean:

(1) "Admission to bail", an order from a competent court that the defendant be discharged from actual custody on bail and fixing the amount of the bail;

(2) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed pursuant to the provisions of sections 374.700 to 374.775, is employed by or is working under the authority of a licensed general bail bond agent;

(3) "Bail bond or appearance bond", a bond for a specified monetary amount which is executed by the defendant and a qualified licensee pursuant to sections 374.700 to 374.775 and which is issued to a court or authorized officer as security for the subsequent court

appearance of the defendant upon the defendant's release from actual custody pending the appearance;

(4) "Department", the department of insurance of the state of Missouri;

(5) "General bail bond agent", a surety agent or a property bail bondsman who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his or her working time to the bail bond business in this state;

(6) "Insurer", any surety insurance company which is qualified by the department to transact surety business in Missouri;

(7) "Licensee", a bail bond agent or a general bail bond agent;

(8) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;

(9) "Surety", a bail bond agent acting through a general bail bond agent, or a resident of the state and an owner of visible property, over and above that exempt from execution to the value of the sum in which bail is required which shall be worth that amount after the payment of debts and liabilities;

(10) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor;

(11) "Taking of bail" or "take bail", the acceptance by a person authorized to take bail of the undertaking of a sufficient surety for the appearance of the defendant according to the terms of the undertaking or that the surety will pay to the court the sum specified. Taking of bail or take bail does not include the fixing of the amount of bail and no person other than a competent court shall fix the amount of bail.

374.702. 1. No person shall engage in the bail bond business without being licensed as provided in sections 374.700 to 374.775.

2. No judge, attorney, court official, law enforcement officer, state, county or municipal employee, who is either elected or appointed, shall be licensed as a bail bond agent or a general bail bond agent.

3. A bail bond agent shall not execute or issue an appearance bond in this state without holding a valid appointment from a general bail bond agent and without attaching to the appearance bond an executed and prenumbered power of attorney referencing the general bail bond agent or insurer. A person licensed as a bail bond agent shall hold the license for at least one year prior to owning or being an officer of a licensed general bail bond agent.

4. A general bail bond agent shall not engage in the bail bond business:

(1) Without having been licensed as a general bail bond agent pursuant to sections 374.700 to 374.775;

(2) Except through an agent licensed as a bail bond agent pursuant to sections 374.700 to 374.775.

5. A general bail bond agent shall not permit any unlicensed person to solicit or engage in the bail bond business in the general bail bond agent's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative or other administrative duties which do not require a license pursuant to sections 374.700 to 374.775.

6. Any person who is convicted of a provision of this section is guilty of a class A misdemeanor. For any subsequent convictions, a person who is convicted of a provision of this section is guilty of a class D felony.

374.704. 1. Every applicant for a bail bond agent license or a general bail bond agent license shall apply on forms furnished by the department.

2. The application of a bail bond agent shall be accompanied by a duly executed general

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power of attorney issued by the general bail bond agent or insurer for whom the bail bond agent will be acting. Upon issuance of the license, a bail bond agent shall not issue an appearance bond exceeding the monetary amount for each recognizance which is specified in and authorized by the general power of attorney filed with the department until the department receives a duly executed qualifying power of attorney from the general bail bond agent or insurer evidencing or authorizing increased monetary limits or amounts for the recognizance.

3. An application for a general bail bond agent license shall be accompanied by proof that the applicant is a Missouri partnership, firm or corporation, or an individual who is a resident of the state. A corporation shall file proof that its most recent annual franchise tax has been paid to the department of revenue as provided in chapter 147, RSMo.

4. No license shall be granted without a showing that the applicant or applicant's insurer has proof of a three hundred thousand dollar bond or liability policy insuring against any damage to persons or property caused by the applicant.

374.715. Applications for examination and licensure as a bail bond agent or general bail bond agent shall be in writing and on forms prescribed and furnished by the department, and shall contain such information as the department requires. Each application shall be accompanied by proof satisfactory to the department that the applicant is a citizen of the United States, is at least twenty-one years of age, is of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule. Each application shall be accompanied by the examination and application fee set by the department. In addition, each applicant for licensure as a general bail bond agent shall furnish proof satisfactory to the department that the applicant, or, if the applicant is a corporation or partnership, that each officer or partner thereof has completed at least two years as a bail bond agent, as defined in sections 374.700 to 374.775, and that the applicant possesses liquid assets [of at least ten thousand dollars] **according to the following schedule**, along with a duly executed assignment [of ten thousand dollars] to the state of Missouri **in the same amount:**

(a) If the general bail bond agent employs three or less bail bond agents, at least fifteen thousand dollars;

(b) If the general bail bond agent employs four to ten bail bond agents, at least twenty-five thousand dollars;

(c) If the general bail bond agent employs eleven to fifteen bail bond agents, at least forty-five thousand dollars;

(d) If the general bail bond agent employs sixteen to twenty bail bond agents, at least sixty-five thousand dollars;

(e) If the general bail bond agent employs twenty-one to twenty-five bail bond agents, at least eighty-five thousand dollars;

(f) If the general bail bond agent employs twenty-six to fifty bail bond agents, at least one hundred thousand dollars;

(g) If the general bail bond agent employs over fifty bail bond agents, at least two hundred thousand dollars.[, which] **The** assignment shall become effective upon the applicant's violating any provision of sections 374.700 to 374.775. The assignment required by this section shall be in the form, and executed in the manner, prescribed by the department.

374.717. No insurer or licensee, court or law enforcement officer shall:

(1) Pay a fee or rebate or give or promise anything of value in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond to:

(a) A jailer, policeman, peace officer, committing judge or any other person who has power to arrest or to hold in custody any person; or

(b) Any public official or public employee;

(2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

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(3) Pay a fee or rebate or give promise of anything of value to the principal or anyone in the principal's behalf;

(4) Accept anything of value from a principal except the premium and expenses incurred; provided that, the licensee shall be permitted to accept collateral security or other indemnity from the principal which shall be returned upon final termination of liability on the bond. If a forfeiture has occurred, the collateral security or other indemnity from the principal may be used to reimburse the licensee for any costs and expenses incurred associated with the forfeiture. The collateral security or other indemnity required by the licensee shall be reasonable in relation to the amount of the bond. Collateral may not be sold or otherwise transferred until the termination of liability on the bond. When a licensee accepts collateral, the licensee shall provide a prenumbered written receipt, which shall include in detail a full account of the collateral received by the licensee.

374.755. 1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 374.700 to 374.775 or any person who has failed to renew or has surrendered his license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of the profession licensed under sections 374.700 to 374.775;

(2) Having entered a plea of guilty or having been found guilty of a felony **or crime involving moral turpitude**;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license [issued pursuant to sections 374.700 to 374.775] or in obtaining permission to take any examination [given or] required pursuant to sections 374.700 to 374.775;

(4) Obtaining or attempting to obtain any compensation as a member of the profession licensed by sections 374.700 to 374.775 by means of fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession licensed or regulated by sections 374.700 to 374.775;

(6) Violation of[, or assisting or enabling any other person to violate, any provision of sections 374.700 to 374.775 or of any lawful rule or regulation promulgated pursuant to sections 374.700 to 374.775] **any provisions of, or any obligations imposed by, the laws of this state, department of insurance rules and regulations or aiding or abetting other persons to violate such laws, orders, rules or regulations**;

(7) Transferring a license or permitting another person to use a license of the licensee;

(8) Disciplinary action against the holder of a license or other right to practice the profession regulated by sections 374.700 to 374.775 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice the profession licensed or regulated by sections 374.700 to 374.775 who is not currently licensed and eligible to practice [under] **pursuant to** sections 374.700 to 374.775;

(11) [Paying a fee or rebate, or giving or promising anything of value, to a jailer, policeman, peace officer, judge or any other person who has the power to arrest or to hold another person in custody, or to any public official or employee, in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or estreatment thereof;

(12) Paying a fee or rebate, or giving anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(13) Paying a fee or rebate, or giving or promising anything of value, to the principal or anyone in his behalf;

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(14)] Participating in the capacity of an attorney at a trial or hearing of one on whose bond he is surety.

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the department may [do any or all of the following:

(1) Censure the person involved;

(2) Place the person involved on probation on such terms and conditions as the department deems appropriate for a period not to exceed ten years;

(3) Suspend, for a period not to exceed three years, the license of the person involved;

(4) Revoke the license of the person involved.] **admonish or censure a licensee, or suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.**

3. In lieu of filing a complaint at the administrative hearing commission, the department and the bail bond agent or general bail bond agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the department may issue a cease and desist order or may seek an injunction in a court of law pursuant to the provisions of section 374.046 whenever it appears that any person is acting as a bail bond agent or general bail bond agent without a license.

374.764. 1. The director shall examine and inquire into all violations of the bail bond law of the state, and inquire into and investigate the bail bond business transacted in this state by any bail bond agent, general bail bond agent or surety recovery agent.

2. The director or any of his duly appointed agents may compel the attendance before him, and may examine, under oath, the directors, officers, bail bond agents, general bail bond agents, surety recovery agents, employees or any other person, in reference to the condition, affairs, management of the bail bond or surety recovery business or any matters relating thereto. He may administer oaths or affirmations and shall have power to summon and compel the attendance of witnesses and to require and compel the production of records, books, papers, contracts or other documents, if necessary.

3. The director may make and conduct the investigation in person, or he may appoint one or more persons to make and conduct the same for him. If made by a person other than the director, the person duly appointed by the director shall have the same powers as granted to the director pursuant to this section. A certificate of appointment, under the official seal of the director, shall be sufficient authority and evidence thereof for the person to act. For the purpose of making the investigations, or having the same made, the director may employ the necessary clerical, actuarial and other assistance.

374.782. 1. Sections 374.782 to 374.789 shall be known as "The Surety Recovery Agent Licensure Act".

2. As used in sections 374.782 to 374.789, the following terms mean:

(1) "Department", the department of insurance of the state of Missouri;

(2) "Fugitive recovery", the tracking down, recapturing and surrendering to the custody of a court a fugitive who has violated a bail bond agreement;

(3) "Surety recovery agent", a person not performing the duties of a sworn peace officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a bail bond agreement, excluding a bail bond agent or general bail bond agent.

374.783. 1. No person shall hold himself or herself out as being a surety recovery agent in this state, unless such person is licensed in accordance with the provisions of sections 374.782 to 374.789.

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2. The department shall have authority to license all surety recovery agents in this state. The department shall have control and supervision over the licensing of such agents and the enforcement of the terms and provisions of sections 374.782 to 374.789.

3. The department shall have power to:

(1) Set and determine the amount of the fees which sections 374.782 to 374.789 authorize and require. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering sections 374.782 to 374.789; and

(2) Determine the sufficiency of the qualifications of applicants for licensure.

4. The department shall license all surety recovery agents in this state who meet the requirements of sections 374.782 to 374.789.

374.784. 1. A candidate for a surety recovery agent's license shall be at least twenty-one years of age. A candidate shall furnish evidence of such person's qualifications by completing an approved licensed surety recovery agent course with at least forty hours of minimum training at an institution of higher education or any institution approved by the department.

2. The basic course of training shall consist of at least forty hours of training, be taught by personnel with qualifications approved by the department and may include instruction in:

(1) The following areas of the law:

(a) Constitutional law;

(b) Procedures for arresting defendants and surrendering defendants into custody;

(c) Civil liability;

(d) The civil rights of persons who are detained in custody; and

(e) The use of force;

(2) Procedures for field operations, including, without limitation:

(a) Safety and survival techniques;

(b) Searching buildings;

(c) Handling persons who are mentally ill or under the influence of alcohol or a controlled substance; and

(d) The care and custody of prisoners;

(3) The skills required regarding:

(a) Writing reports, completing forms and procedures for exoneration;

(b) Methods of arrest;

(c) Nonlethal weapons;

(d) The retention of weapons;

(e) Qualifications for the use of firearms;

(f) Defensive tactics; and

(g) Principles of investigation, including, without limitation, the basic principles of locating defendants who have not complied with the terms and conditions established by a court for their release from custody or the terms and conditions of a contract entered into with a surety;

(4) The following subjects:

(a) Demeanor in a courtroom;

(b) First aid used in emergencies; and

(c) Cardiopulmonary resuscitation.

3. No license shall be granted unless the candidate has proof of a one million dollar bond or liability policy insuring against any damages to persons or property caused by the candidate.

374.785. 1. The department shall issue a license to any surety recovery agent who is licensed in another jurisdiction and who has had no violations, suspensions or revocations of a license to engage in fugitive recovery in any jurisdiction, provided that such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of surety recovery agents in Missouri at the time the applicant applies for licensure, the applicant has proof of a one million dollar bond or liability policy and such general bail bond agent employs a surety recovery agent holding a valid Missouri surety recovery license.

2. For the purpose of surrender of the defendant, a surety may apprehend the

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defendant, anywhere within the state of Missouri, before or after the forfeiture of the undertaking without personal liability for false imprisonment or may empower any recovery agent to make apprehension by providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees.

3. The surety or recovery agent shall inform the local law enforcement in the county or city where such agent is planning to enter a residence. Such agent shall have a certified copy of the bond and all appropriate paperwork to identify the principal. Local law enforcement, when notified, may accompany the surety or recovery agent to that location to keep the peace if an active warrant is effective for a felony or misdemeanor. If a warrant is not active, the local law enforcement officers may accompany the surety or recovery agent to such location. Failure to report to the local law enforcement agency is a class A misdemeanor. For any subsequent violations, failure to report to the local law enforcement agency is a class D felony.

4. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in this section, shall be required to pay the same fee as the fee required to be paid by resident applicants. Within the limits provided in this section, the department may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed surety recovery agents from Missouri in other states.

374.786. 1. Every person licensed pursuant to sections 374.782 to 374.789 shall, on or before the license renewal date, apply to the department for a licensure renewal for the ensuing licensing period. The application shall be made on a form furnished to the applicant and shall state the applicant's full name, the applicant's business address, the address at which the applicant resides, the date the applicant first received a license and the applicant's surety recovery agent identification number, if any.

2. A blank form for the application for licensure renewal shall be mailed to each person licensed in this state at the person's last known address. The failure to mail the form of application or the failure of a person to receive it does not, however, relieve any person of the duty to be licensed and to pay the license fee required nor exempt such person from the penalties provided for failure to be licensed.

3. Each applicant for licensure renewal shall accompany such application with a licensure renewal fee to be paid to the department for the licensing period for which licensure renewal is sought.

4. The department may refuse to issue or renew any license required pursuant to sections 374.782 to 374.789 for any one or any combination of causes stated in section 374.787. The department shall notify the applicant in the writing of the reasons for refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

374.787. 1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any surety recovery agent or any person who has failed to renew or has surrendered his or her license for any one or any combinations of the following causes:

(1) Violation of any provisions of, or any obligations imposed by, the laws of this state, department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules or regulations;

(2) Having been convicted of a felony or crime involving moral turpitude;

(3) Using fraud, deception, misrepresentation or bribery in securing a license or in obtaining permission to take any examination required by sections 374.782 to 374.789;

(4) Obtaining or attempting to obtain any compensation as a surety recovery agent by means of fraud, deception or misrepresentation;

(5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety

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recovery agent without a license;

(6) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions of duties of a surety recovery agent;

(7) Having revoked or suspended any license by another state.

2. After the filing of the complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the department may suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.

3. In lieu of filing a complaint with the administrative hearing commission, the department and the surety recovery agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the department may issue a cease and desist order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears that any person is acting as a surety recovery agent without a license.

374.788. A surety recovery agent having probable grounds to believe a subject, free on his or her bond, has failed to appear as directed by a court, has breached the terms of the subject's surety agreement or has taken a substantial step toward absconding, may utilize all lawful means to arrest the subject. To surrender a subject to a court, a licensed surety recovery agent, having probable grounds to believe the subject is free on their bond, may:

(1) Detain a subject in a reasonable manner, for a reasonable time not to exceed seventy-two hours;

(2) Transport a subject in a reasonable manner from state to state and county to county to a place of authorized surrender; and

(3) Enter upon private or public property in a reasonable manner to execute an arrest of a subject.

374.789. 1. A person is guilty of a class D felony if he or she does not hold a valid surety recovery agent's license or a bail bondsman's license and commits any of the following acts:

(1) Holds himself or herself out to be a licensed surety recovery agent within this state;

(2) Claims that he or she can render surety recovery agent services; or

(3) Engages in fugitive recovery in this state.

2. Any person who engages in fugitive recovery in this state and wrongfully causes damage to any person or property, including, but not limited to, trespass, unlawful arrest, unlawful detainment or assault, shall be liable for such damages and may be liable for punitive damages.

590.132. No person shall be commissioned or employed as a peace officer unless he is a resident of Missouri.

650.350. As used in sections 650.350 to 650.384, the following terms mean:

(1) "Board", the board of private investigator examiners established in section 650.352;

(2) "Client", any person who engages the services of a private investigator;

(3) "Department", the department of public safety;

(4) "Law enforcement officer", a law enforcement officer as defined in section 556.061, RSMo;

(5) "Organization", a corporation, trust, estate, partnership, cooperative or association;

(6) "Person", an individual or organization;

(7) "Private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the private investigator business;

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(8) "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;

(9) "Private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information with reference to:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person or for service of process while carrying a firearm;

(c) The location, disposition or recovery of lost or stolen property;

(d) The cause or responsibility for fires, libels, losses, accidents or damage or injury to persons or to property; or

(e) Securing evidence to be used before any court, board, officer or investigating committee.

650.352. 1. The "Board of Private Investigator Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued.

2. The board shall be composed of six members appointed by the governor with the advice and consent of the senate. One member of the board shall be a licensed attorney, and one member shall be a public member. Each member of the board shall be a citizen of the United States, a resident of Missouri, at least thirty years of age and, except for the attorney and the public member appointed, shall have been actively engaged in the private investigator business for the previous five years. No more than one board member may be employed by, or affiliated with, the same private investigator agency. The initial board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after appointment to the board.

3. The members shall be appointed for terms of four years, except those first appointed, in which case two members, who shall be private investigators, shall be appointed for terms of four years, two members shall be appointed for terms of three years and two members shall be appointed for a one-year term. Any vacancy on the board shall be filled for the unexpired term of the member and in the manner as the first appointment.

4. The members of the board shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

650.354. Unless expressly exempted from the provisions of sections 650.350 to 650.384:

(1) It shall be unlawful for any person to engage in the private investigator business in this state unless such person is licensed as a private investigator pursuant to sections 650.350 to 650.384;

(2) It shall be unlawful for any person to engage in business in this state as a private investigator agency unless such person is licensed pursuant to sections 650.350 to 650.384.

650.356. The following persons shall not be deemed to be engaging in the private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the internal affairs of such employer and where there exists an employer-employee relationship;

(2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

(3) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons;

(4) An attorney performing duties as an

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attorney;

(5) A collection agency or its employee while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;

(6) Insurers, agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;

(7) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States;

(8) An insurance adjuster; for the purposes of sections 650.350 to 650.384, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;

(9) An unarmed process server only after having been specially appointed by a court and only when investigating for the purpose of identifying the location of a subject for service of process; or

(10) Any investigator employed by and under the supervision of a licensed attorney while acting within the scope of employment, or who does not represent himself to be a licensed private investigator.

650.358. 1. Every person desiring to be licensed in Missouri as a private investigator or private investigator agency shall make application therefor to the board of private investigator examiners. An application for a license pursuant to the provisions of sections 650.350 to 650.384 shall be on a form prescribed by the board of private investigator examiners and accompanied by the required application fee. An application shall be verified and shall include:

(1) The full name and business address of the applicant;

(2) The name under which the applicant intends to do business;

(3) A statement as to the general nature of the business in which the applicant intends to engage;

(4) A statement as to the classification or classifications under which the applicant desires to be qualified;

(5) Two recent photographs of the applicant, of a type prescribed by the board of private investigator examiners, and two classifiable sets of the applicant's fingerprints;

(6) A verified statement of the applicant's experience qualifications; and

(7) Such other information, evidence, statements or documents as may be required by the board of private investigator examiners.

2. Before an application for a license may be granted, the applicant shall:

(1) Be at least twenty-one years of age;

(2) Be a citizen of the United States;

(3) Not have a felony conviction or misdemeanor involving theft or drugs;

(4) Provide proof of insurance with amount to be no less than one million in coverage for liability and proof of workers' compensation insurance as required in chapter 287, RSMo. The board shall have the authority to raise the requirements as deemed necessary; and

(5) Comply with such other qualifications as the board adopts by rules and regulations.

650.360. 1. The board of private investigator examiners may require as a condition of licensure as a private investigator that the applicant:

(1) Successfully complete a course of training conducted by a trainer certified pursuant to section 650.382;

(2) Pass a written examination as evidence of knowledge of investigator business; and

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(3) Submit to an oral interview with the board.

2. The board shall conduct a complete investigation of the background of each applicant for licensure as a private investigator to determine whether the applicant is qualified for licensure pursuant to sections 650.350 to 650.384. The board will outline basic qualification requirements for licensing as a private investigator and agency. The board will waive testing requirements and issue a license to existing persons and agencies who make application by January 1, 2002, and meet the requirements of subsection 3 of this section.

3. In the event requirements have been met so that testing has been waived, qualification is dependent on a showing of for the two previous years:

(1) Verifiable levels of revenue;

(2) Registration and good standing as a business in the state of Missouri; and

(3) One quarter million dollars in business general liability insurance.

4. The board may review applicants seeking reciprocity. An applicant seeking reciprocity shall have undergone a licensing procedure substantially the same as or stricter than that required by this state and shall meet this state's minimum insurance requirements.

650.362. The board of private investigator examiners may deny a request for a license if the applicant has:

(1) Committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to the provisions of sections 650.350 to 650.384;

(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 under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Been refused a license pursuant to the provisions of sections 650.350 to 650.384 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 650.350 to 650.384; or

(5) Knowingly made any false statement in the application.

650.364. 1. Every application submitted pursuant to the provisions of sections 650.350 to 650.384 shall be accompanied by a fee as determined by the board as follows:

(1) For an individual license, agency license and employees being licensed to work under an agency license; or

(2) If a license is issued for a period of less than two years, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

2. A private investigator license shall allow only the individual licensed by the state to conduct investigations. An agency license shall be applied for separately and held by an individual who is licensed as a private investigator. The agency may hire individuals to work for the agency conducting investigations for the agency only. Persons hired shall make application as determined by the board and meet all requirements set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon the agency submitting their applications. Employees shall attend a certified training program within a time frame to be determined by the board.

650.365. 1. All fees required pursuant to sections 650.350 to 650.384 shall be paid to and collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the "Board of Private Investigator

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Examiners Fund", which is hereby created.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in the 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 three times the amount of the appropriation to the board for the preceding fiscal year. The amount, if any, in the fund that shall lapse is the amount in the fund that exceeds the appropriate multiple of the appropriations to the board for the preceding fiscal year.

3. The board shall set fees, as authorized by sections 650.350 to 650.384 at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 650.350 to 650.384.

4. The fees prescribed by sections 650.350 to 650.384 shall be exclusive and notwithstanding any other provision of law, no municipality may require any person licensed pursuant to sections 650.350 to 650.384 to furnish any bond, pass any examination or pay any license fee or occupational tax relative to practicing the person's profession.

650.366. 1. The board of private investigator examiners shall determine the form of the license which shall include the:

(1) Name of the licensee;

(2) Name under which the licensee is to operate; and

(3) Number and date of the license.

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design and content as determined by the board shall be issued to each licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions of sections 650.350 to 650.384. When any person to whom a card is issued terminates such person's position, office or association with the licensee, the card shall be surrendered to the licensee and, within five days thereafter, shall be mailed or delivered by the licensee to the board of private investigator examiners for cancellation. Within thirty days after any change of address, a licensee shall notify the board thereof. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

650.368. 1. Any license issued pursuant to sections 650.350 to 650.384 shall expire two years after the date of its issuance. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee, except that:

(1) The application upon renewal need only provide information required of original applicants if the information shown on the original application or any renewal thereof on file with the board is no longer accurate;

(2) A new photograph shall be submitted with the application for renewal only if the photograph on file with the board has been on file more than two years; and

(3) Additional information may be required by rules and regulations adopted by the board of private investigator examiners.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee, and the licensee is legally responsible for any acts committed by such licensee's employees or agents which are in violation of sections 650.350 to 650.384. A person receiving an agency license shall directly manage the agency and employees.

3. A license issued pursuant to the provisions of sections 650.350 to 650.384 shall not be assignable.

650.370. 1. Any licensee may divulge to the board, any law enforcement officer or prosecuting attorney, or such person's representative, any information such person may acquire as to any criminal offense, or instruct his or her client to do so if the client is the victim but such person shall not divulge to any other person, except as he or she may be

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required by law to do, any information acquired by such person at the direction of the employer or client for whom the information was obtained.

2. No licensee or officer, director, partner, associate or employee thereof shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Use a title, wear a uniform, use an insignia or an identification card or make any statement with the intent to give an impression that such person is connected in any way with the federal government, a state government or any political subdivision of a state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien or any other lien; or

(5) Manufacture false evidence.

650.372. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of private investigator examiners. Such licensee shall file with the board the complete address of the licensee's principal place of business including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.

650.374. Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name and an address as they appear in the records of the board of private investigator examiners. A licensee shall not advertise or conduct business from any Missouri address other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received a branch office certificate for such location after compliance with the provisions of sections 650.350 to 650.384 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing within ten days after closing or changing the location of a branch office.

650.376. 1. The board of private investigator examiners may deny a request for a license, or may suspend or revoke a license issued pursuant to sections 650.350 to 650.384 or censure or place a licensee on probation if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, RSMo, the board determines that the licensee has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violated any provision of sections 650.350 to 650.384;

(3) Violated any rule of the board of private investigator examiners adopted pursuant to the authority contained in sections 650.350 to 650.384;

(4) Has been convicted of a felony or misdemeanor involving theft or drugs;

(5) Impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;

(6) Committed or permitted any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(7) Knowingly violated, or advised, encouraged or assisted the violation of, any court order or injunction in the course of business as a licensee;

(8) Used any letterhead, advertisement or other printed matter, or in any manner

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whatever represented that such person is an instrumentality of the federal government, a state or any political subdivision thereof;

(9) Used a name different from that under which such person is currently licensed in any advertisement, solicitation or contract for business; or

(10) Committed any act which is grounds for denial of an application for a license pursuant to the provisions of section 620.1818.

2. After the filing of a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 1 of this section, for disciplinary action are met, the board may singly or in combination, 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 five years, or may suspend, for a period not to exceed three years, or revoke the license.

3. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

4. The agency may continue under the direction of another employee if the individual holding the license is suspended or revoked as approved by the board. The board shall establish a time frame in which the agency shall identify an acceptable person who is qualified to assume control of the agency, as required by the board.

650.378. 1. Each private investigator or investigator agency operating pursuant to the provisions of sections 650.350 to 650.384 shall be required to keep a complete record of the business transactions of such investigator or investigator agency and upon the order of the board shall give free and full opportunity to inspect the same and to inspect reports made; but any information obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings. The board shall not personally enter a licensee's place of business to inspect records, but shall appoint another state agency to act as gatherers of information and facts to present to the board regarding any complaint or inspection they are looking into. The board may hire a private agency as long as the agency is conducting an audit and is not an investigative agency or affiliated in any way with a company that provides investigative services.

2. For the purpose of enforcing the provisions of sections 650.350 to 650.384, and in making investigations relating to any violation thereof or to the character, competency and integrity of the applicants or licensees hereunder, and for the purpose of investigating the business, business practices and business methods of any applicant or licensee, or of the officers, directors, partners or associates thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records or papers which the board deems relevant to the inquiry. The board also may administer an oath to and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner or associate thereof shall not be entitled to any fees or mileage. A subpoena issued pursuant to this section shall be governed by the rules of civil procedure. Any person duly subpoenaed, who fails to obey such subpoena without reasonable cause or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's or licensee's business, business practices and methods or such violations, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath, and willful false swearing in any such proceeding shall be perjury.

650.380. 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 650.350 to 650.384.

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2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in section 650.350 to 650.384 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

3. The department of public safety shall establish guidelines to permit a private investigator to carry a concealed firearm, not to be greater than the firearm training imposed on a P.O.S.T. commissioned officer of a county of the first classification. Any private investigator holding a valid firearm permit issued by any city not within a county or any city with a population of at least four hundred thousand inhabitants will be exempt from the requirements of this subsection.

650.382. 1. The board of private investigator examiners shall certify persons who are qualified to train private investigators.

2. In order to be certified as a trainer pursuant to this section, a trainer shall:

(1) Be twenty-one or more years of age;

(2) Have a minimum of one-year supervisory experience with a private investigator agency; and

(3) Be personally licensed and qualified to train private investigators.

3. Persons wishing to become certified trainers shall make application to the board of private investigator examiners on a form prescribed by the board and accompanied by a fee determined by the board. The application shall contain a statement of the plan of operation of the training offered by the applicant and the materials and aids to be used and any other information required by the board.

4. A certificate shall be granted to a trainer if the board finds that the applicant:

(1) Meets the requirements of subsection 2 of this section;

(2) Has no felony convictions or misdemeanor involving theft or drugs or currently charged with either;

(3) Has sufficient knowledge of private investigator business to be a suitable person to train private investigators;

(4) Has supplied all required information to the board; and

(5) Has paid the required fee.

5. The certificate issued pursuant to this section shall expire on the second year after the year in which it is issued and shall be renewable biennially upon application and payment of a fee.

650.384. Any person who knowingly falsifies the fingerprints or photographs or other information required to be submitted pursuant to sections 650.350 to 650.384 is guilty of a class D felony; and any person who violates any of the other provisions of sections 650.350 to 650.384 is guilty of a class A misdemeanor."; and

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

HOUSE AMENDMENT NO. 45

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 44, Section 621.198, Line 4, by inserting after said line the following: "The office shall notify the local prosecutor of any owner's, employee's, agents, or affiliates of a long-term care facility who pays any portion of funds received from the State of Missouri to any person as a reward, incentive, or bribe for influencing an elderly or disabled person to reside at a particular facility"; and

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

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In which the concurrence of the Senate is respectfully requested.

President Wilson assumed the Chair.

PRIVILEGED MOTIONS

Senator Scott moved that the Senate recede from its position on **SCA 1**, as amended, to **HCS** for **HB 1967**, which motion prevailed.

On motion of Senator Scott, **HCS** for **HB 1967**, as amended by **SA 1**, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley Bland Carter Caskey
Childers Clay DePasco Ehlmann
Flotron Goode Graves House
Howard Jacob Johnson Kenney
Kinder Klarich Mathewson Maxwell
Mueller Quick Rohrbach Russell
Scott Sims Singleton Staples
Steelman Stoll Westfall Wiggins
Yeckel—33

NAYS—Senators—None

Absent—Senator Schneider—1

Absent with leave—Senators—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bentley Bland Carter Caskey
Childers Clay DePasco Ehlmann
Flotron Goode Graves House
Howard Jacob Johnson Kenney
Kinder Klarich Mathewson Maxwell
Mueller Quick Rohrbach Russell
Schneider Scott Sims Singleton
Staples Steelman Stoll Westfall
Wiggins Yeckel—34

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

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

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

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

Senator Maxwell moved that the Senate recede from its position on **SCS** for **HCS** for **HBs 1386** and **1086**, as amended, which motion prevailed.

On motion of Senator Maxwell, **HCS** for **HBs 1386** and **1086** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley Bland Carter Caskey
Childers Clay DePasco Ehlmann
Flotron Goode Graves House
Howard Jacob Johnson Kenney
Kinder Klarich Mathewson Maxwell
Mueller Quick Rohrbach Russell
Schneider Scott Sims Singleton
Staples Steelman Stoll Westfall
Wiggins Yeckel—34

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

CONFERENCE COMMITTEE REPORTS

Senator Jacob, on behalf of the conference committee appointed to act with a like committee from the House on **SCS** for **HB 1292**, as amended, submitted the following conference committee report:

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CONFERENCE COMMITTEE REPORT ON SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1292

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House on Senate Committee Substitute for House Bill No. 1292 with Senate Amendment No. 2, Senate Amendment No. 3, Senate Amendment No. 6, Senate Substitute Amendment No. 1 for Senate Amendment No. 9, Senate Amendment No. 10, Senate Amendment No. 11, Senate Amendment No. 12, Senate Amendment No. 13, Senate Amendment 1 to Senate Amendment 15 and Senate Amendment 15 as amended, begs leave to report that we, after free and fair discussion of the differences between the House and the Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Committee Substitute for House Bill No. 1292, with Senate Amendment No. 2, Senate Amendment No. 3, Senate Amendment No. 6, Senate Substitute Amendment No. 1 for Senate Amendment No. 9, Senate Amendment No. 10, Senate Amendment No. 11, Senate Amendment No. 12, Senate Amendment No. 13, Senate Amendment 1 to Senate Amendment 15 and Senate Amendment 15 as amended;

2. That the House recede from its position on House Bill No. 1292;

3. That the attached Conference Committee Substitute be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Ken Jacob	/s/ Ron Auer
/s/ William L. Clay, Jr.	/s/ Russell C. Gunn
/s/ Paula J. Carter	/s/ Christopher Liese
/s/ Walt Mueller	/s/ Chuck Surface
/s/ Betty Sims	/s/ T. Mark Elliott

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

Senator Singleton offered a substitute motion that the Senate refuse to adopt the conference committee report on **SCS** for **HB 1292**, as amended, and request the House to grant further conference.

Senator Jacob requested that a roll call be taken on the substitute motion and was joined in his request by Senators Mathewson, Mueller, Rohrbach and Wiggins.

The substitute motion made by Senator Singleton failed of adoption by the following vote:

YEAS—Senators

Bentley	Ehlmann	Johnson	Kinder
Russell	Singleton	Westfall—7	

NAYS—Senators

Bland	Carter	Caskey	Childers
Clay	DePasco	Flotron	Goode
Graves	House	Howard	Jacob
Kenney	Mathewson	Maxwell	Mueller
Rohrbach	Schneider	Scott	Sims
Staples	Steelman	Stoll	Wiggins
Yeckel—25			

Absent—Senators

Klarich	Quick—2

Absent with leave—Senators—None

Senator Stoll assumed the Chair.

Senator Singleton was recognized to speak on the motion.

Senator Jacob raised the point of order that Senator Singleton is speaking on the motion for the second time which is out of order according to the Senate Rules.

The point of order was referred to the President Pro Tem.

Senator Schneider requested unanimous consent of the Senate to make a privileged motion while the motion is pending, which request was denied.

The point of order was taken under advisement.

Senator Howard, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SS** for **SCS** for **SB 763**, as amended, submitted the following conference committee report:

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CONFERENCE COMMITTEE REPORT ON
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 763

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 763, with House Amendments Nos. 2 and 3, House Substitute Amendment No. 1 for House Amendment No. 4, House Substitute Amendment No. 1 for House Amendment No. 7, House Amendments Nos. 8 and 9; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 763, as amended;

2. That the Senate recede from its position on Senate Substitute for Senate Committee Substitute for Senate Bill No. 763; and

3. The attached Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 763 be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Jerry Howard	/s/ Don Kissell
/s/ Ronnie DePasco	/s/ D. J. Davis
/s/ Joe Maxwell	/s/ Steve McLuckie
/s/ Doyle Childers	/s/ Peter Myers
/s/ David J. Klarich	/s/ Bill Alter

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

YEAS—Senators

Bentley	Carter	Caskey	Childers
Clay	DePasco	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Mueller	Quick
Russell	Schneider	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senator Rohrbach—1

Absent—Senators

Bland	Ehlmann	Scott—3

Absent with leave—Senators—None

On motion of Senator Howard, **CCS** for **HCS** for **SS** for **SCS** for **SB 763**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 763

An Act to repeal section 407.020, RSMo Supp. 1999, relating to telecommunications merchandising practices, and to enact in lieu thereof nineteen new sections relating to the same subject, with penalty provisions.

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

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Flotron
Goode	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Russell	Schneider	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senator Rohrbach—1

Absent—Senators

Ehlmann	Scott—2

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 757** and **602**, entitled:

An Act to repeal sections 210.145, 210.152, 210.192, 210.195, 491.074, 566.025, 566.067, 566.068, 568.110, 569.093, 573.010, 573.020, 573.025, 573.030, 573.035, 573.037, 573.040 and 660.520, RSMo 1994, and sections 210.001, 210.109, 210.115, 210.150, 453.005, 559.115, 589.400, 589.410, 589.414 and 589.425, RSMo Supp. 1999, and to enact in lieu thereof thirty new sections relating to the protection of children, with penalty provisions.

With House Amendments Nos. 1, 2, 3, 4, 5, 6 and 7.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 757 and 602, Page 38, Section 210.195, Line 4 of said page, by inserting after all of said line the following:

"**431.056. A minor shall be qualified and competent to contract for housing, employment, purchase of an automobile, receipt of a student loan, admission to high school or postsecondary school, obtaining medical care, establishing a bank account and admission to a shelter for victims of domestic violence, as defined in section 455.200, RSMo, or a homeless shelter if:**

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

(2) The minor is homeless, as defined in subdivisions (1), (2) and (3) of subsection 1 of section 167.020, RSMo, or a victim of domestic violence, as defined in section 455.200, RSMo, unless the child is under the supervision of the division of family services or the jurisdiction of the juvenile court; and

(3) The minor is self-supporting; and

(4) The minor's parents have consented to the minor living independent of the parents' control."; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 757 and 602, Page 45, Section 566.068, Line 20, by inserting after all of said line the following:

"**568.065. 1. A person commits the crime of genital mutilation if such person:**

(1) Excises or infibulates, in whole or in part, the labia majora, labia minora, vulva or clitoris of a female child less than seventeen years of age; or

(2) Is a parent, guardian or other person legally responsible for a female child less than seventeen years of age and permits the excision or infibulation, in whole or in part, of the labia majora, labia minora, vulva or clitoris of such female child.

2. Genital mutilation is a class B felony.

3. Belief that the conduct described in subsection 1 of this section is required as a matter of custom, ritual or standard practice, or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian, shall not be an affirmative defense to a charge pursuant to this section.

4. It is an affirmative defense that the defendant engaged in the conduct charged which constitutes genital mutilation if the conduct was:

(1) Necessary to preserve the health of the child on whom it is performed and is performed by a person licensed to practice medicine in this state; or

(2) Performed on a child who is in labor or who has just given birth and is performed for medical purposes connected with such labor or birth by a person licensed to practice medicine

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in this state."; and

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

HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 757 and 602, Page 10, Section 210.109, Line 10 of said page, by inserting after all of said line the following:

"210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse;

(2) "Central registry", a registry of persons where the division has found probable cause to believe or a court has substantiated through court adjudication that the individual has committed child abuse or neglect or the person has pled guilty or has been found guilty of a crime [under] **pursuant to** section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime [under] **pursuant to** chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes;

(3) "Child", any person, regardless of physical or mental condition, under eighteen years of age;

(4) "Director", the director of the Missouri division of family services;

(5) "Division", the Missouri division of family services;

(6) "Family assessment and services", an approach to be developed by the division of family services which will provide for a prompt assessment of a child who has been reported to the division as a victim of abuse or neglect by a person responsible for that child's care, custody or control and of that child's family, including risk of abuse and neglect and, if necessary, the provision of community-based services to reduce the risk and support the family;

(7) "Investigation", the collection of physical and verbal evidence to determine if a child has been abused or neglected;

(8) **"Jail or detention center personnel", employees and volunteers working in any premises or institution where incarceration, evaluation, care, treatment or rehabilitation is provided to persons who are being held under custody of the law;**

(9) "Neglect", failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being;

[(9)] **(10)** "Probable cause", available facts when viewed in the light of surrounding circumstances which would cause a reasonable person to believe a child was abused or neglected;

[(10)] **(11)** "Report", the communication of an allegation of child abuse or neglect to the division pursuant to section 210.115;

[(11)] **(12)** "Those responsible for the care, custody, and control of the child", those included but not limited to the parents or guardian of a child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. Those responsible for the care, custody and control shall also include any adult who, based on relationship to the parents of the child, members of the child's household or the family, has access to the child."; and

Further amend said bill, Page 10, Section 210.115, Line 17 of said page, by inserting at the end of said line the phrase "**jail or detention center personnel**"; and

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 757 and 602, Page 45, Section 566.068, Line 20, by inserting after all of said line the following:

"**568.052. 1. As used in this section, the following terms mean:**

(1) "Collision", the act of a motor vehicle coming into contact with an object or a person;

(2) "Injury", physical harm to the body of a person;

(3) "Motor vehicle", any automobile, truck, truck-tractor, or any motor bus or motor-propelled vehicle not exclusively operated or driven on fixed rails or tracks;

(4) "Unattended", not accompanied by an individual fourteen years of age or older.

2. A person commits the crime of leaving a child unattended in a motor vehicle in the first degree if such person knowingly leaves a child ten years of age or less unattended in a motor vehicle and such child fatally injures another person by causing a motor vehicle collision or by causing the motor vehicle to fatally injure a pedestrian, such person shall be guilty of a class C felony.

3. A person commits the crime of leaving a child unattended in a motor vehicle in the second degree if such person knowingly leaves a child ten years of age or less unattended in a motor vehicle and such child injures another person by causing a motor vehicle collision or by causing the motor vehicle to injure a pedestrian, such person shall be guilty of a class A misdemeanor."; and

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

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 757 and 602, Page 44, Section 559.115, Line 9, by inserting after said line, all of the following:

"566.010. As used in chapters 566 and 568, RSMo**, the following terms mean**:

(1) "Deviate sexual intercourse"[means]**,** any act involving the genitals of one person and the **hand,** mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person;

(2) "Sexual conduct" [means]**,** sexual intercourse, deviate sexual intercourse or sexual contact;

(3) "Sexual contact"**.** [means]**,** any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, for the purpose of arousing or gratifying sexual desire of any person;

(4) "Sexual intercourse" [means]**,** any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results."; and

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

HOUSE AMENDMENT NO. 6

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 757 and 602, Page 38, Section 453.005, Line 24 of said page, by inserting after all of said line the following:

"**453.011. 1. In all cases in which the termination of parental rights or adoption of a child is contested by any person or agency, the trial court shall, consistent with due process, expedite the contested termination or adoption proceeding by entering such scheduling orders as are necessary to ensure that the case is not delayed, and such case shall be given priority in setting a final hearing of the proceeding and shall be heard at the earliest possible date over other civil litigation, other than division of family services' child protection cases.**

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2. In all cases as specified in subsection 1 of this section which are appealed from the decision of a trial court:

(1) The transcript from the prior court proceeding shall be provided to the appellate court no later than thirty days from the date the appeal is filed; and

(2) The appellate court shall, consistent with its rules, expedite the contested termination of parental rights or adoption case by entering such scheduling orders as are necessary to ensure that a ruling will be entered within thirty days of the close of oral arguments, and such case shall be given priority over all other civil litigation, other than division of family services' child protection cases, in reaching a determination on the status of the termination of parental rights or of the adoption; and

(3) In no event shall the court permit more than one request for an extension by either party.

3. It is the intent of the general assembly that the permanency of the placement of a child who is the subject of a termination of parental rights proceeding or an adoption proceeding not be delayed any longer than is absolutely necessary consistent with the rights of all parties, but that the rights of the child to permanency at the earliest possible date be given priority over all other civil litigation other than division of family services' child protection cases."; and

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

HOUSE AMENDMENT NO. 7

Amend House Substitute for House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bills Nos. 757 and 602, Page 19, Section 210.145, Line 9, by inserting after all of said line the following:

"**Such notification shall not preclude nor present any investigation by law enforcement**".

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 **HS** for **HCS** for **SCS** for **SB 894**, 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 **HS** for **HCS** for **SB 996**, entitled:

An Act to repeal sections 1.160, 43.500, 43.518, 43.521, 43.530, 43.543, 50.550, 150.380, 217.750, 516.371, 537.046, 544.170, 199.200, 565.030, 565.060, 570.020, 570.080, 570.090, 570.120, 575.110, 575.230 and 610.120, RSMo 1994, and sections 43.503, 43.506, 150.465, 195.017, 199.170, 199.180, 210.865, 211.321, 302.302, 304.012, 552.020, 552.040, 556.036, 556.037, 556.061, 558.018, 558.019, 559.021, 565.070, 565.084, 570.010, 570.030 and 577.020, RSMo Supp. 1999, relating to crimes and punishment, and to enact in lieu thereof sixty-eight new sections relating to the same subject, with penalty provisions.

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

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Bill No. 996, Page 70, Section 491.076, Line 17, by inserting after all of said line the following:

"513.605. As used in sections 513.600 to [513.645] **513.653**, unless the context clearly indicates otherwise, the following terms mean:

(1) (a) "Beneficial interest":

a. The interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

b. The interest of a person under any other form of express fiduciary arrangement pursuant to

which any other person holds legal or record title to real property for the benefit of such person;

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located;

(2) "Civil proceeding", any civil suit commenced by an investigative agency under any provision of sections 513.600 to [513.645] **513.653**;

(3) "Criminal activity" is the commission, attempted commission, conspiracy to commit, or the solicitation, coercion or intimidation of another person to commit any crime which is chargeable by indictment or information under the following Missouri laws:

(a) Chapter 195, RSMo, relating to drug regulations;

(b) Chapter 565, RSMo, relating to offenses against the person;

(c) Chapter 566, RSMo, relating to sexual offenses;

(d) Chapter 568, RSMo, relating to offenses against the family;

(e) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;

(f) Chapter 570, RSMo, relating to stealing and related offenses;

(g) Chapter 567, RSMo, relating to prostitution;

(h) Chapter 573, RSMo, relating to pornography and related offenses;

(i) Chapter 574, RSMo, relating to offenses against public order;

(j) Chapter 575, RSMo, relating to offenses against the administration of justice;

(k) Chapter 491, RSMo, relating to witnesses;

(l) Chapter 572, RSMo, relating to gambling;

(m) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;

(n) Chapter 571, RSMo, relating to weapons offenses;

(o) Chapter 409, RSMo, relating to regulation of securities;

(p) Chapter 301, RSMo, relating to registration and licensing of motor vehicles;

(4) "Criminal proceeding", any criminal prosecution commenced by an investigative agency under any criminal law of this state;

(5) "Investigative agency", the attorney general's office, or the office of any prosecuting attorney or circuit attorney;

(6) "Pecuniary value":

(a) Anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage; or

(b) Any other property or service that has a value in excess of one hundred dollars;

(7) "Real property", any estate or legal or equitable interest in land situated in this state or any interest in such real property, including, but not limited to, any lease or deed of trust upon such real property;

(8) **"Seizing agency", the agency which is the primary employer of the officer or agent seizing the property, including any agency in which one or more of the employees acting on behalf of the seizing agency is employed by the state of Missouri or any political subdivision of this state;**

(9) "Seizure", the point at which any law enforcement officer or agent discovers and exercises any control over property that an officer or agent has reason to believe was used or intended for use in the course of, derived from, or realized through criminal activity. Seizure includes but is not limited to preventing anyone found in possession of the property from leaving the scene of the investigation while in possession of the property;

(10) (a) "Trustee":

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a. Any person who holds legal or record title to real property for which any other person has a beneficial interest; or

b. Any successor trustee or trustees to any of the foregoing persons;

(b) "Trustee" does not include the following:

a. Any person appointed or acting as a personal representative under chapter 475, RSMo, or under chapter 473, RSMo;

b. Any person appointed or acting as a trustee of any testamentary trust or as trustee of any indenture of trust under which any bonds are or are to be issued.

513.607. 1. All property of every kind**, including cash or other negotiable instruments,** used or intended for use in the course of, derived from, or realized through criminal activity is subject to civil forfeiture. Civil forfeiture shall be had by a civil procedure known as a CAFA forfeiture proceeding.

2. A CAFA forfeiture proceeding shall be governed by the Missouri rules of court, rules of civil procedure, except to the extent that special rules of procedure are stated herein.

3. **Any property seized by a law enforcement officer or agent shall not be disposed of pursuant to section 542.301, RSMo, or by the uniform disposition of unclaimed property act, sections 447.500 through 447.595, RSMo, unless a CAFA forfeiture proceeding is unsuccessful.**

4. In cases where the property is abandoned or unclaimed, an in rem CAFA forfeiture proceeding may be instituted by petition by the prosecuting attorney of the county in which the property is located or seized by the attorney general's office. The proceeding may be commenced before or after seizure of the property.

[4.] **5.** In lieu of, or in addition to, an in rem proceeding under subsection [3] **4** of this section, the prosecuting attorney or attorney general may bring an in personam action for the forfeiture of property, which may be commenced by petition before or after the seizure of property.

[5.] **6.** (1) If the petition is filed before seizure, it shall state what property is sought to be forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture, and the names of all persons known to have or claim an interest in the property. The court shall determine ex parte whether there is reasonable cause to believe that the property is subject to forfeiture and that notice to those persons having or claiming an interest in the property prior to seizure would cause the loss or destruction of the property. If the court finds that reasonable cause does not exist to believe the property is subject to forfeiture, it shall dismiss the proceeding. If the court finds that reasonable cause does exist to believe the property is subject to forfeiture but there is not reasonable cause to believe that prior notice would result in loss or destruction, it shall order service on all persons known to have or claim an interest in the property prior to a further hearing on whether a writ of seizure should issue. If the court finds that there is reasonable cause to believe that the property is subject to forfeiture and to believe that prior notice would cause loss or destruction, it shall without any further hearing or notice issue a writ of seizure directing the sheriff of the county or other authorized law enforcement agency where the property is found to seize it.

(2) Seizure may be effected by a law enforcement officer authorized to enforce the criminal laws of this state prior to the filing of the petition and without a writ of seizure if the seizure is incident to a lawful arrest, search, or inspection and the officer has probable cause to believe the property is subject to forfeiture and will be lost or destroyed if not seized. Within four days of the date of seizure, such seizure shall be reported by said officer to the prosecuting attorney of the county in which the seizure is effected or the attorney general; and if in the opinion of the prosecuting attorney or attorney general forfeiture is warranted, the prosecuting attorney or attorney general shall, within ten days after receiving notice of seizure, file a petition for forfeiture. The petition shall state, in addition to the information required in subdivision (1) of this subsection, the date and place of seizure. The burden of proof will be on the investigative agency to prove all allegations contained in the petition.

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[6.] **7.** After the petition is filed or the seizure effected, whichever is later, every person known to have or claim an interest in the property shall be served, if not previously served, with a copy of the petition and a notice of seizure in the manner provided by the Missouri rules of court and rules of civil procedure. Service by publication may be ordered upon any party whose whereabouts cannot be determined or if there be unknown parties.

[7.] **8.** The prosecuting attorney or attorney general to whom the seizure is reported shall report annually by January thirty-first for the previous calendar year all seizures. Such report shall include the date, time, and place of seizure, the property seized, the estimated value of the property seized, the person or persons from whom the property was seized, the criminal charges filed, and the disposition of the seizure, forfeiture and criminal actions. The report shall be made to the director of the Missouri department of public safety and shall be considered an open record. **The prosecuting attorney or attorney general shall submit a copy of the report to the state auditor at the time the report is made to the director of the department of public safety.**

9. The state auditor shall make an annual report compiling the data received from law enforcement, prosecuting attorneys and the attorney general, and shall submit the report regarding seizures for the previous calendar year to the general assembly annually by February twenty-eighth.

10. Intentional or knowing failure to comply with any reporting requirement contained in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars."; and

Further amend said bill, Page 70, Section 491.076, Line 17, by inserting after all of said line the following:

"513.647. 1. No state or local law enforcement agency may transfer any property seized by the state or local agency to any federal agency for forfeiture under federal law until the prosecuting attorney and the circuit judge of the county in which the property was seized first review the seizure and approve the transfer to a federal agency**, regardless of the identity of the seizing agency**. The prosecuting attorney and the circuit judge shall not approve any transfer unless it reasonably appears the activity giving rise to the investigation or seizure involves more than one state or the nature of the investigation or seizure would be better pursued under federal forfeiture statutes. No transfer shall be made to a federal agency unless the violation would be a felony under Missouri law or federal law.

2. Prior to transfer, in an ex parte proceeding, the prosecuting attorney shall file with the court a statement setting forth the facts and circumstances of the event or occurrence which led to the seizure of the property and the parties involved, if known. The court shall certify the filing, and notify by mailing to the last known address of the property owner that his property is subject to being transferred to the federal government and further notify the property owner of his right to file a petition stating legitimate grounds for challenging the transfer. If within ninety-six hours after the filing of the statement by the prosecuting attorney, the property owner by petition shows by a preponderance of the evidence that the property should not be transferred to the federal government for forfeiture, the court shall delay such transfer until a hearing may be held. If the court orders a delay in transfer, no later than ten days after the filing of a petition under this section and sections 513.649 and 513.651, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the prosecutor has proved by a preponderance of the evidence that the investigation or seizure involved more than one state or that the nature of the investigation or seizure would be better pursued under the federal forfeiture statutes, the court shall order that the transfer shall be made."; and

Further amend said bill, Page 70, Section 491.076, Line17, by inserting after all of said line the following:

"513.653. **1.** Law enforcement agencies involved in using the federal forfeiture system under federal law shall be required at the end of their respective fiscal year to acquire an

independent audit of the federal seizures and the proceeds received therefrom and provide this audit to their respective governing body. A copy of such audit shall be provided to the state auditor's office. This audit shall be paid for out of the proceeds of such federal forfeitures.

2. Intentional or knowing failure to comply with the audit requirement contained in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars."; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Bill No. 996, Page 151, Section 577.020, Line 7 of said page, by inserting after all of said 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 to committing, or attempting to commit, a felony offense of chapter 566, RSMo; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit one or more of the following offenses: kidnapping; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; incest; abuse of a child; used a child in a sexual performance; or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under [seventeen] **eighteen** years of age; 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) 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; or

(5) Any person who is a resident of this state [who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere in any other state or under federal jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a felony violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection] **and has been or is required to register in another state or has been or is required to register under federal or military law; or**

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis in Missouri. Part-time in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 applies shall, within ten days of coming into any county, register with the chief law enforcement official of the county in which such person resides. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town or village 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 or village law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 to 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.410. **1.** The chief law enforcement official shall forward the completed offender registration form to the [central repository] within [ten] **three** days. The patrol shall enter the information into the Missouri uniform law enforcement system (MULES) where it is available

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to members of the criminal justice system upon inquiry.

2. The department of public safety shall develop and maintain a system for making the registry of persons who have pled guilty to or been convicted of a third or subsequent sexual offense requiring registration, and have demonstrated predatory behavior, available on its Internet web site. Notwithstanding the provisions of section 589.417 to the contrary, the information to be available on the Internet shall include the person's name; date of birth; address of residence; crime which requires registration; whether such person was sentenced as a predatory or persistent sexual offender pursuant to section 558.018, RSMo, date, place and brief description of such crime; of such conviction or plea regarding such crime; age and gender of the victim at the time of the offense; photograph, and such other information as the department of public safety may determine is necessary to preserve public safety. The system shall be secure and not capable of being altered except by or through the department of public safety.

3. The information shall be removed from the Internet after twenty years unless the offender has pled guilty to or been found guilty of a sexual offense pursuant to chapter 566, RSMo, during such time period.

589.414. 1. If any person required by sections 589.400 to 589.425 to register changes residence or address within the same county as such person's previous address, the person shall inform the chief law enforcement official in writing within ten days of such new address and phone number, if the phone number is also changed.

2. If any person required by [section] **sections** 589.400 to 589.425 to register changes such person's residence or address to a different 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 having jurisdiction over the new residence or address in writing within ten 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 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 having jurisdiction over the new residence or address within ten days of such new address. Whenever a registrant changes residence, the chief law enforcement official of the county where the person was previously registered shall promptly inform the Missouri state highway patrol of the change. When the registrant is changing the residence to a new state, the Missouri state highway patrol shall promptly inform the responsible official in the new state of residence.**

3. Any person required by sections 589.400 to 589.425 to register who officially changes such person's name shall inform the chief law enforcement officer of such name change within seven days after such change is made.

4. In addition to the requirements of subsections 1 and 2 of this section, the following offenders shall [contact] **report in person to** the county law enforcement agency every ninety days to verify the information contained in their statement made pursuant to section 589.407:

(1) Any offender registered as a predatory or persistent sexual offender **as defined in section 558.018, RSMo**;

(2) 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

(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.

5. In addition to the requirements of subsections 1 and 2 of this section, all registrants shall report annually in person in the month of their birth to the county law enforcement agency to verify the information contained in their statement made pursuant to section 589.407.

6. In addition to the requirements of

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subsections 1 and 2 of this section, all Missouri registrants who work or attend school or training on a full-time or part-time basis in any other state 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 fourteen days in any twelve-month period.

589.425. 1. Any person who is required to register pursuant to sections 589.400 to 589.425 and[:

(1) Includes any false information in such person's registration statement; or

(2) Fails to register; or

(3) Fails to timely verify registration information pursuant to section 589.414;] **does not meet all requirements of sections 589.400 to 589.425** is guilty of a class A misdemeanor.

2. Any person who commits a second or subsequent violation of subsection 1 of this section is guilty of a class D felony.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of [five] **ten** dollars shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of [five] **ten** dollars shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with [section 514.015] **sections 488.010 to 488.020**, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

[3.] **4.** The remaining funds collected [under] **pursuant to** subsection 1 of this section shall be **devoted to the payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system, which may include Internet capabilities, is established pursuant to subsection 3 of section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be** subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the

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first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100;

[4.] **5.** The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the division of workers' compensation and the department of public safety, respectively.

[5.] **6.** The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by [section 514.015] **sections 488.010 to 488.020**, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100.

[6.] **7.** These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

[7.] **8.** In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars if the conviction is for a class A or B felony; forty-six dollars if the conviction is for a class C or D felony; and ten dollars if the conviction is for any misdemeanor [under] **pursuant to** the following Missouri laws:

(1) Chapter 195, RSMo, relating to drug regulations;

(2) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;

(3) Chapter 491, RSMo, relating to witnesses;

(4) Chapter 565, RSMo, relating to offenses against the person;

(5) Chapter 566, RSMo, relating to sexual offenses;

(6) Chapter 567, RSMo, relating to prostitution;

(7) Chapter 568, RSMo, relating to offenses against the family;

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(8) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;

(9) Chapter 570, RSMo, relating to stealing and related offenses;

(10) Chapter 571, RSMo, relating to weapons offenses;

(11) Chapter 572, RSMo, relating to gambling;

(12) Chapter 573, RSMo, relating to pornography and related offenses;

(13) Chapter 574, RSMo, relating to offenses against public order;

(14) Chapter 575, RSMo, relating to offenses against the administration of justice;

(15) Chapter 577, RSMo, relating to public safety offenses. Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by [section 514.015] **sections 488.010 to 488.020**, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

[8.] **9.** The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

[9.] **10.** The clerks of the court shall report all delinquent payments to the department of revenue by October first of each year for the preceding fiscal year, and such sums may be withheld pursuant to subsection [14] **15** of this section.

[10.] **11.** The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection [17] **18** of this section and shall maintain separate records of collection for alcohol-related offenses.

[11.] **12.** Notwithstanding any other provision of law to the contrary, the provisions of subsections [8 and] 9 **and 10** of this section shall expire and be of no force and effect upon the effective date of the supreme court rule adopted pursuant to [section 514.015] **sections 488.010 to 488.020**, RSMo.

[12.] **13.** The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

[13.] **14.** All awards made to injured victims [under] **pursuant to** sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

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[14.] **15.** When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

[15.] **16.** All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

[16.] **17.** Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

[17.] **18.** Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines.”; and

Further amend said bill, Page 153, Section 610.120, Line 21 of said page, by inserting after all of said line the following:

“**650.300. As used in sections 650.300 to 650.310, the following terms shall mean:**

(1) “Catastrophic crime”, a violation of section 569.070, RSMo;

(2) “Office”, the office for victims of crime;

(3) “Private agency”, a private agency as defined in section 590.010, RSMo;

(4) “Public agency”, a public agency as defined in section 590.010, RSMo;

(5) “Victim of crime”, a person afforded rights as a victim or entitled to compensation or services as a victim pursuant to chapter 595, RSMo.

650.310. 1. The “Office for Victims of Crime” is hereby created within the department of public safety for the purpose of promoting the fair and just treatment of victims of crime, including victims of computer crimes. The office shall coordinate and promote the state's program for victims of crime and shall provide channels of communication among public and private agencies regarding their interrelation in the provision of victim services and other issues related to victims of crime. The office may directly assist victims of crime in seeking services and in exercising the rights afforded to victims of crime pursuant to chapter 595, RSMo, and the Missouri Constitution. In the event of a catastrophic crime, the office shall develop and coordinate the implementation of a response plan to meet the needs of any resulting victims of crime.

2. The department of corrections shall cooperate with the office for victims of crime in the establishment of a system to reimburse victims of crime for attending parole hearings. The office may reimburse a person for the costs of mileage and lost wages incurred by attendance at a parole hearing arising from a crime directly responsible for such person's status as a victim of crime.

3. The office for victims of crime shall assess and report to the governor the costs and benefits of establishing a statewide automated crime victim notification system within the criminal justice system and shall serve as the coordinating agency for the development, implementation, and maintenance of any such system. When the fiscal resources are available, the system may include Internet computer capabilities.

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4. The department of public safety may promulgate reasonable rules to meet the objectives of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void."; and

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

HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Bill No. 996, Page 3, Section 1.160, Line 1, by inserting at the end of said section the following:

"32.091. 1. As used in sections 32.090 and 32.091, the following terms mean:

(1) "Motor vehicle record", any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration or identification card issued by the department of revenue;

(2) "Person", an individual, organization or entity, but does not include a state or agency thereof;

(3) "Personal information", information that identifies an individual, including an individual's photograph, Social Security number, driver identification number, name, address, but not the five-digit zip code, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations and driver's status.

2. The department of revenue may disclose individual motor vehicle records pursuant to section 2721(b)(11) of Title 18 of the United States Code and may disclose motor vehicle records in bulk pursuant to section 2721(b)(12) of Title 18 of the United States Code in the manner prescribed in this section. The department shall provide to all individuals for which such records are maintained a method by which an individual may prohibit personal information in such individual's records from being disclosed pursuant to this section.

3. A notice that the personal information may be disclosed pursuant to this section and a notice of an individual's right to prohibit such disclosure shall be printed on all forms for issuance or renewal of motor vehicle titles and registrations prescribed in chapter 301, RSMo, and forms for issuance or renewal of motor vehicle operator's permits, licenses and personal identification cards issued pursuant to chapter 302, RSMo, in a clear and conspicuous manner. In addition, with respect to bulk disclosures, the department shall ensure that the personal information disclosed shall be used, rented or sold solely for bulk distribution for surveys, marketing and solicitations, and that such surveys, marketing and solicitations shall not be directed at individuals who have notified the department in a timely manner that they do not want the personal information contained in motor vehicle records disclosed.

4. Notwithstanding any other provision of law to the contrary, the department of revenue shall disclose any motor vehicle record or personal information permitted to be disclosed pursuant to sections 2721(b)(1) to 2721(b)(10) and 2721(b)(13) to 2721(b)(14) of Title 18 of the United States Code.

5. Pursuant to section 2721(b)(14) of Title 18 of the United States Code, any person who has a purpose to disseminate to the public a newspaper, book, magazine, broadcast or other similar form of public communication, including dissemination by computer or other electronic means, may request the department to provide individual or bulk motor vehicle records, such dissemination being related to the operation of a motor vehicle or to public safety. Upon receipt of such request, the department shall release the requested motor vehicle records. It is the public policy of this state that records be open

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to the public unless otherwise provided by law. The disclosure provisions of this section shall be liberally construed and the exemptions strictly construed to promote this public policy.

6. The department of revenue shall not provide any information on an operator's license issued pursuant to chapter 302, RSMo, except as provided in section 194.240, RSMo, section 302.181, RSMo, or section 302.740, RSMo, or otherwise provided by statute."; and

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Bill No. 996, Page 157, Section 6, Line 22, by inserting at the end of said section the following:

"**Section 7. Notwithstanding the provisions of section 56.360, the prosecuting attorney of any county of the fourth classification with a population of at least forty-eight thousand and not more than fifty thousand inhabitants shall devote full time to the prosecutor's office, and, except for the performance of official duties, shall not engage in the practice of law.**"; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Bill No. 996, Page 61, Section 221.407, by inserting after said section:

"**221.232. 1. No private person, corporation, partnership, business, association or other entity shall own or operate any jail within this state without meeting all of the requirements set forth in subsection 2 of this section. Neither shall any political subdivision contract with any private entity for the keeping of any person in a jail within this state unless the facility meets all of the requirements set forth in subsection 2 of this section. As used in this section, the term "jail" means a place of criminal confinement for pretrial defendants, persons sentenced to less than eighteen (18) months and persons awaiting revocation disposition.**

2. No private provider may acquire land or otherwise establish a presence in a community for the establishment of a jail unless all of the following requirements have been accomplished and documented. The private provider shall furnish:

(1) To local law enforcement agencies, hospital services and fire districts in the area affected formal written notification of the intent to establish a private jail prior to a public hearing;

(2) In the area affected a well-publicized hearing open to the public shall be held;

(3) Submission of an operational plan to the affected city or county council or both and formal approval by the council of the plan. The plan would include but not be limited to:

(a) Maximum security classification of individuals to be confined, the facility's custody level and its maximum capacity;

(b) Internal and perimeter security commensurate with security level;

(c) Written plans concerning infectious and contagious diseases, fire, power failure, transportation, escapes, riots and other emergency and natural disaster situations;

(d) Environmental impact statement concerning the effect of the facility on the surrounding community;

(e) Other factors specified by the jurisdiction;

(4) Documentation of management's prerequisite qualifications and experience;

(5) Documentation of the private provider's ability to furnish indemnification for liability arising from the operation of the proposed private jail;

(6) Documentation of the private provider's ability to meet applicable court orders, correctional standards and constitutional requirements for jails;

(7) Documentation of accreditation by the

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American Jail Association or American Correctional Association and the National Commission on Correctional Health Care."; and

Further amend title and enacting clause accordingly.

HOUSE AMENDMENT NO. 6

Amend House Substitute for House Committee Substitute for Senate Bill No. 996, Page 139, Section 570.030, Line 21, by inserting the following at the end of said section:

"570.033. **1.** Any person who, without lawful authority, willfully takes another's animal with the intent to deprive [him] **the other** of [his] **such** property is guilty of a class D felony.

2. Any person who knowingly misappropriates another's pet or a law enforcement or rescue animal with the intent to sell such pet is guilty of a class C felony.

3. Any person who knowingly purchases a stolen pet is guilty of a class C felony.

4. For the purposes of this section and section 570.035, "pet" means any domesticated animal, including those used for hunting and working stock, normally maintained in or near the household of the owner of such animal.

5. The department of public safety shall create a registry of missing or stolen pets. The department shall place such registry on the Internet to allow registration through the Internet and allow searches of the registry for animals listed as missing or stolen. Any person who has reported the loss of his or her pet to an appropriate law enforcement agency may register such pet with the department and shall include the date and place of the notification of an appropriate law enforcement agency and any of the pet's identifying features, tags, tattoos or electronic chips in such registry. The department may adopt rules to implement the provisions of this subsection. The department may charge a fee for registration that does not substantially exceed the cost of the program.

6. Any person purchasing a pet for research purposes shall examine such pet for identification markers and shall examine the missing or stolen pet registry. If the pet is found on the registry, the person shall contact the owner for verification. In the event the person believes that the pet may have been stolen, the person shall notify a department of law enforcement of the county in which the sale took place.

7. Any pet sold to a licensed dealer for research purposes shall be accompanied by a health certificate, issued by a licensed veterinarian, that includes all identifying features, tags, tattoos or electronic chips.

8. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

570.035. 1. No person shall knowingly remove any identification marker or tag from a stolen pet with the intent to sell such stolen pet.

2. Any person who violates the provisions of subsection 1 of this section is guilty of a class C felony."; and

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

HOUSE AMENDMENT NO. 7

Amend House Substitute for House Committee Substitute for Senate Bill No. 996, Page 127, Section 565.084, Line 23, by inserting the following after all of said line:

"565.090. 1. A person commits the crime of harassment if for the purpose of frightening or disturbing another person, he

(1) Communicates [in writing or by telephone] **by any means** a threat to commit any felony; or

(2) [Makes a telephone call or communicates in writing and] Uses coarse language offensive to one of average sensibility **in the course of communicating to another person**; or

(3) [Makes a telephone call anonymously] **Communicates in a manner that does not reveal the person's identity**; or

(4) [Makes repeated telephone calls] **Repeatedly communicates to another person**.

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2. Harassment is a class A misdemeanor **except that a violation of subdivision (1) or (4) of subsection 1 of this section is a class D felony**."; and

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

In which the concurrence of the Senate is respectfully requested.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HS** for **HCS** for **SCS** for **SB 894**, as amended: Senators Quick, Johnson, Mathewson, Sims and Singleton.

PRIVILEGED MOTIONS

Senator Schneider moved that the Senate refuse to concur in **HCS** for **SCS** for **SBs 678** and **742**, as amended, and request the House to recede from its position and, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Caskey moved that the Senate refuse to concur in **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 934**, **546**, **578**, **579** and **782**, as amended, and request the House recede from its position and, failing to do so, grant the Senate a conference thereon, which motion prevailed.

CONFERENCE COMMITTEE REPORTS

Senator Mathewson, on behalf of the conference committee appointed to act with a like committee from the House on **HS** for **HCS** for **SS** for **SB 902**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 902

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 902, with House Amendment No. 1, House Substitute Amendment No. 1 for House Amendment No. 2, House Amendments Nos. 3, 4 and 6; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 902, as amended;

2. That the Senate recede from its position on Senate Substitute for Senate Bill No. 902; and

3. That the attached Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 902, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Jim Mathewson	/s/ Joseph L. Treadway
/s/ Ronnie DePasco	/s/ Jim O'Toole
/s/ Stephen Stoll	/s/ James Foley
/s/ Larry Rohrbach	/s/ Jon Dolan
/s/ Steve Ehlmann	/s/ Matt Boatright

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

YEAS—Senators

Bentley	Carter	Clay	DePasco
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kinder
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Schneider	Scott	Sims
Staples	Steelman	Stoll	Wiggins
Yeckel—25			

NAYS—Senators

Caskey	Childers	Ehlmann	Kenney
Klarich	Russell	Singleton	Westfall—8

Absent—Senator Bland—1

Absent with leave—Senators—None

On motion of Senator Mathewson, **CCS** for **HS** for **HCS** for **SS** for **SB 902**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 902

An Act to repeal sections 313.008, 313.270, 313.805, 313.807, 313.812, 313.815, 313.817, 313.820, 313.822, 313.825, 313.827, 313.830 and 313.837, RSMo 1994, and sections 313.835 and 313.842, RSMo Supp. 1999, relating to gaming, and to enact in lieu thereof seventeen new sections relating to the same subject, with penalty provisions.

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

YEAS—Senators

Bentley	Bland	Carter	Childers
Clay	DePasco	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kinder	Mathewson	Maxwell
Quick	Rohrbach	Schneider	Scott
Sims	Singleton	Staples	Steelman
Stoll	Wiggins	Yeckel—27	

NAYS—Senators

Caskey	Ehlmann	Kenney	Klarich
Mueller	Russell	Westfall—7	

Absent—Senators—None

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

President Pro Tem Quick ruled the pending point of order relating to **SCS** for **HB 1292**, as amended, well taken.

CCR on **SCS** for **HB 1292**, as amended, was again taken up.

Senator Jacob renewed his motion to adopt the conference committee report.

President Wilson assumed the Chair.

Senator Singleton offered a substitute motion that the Senate refuse to concur in the conference committee report on **SCS** for **HB 1292**, as amended, and request the House to grant further conference and that the Senate conferees be bound to **SA 9**, as amended.

Senator Singleton requested a roll call vote be taken on the adoption of the substitute motion. He was joined in his request by Senators Wiggins, Russell, Childers and DePasco.

The substitute motion made by Senator Singleton failed of adoption by the following vote:

YEAS—Senators

Ehlmann	Graves	Johnson	Kenney
Kinder	Klarich	Russell	Scott
Singleton	Steelman	Westfall	Yeckel—12

NAYS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Flotron
Goode	House	Howard	Jacob
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Schneider	Sims	Staples
Stoll	Wiggins—22		

Absent—Senators—None

Absent with leave—Senators—None

Senator Singleton offered a substitute motion that the Senate refuse to concur in the conference committee report on **SCS** for **HB 1292**, as amended, and request the House to grant further conference and that the Senate conferees be bound to delete all language relating to nurse first assistants, which motion failed on a standing division vote.

Senator Singleton offered a substitute motion that the Senate refuse to concur in the conference committee report on **SCS** for **HB 1292**, as amended, and request the House to grant further conference and that the Senate conferees be bound to the language of **SA 9**.

Senator Caskey raised the point of order that the substitute motion is out of order since the language of **SA 9** exceeds the differences between the two bodies.

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

The motion to adopt the conference committee report was again taken up.

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

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **HS** for **HCS** for **SCS** for **SB 894**, as amended: Representatives Hoppe, Rizzo, Smith, Griesheimer and Richardson.

Senator Mathewson requested unanimous consent of the Senate for the Committee on State Budget Control to meet while the Senate is in session, which request was granted.

CONFERENCE COMMITTEE REPORTS

Senator Maxwell, on behalf of the conference committee appointed to act with a like committee from the House on **HS** for **HCS** for **SB 856**, as amended, submitted the following conference committee report no. 2:

CONFERENCE COMMITTEE REPORT NO. 2
ON HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 856

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on Parts I, II, IV and V of House Substitute for House Committee Substitute for Senate Bill No. 856 with House Amendment No. 1, House Substitute Amendment No. 1 for House Amendment No. 1, House Substitute Amendment No. 1 for House Amendment No. 2, House Amendment No. 5 to Part I, House Amendment No. 1, House Amendment No. 2, House Substitute Amendment No. 1 for House Amendment 3, House Substitute Amendment No. 1 for House Amendment No. 4, House Amendment 5, House Amendment 6, House Amendment 7, House Amendment 8, House Amendment 9, House Amendment 10, House Amendment 11 to Part II, House Amendment No. 1, House Substitute Amendment No. 1 for House Amendment No. 2, House Amendment No. 3, House Amendment No. 4, House Substitute No. 1 for House Amendment No. 5, House Amendment No. 6, House Amendment No. 7, House Amendment No. 8, House Amendment No. 9, House Amendment No. 10 to Part IV, and House Amendment No. 1 to Part V; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Substitute for House Committee Substitute for Senate Bill No. 856, as amended;

2. That the Senate recede from its position on Senate Bill No. 856;

3. That the attached Conference Committee Amendment No. 1 be adopted; and

4. That the attached Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Bill No. 856, with Conference Committee Amendment No. 1, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Joe Maxwell	/s/ Tim Harlan
/s/ Harry Wiggins	/s/ Jim Foley
/s/ Paula J. Carter	/s/ Yvonne Wilson
/s/ Marvin Singleton	/s/ Annie Reinhart
/s/ Roseann Bentley	/s/ Charlie Shields

CONFERENCE COMMITTEE AMENDMENT
NO. 1

Amend Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Bill No. 856, Page 12, Section 376.383, Lines 20-23 of said page, by striking all of said lines and inserting in lieu thereof the following:

"**(3) On or after April 1, 2001, that additional information is necessary to determine if all or part of the claim will be reimbursed and a complete description of all specific additional**

information that is necessary for the claim to be a clean claim."; and

Further amend said bill, Page 14, Section 376.383, Line 3 of said page, by inserting immediately after the closing bracket "]" the following: "**Effective April 1, 2001,**"; and

Further amend said bill, Page 14, Section 376.383, Lines 14-19 of said page, by striking all of said lines and inserting in lieu thereof the following: "**interest paid within the ten-day grace period. If the court finds that a violation of this section occurred before January 1, 2002, the court shall award to a prevailing plaintiff a penalty of twenty-five dollars per day beginning ten days following the date that interest pursuant to this section first becomes due, in addition to the claimed reimbursement and interest; unless the court finds that such violation occurred as a result of extreme circumstances beyond the control of the carrier. If the court finds that a violation of this section occurred on or after January 1, 2002, the court shall award to a prevailing plaintiff a penalty of fifty dollars per day beginning ten days following the date that interest pursuant to this section first becomes due, in addition to the claimed reimbursement and interest; unless the court finds that such violation occurred as a result of extreme circumstances beyond the control of the carrier.**"; and

Further amend said bill, Page 15, Section 376.384, Lines 6-9, by striking all of said lines and inserting in lieu thereof the following: "**electronically. Effective January 1, 2002, all claims which are filed for reimbursement with health carriers by health care providers and are submitted electronically shall be filed in a universal electronic claim form and format which is specified by the department of insurance. The department**"; and

Further amend said bill, Page 22, Section 376.895, Lines 15-19 of said page, by striking all of said lines and inserting in lieu thereof the following:

"**376.895. Any insurer providing coverage for a child with parents who are legally separated or divorced shall provide upon request information regarding covered benefits for such child to both parents regardless of whether the inquiring parent is the primary policyholder.**".

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

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

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SCS** for **SB 842**, entitled:

An Act to repeal section 320.091, RSMo 1994, and sections 320.094, 321.130 and 321.242, RSMo Supp. 1999, relating to fire protection, and to enact in lieu thereof eleven new sections relating to the same subject, with penalty provisions and an emergency clause for a certain section.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 842, Page 18, Section 321.242, Line 9 of said page, by inserting after all of said line the following:

"321.246. 1. The governing body of any fire protection district which operates within both a county of the first classification with a charter form of government and with a population greater than six hundred thousand but less than nine hundred thousand and a county of the fourth classification with a population greater than thirty thousand but less than thirty-five thousand and that adjoins a county of the first classification with a charter form of government, or the governing body of any fire protection district which contains a city of the fourth classification having a population greater than two thousand four hundred when the city is located in a county of the first classification

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without a charter form of government having a population greater than one hundred fifty thousand and the county contains a portion of a city with a population greater than three hundred fifty thousand may impose a sales tax in an amount of up to one-half of one percent on all retail sales made in such fire protection district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. **In addition, the governing body of any fire protection district which is located in a county of the third classification may impose a sales tax in an amount of up to one percent on all retail sales made in such fire protection district which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo.** The [tax] **taxes** authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed pursuant to the provisions of this section shall be effective unless the governing body of the fire protection district submits to the voters of the fire protection district, at a county or state general, primary or special election, a proposal to authorize the governing body of the fire protection district to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the fire protection district of .... (district's name) impose a district-wide sales tax of .... for the purpose of providing revenues for the operation of the fire protection district?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax authorized in this section shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the fire protection district shall not impose the sales tax authorized in this section unless and until the governing body of the fire protection district resubmits a proposal to authorize the governing body of the fire protection district to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon.

3. All revenue received by a fire protection district from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for the operation of the fire protection district.

4. All sales taxes collected by the director of revenue pursuant to this section on behalf of any fire protection district, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in the fire protection district sales tax trust fund established pursuant to section 321.242. The moneys in the fire protection district 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 and which was collected in each fire protection district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the fire protection district 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 fire protection district which levied the tax. Such funds shall be deposited with the treasurer of each such fire protection district, and all expenditures of funds arising from the fire protection district sales tax trust fund shall be for the operation of the fire protection district and for no other purpose.

5. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any fire protection district for erroneous payments and overpayments made and may redeem dishonored checks and drafts deposited to the credit of such fire protection districts. If any fire protection district abolishes the tax, the fire protection district 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

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year has elapsed after the effective date of abolition of the tax in such fire protection district, the director of revenue shall remit the balance in the account to the fire protection district and close the account of that fire protection district. The director of revenue shall notify each fire protection district of each instance of any amount refunded or any check redeemed from receipts due the fire protection district. In the event a tax within a fire protection district is approved under this section, and such fire protection district is dissolved, the tax shall lapse on the date that the fire protection district is dissolved and the proceeds from the last collection of such tax shall be distributed to the governing bodies of the counties formerly containing the fire protection district and the proceeds of the tax shall be used for fire protection services within such counties.

6. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section."; and

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

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SS** for **SCS** for **SBs 678** and **742**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **HCS** for **SS** for **SCS** for **SBs 678** and **742**, as amended: Representatives May 108, Monaco, Clayton, Lograsso and Richardson.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **HS** for **HCS** for **HB 1562** and **1433**, as amended, and requests the Senate to recede from its position, or failing to do so, grant the House 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 **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 934**, **546**, **578**, **579** and **782**, as amended, and grants the Senate a conference thereon.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HCS** for **SS** for **SCS** for **SBs 678** and **742**, as amended: Senators Schneider, Wiggins, Clay, Klarich and Ehlmann.

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 934**, **546**, **578**, **579** and **782**, as amended: Senators Caskey, Quick, DePasco, Ehlmann and Westfall.

PRIVILEGED MOTIONS

Senator Caskey moved that the Senate refuse to recede from its position on **SS** for **HS** for **HCS** for **HBs 1652** and **1433**, as amended, and grants the House a conference thereon, which motion prevailed.

Senator Staples assumed the Chair.

Senator Maxwell moved that **SS No. 2** for **SCS** for **SBs 757** and **602**, with **HS** for **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HS for **HCS** for **SS No. 2** for **SCS** for **SBs 757** and **602**, as amended, entitled:

HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 757 and 602

An Act to repeal sections 210.145, 210.152,

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210.192, 210.195, 491.074, 566.025, 566.067, 566.068, 568.110, 569.093, 573.010, 573.020, 573.025, 573.030, 573.035, 573.037, 573.040 and 660.520, RSMo 1994, and sections 210.001, 210.109, 210.115, 210.150, 453.005, 559.115, 589.400, 589.410, 589.414 and 589.425, RSMo Supp. 1999, and to enact in lieu thereof thirty new sections relating to the protection of children, with penalty provisions.

Was taken up.

Senator Maxwell moved that **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 757** and **602**, as amended, be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley Bland Carter Caskey
Childers Clay DePasco Ehlmann
Flotron Goode Graves House
Howard Jacob Johnson Kenney
Kinder Klarich Maxwell Mueller
Quick Rohrbach Russell Schneider
Scott Sims Singleton Staples
Steelman Stoll Westfall Wiggins
Yeckel—33

NAYS—Senators—None

Absent—Senator Mathewson—1

Absent with leave—Senators—None

On motion of Senator Maxwell, **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 757** and **602**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley Bland Carter Caskey
Childers Clay DePasco Ehlmann
Flotron Goode Graves House
Howard Jacob Johnson Kenney
Kinder Klarich Mathewson Maxwell
Mueller Quick Rohrbach Russell
Schneider Scott Sims Singleton
Staples Stoll Westfall Wiggins
Yeckel—33

NAYS—Senators—None

Absent—Senator Steelman—1

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

Bill ordered enrolled.

CONFERENCE COMMITTEE REPORTS

Senator Goode, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SS** for **SS NO. 3** for **SJR 35**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE SUBSTITUTE NO. 3 FOR
SENATE JOINT RESOLUTION NO. 35

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Committee Substitute for Senate Substitute for Senate Substitute No. 3 for Senate Joint Resolution No. 35, with House Amendment No. 1 to House Substitute Amendment No. 1 for House Amendment No. 1 and House Substitute Amendment No. 1 for House Amendment No. 1, as amended; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Substitute for Senate Substitute No. 3 for Senate Joint Resolution No. 35, as amended;

2. The Senate recede from its position on Senate Substitute for Senate Substitute No. 3 for Senate Joint Resolution No. 35;

3. That the attached Conference Committee Substitute for House Committee Substitute for

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Senate Substitute for Senate Substitute No. 3 for Senate Joint Resolution No. 35, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Wayne Goode	/s/ Chuck Graham
/s/ John Schneider	/s/ Gracia Y. Backer
/s/ Jim Mathewson	/s/ Patrick Naeger 155
/s/ Peter Kinder	/s/ Don Summers 2
/s/ Franc Flotron	Ralph Monaco

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

Senator Clay offered a substitute motion that the Senate refuse to concur in the conference committee report on **HCS** for **SS** for **SS No. 3** for **SJR 35**, as amended, and request the House to grant the Senate a further conference thereon, which motion failed.

On motion of Senator Goode, the conference committee report on **HCS** for **SS** for **SS No. 3** for **SJR 35**, as amended, was adopted by the following vote:

YEAS—Senators

Bentley	Childers	DePasco	Flotron
Goode	Graves	House	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Sims	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—24

NAYS—Senators

Bland	Carter	Caskey	Clay
Howard	Russell	Singleton—7	

Absent—Senators

Ehlmann	Schneider	Scott—3

Absent with leave—Senators—None

On motion of Senator Goode, **CCS** for **HCS** for **SS** for **SS No. 3** for **SJR 35**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR SENATE SUBSTITUTE FOR SENATE SUBSTITUTE NO. 3 FOR SENATE JOINT RESOLUTION NO. 35

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 3 of article XIII of the Constitution of Missouri relating to the Missouri citizens' commission on the compensation for elected officials, and adopting one new section in lieu thereof relating to the same subject.

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

YEAS—Senators

Bentley	Childers	DePasco	Flotron
Goode	Graves	House	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Mueller	Quick
Rohrbach	Sims	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—24

NAYS—Senators

Bland	Carter	Caskey	Clay
Howard	Russell	Scott—7	

Absent—Senators

Ehlmann	Schneider	Singleton—3

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

Photographers from KY-3, Springfield, were given permission to take pictures in the Senate Chamber today.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Quick appointed the following conference committee to act with a like committee from the House on **SS** for **HS** for **HCS** for **HBs 1652** and **1433**, as amended: Senators Caskey, Scott, Mathewson, Russell and Bentley.

PRIVILEGED MOTIONS

Senator Quick, on behalf of the conference committee appointed to act with a like committee

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from the House on **HS** for **HCS** for **SCS** for **SB 894**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 894

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House on House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 894 begs leave to report that we, after free and fair discussion of the differences between the House and the Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 894;

2. That the Senate recede from its position on Senate Committee Substitute for Senate Bill No. 894;

3. That the attached Conference Committee Substitute be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Ed Quick	/s/ Thomas J. Hoppe
/s/ Sidney Johnson	Henry Rizzo
/s/ Jim Mathewson	/s/ Phil Smith
/s/ Betty Sims	/s/ Mark Richardson
/s/ Marvin Singleton	/s/ John Griesheimer

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

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Flotron
Goode	House	Howard	Jacob
Johnson	Klarich	Mathewson	Maxwell
Quick	Russell	Schneider	Scott
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—26		

NAYS—Senators

Ehlmann	Graves	Kenney	Kinder
Mueller	Rohrbach	Sims	Singleton—8

Absent—Senators—None

Absent with leave—Senators—None

On motion of Senator Quick, **CCS** for **HS** for **HCS** for **SCS** for **SB 894**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 894

An Act to repeal sections 53.135, 64.342, 67.547, 67.700, 71.285, 82.817, 140.110, 141.220, 141.540, 141.610, 178.870, 381.011, 381.021, 381.041, 381.051, 381.061, 381.081, 381.091, 381.101, 381.111, 381.121, 381.131, 381.141, 381.151, 381.161, 381.171, 381.181, 381.191, 381.201, 381.211, 381.221 and 381.241, RSMo 1994, sections 32.105, 32.110, 64.725, 67.582, 135.403, 135.484, 135.766, 137.073, 139.053, 140.160, 381.031, 381.231, 381.410, 381.412, 393.705, 393.715 and 620.1039, RSMo Supp. 1999, section 141.550 as enacted by house bills nos. 977 and 1608 of the second regular session of the eighty-ninth general assembly, section 141.550 as enacted by senate bill no. 778 of the second regular session of the eighty-ninth general assembly, relating to property ownership, and to enact in lieu thereof seventy new sections relating to the same subject, with penalty provisions, an emergency clause for a certain section and an effective date for certain sections.

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

YEAS—Senators

Bland	Carter	Caskey	Clay
DePasco	House	Howard	Jacob
Johnson	Klarich	Mathewson	Maxwell
Quick	Scott	Singleton	Staples
Stoll	Wiggins—18		

NAYS—Senators

Bentley	Childers	Ehlmann	Flotron
Goode	Graves	Kenney	Kinder

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Mueller	Rohrbach	Russell	Sims
Steelman	Westfall	Yeckel—15	

Absent—Senator Schneider—1

Absent with leave—Senators—None

The President declared the bill passed.

The emergency clause failed to receive the necessary two-thirds majority by the following vote:

YEAS—Senators

Bland	Carter	Caskey	Clay
DePasco	Goode	House	Howard
Jacob	Johnson	Mathewson	Maxwell
Quick	Scott	Staples	Stoll
Wiggins—17			

NAYS—Senators

Bentley	Childers	Ehlmann	Flotron
Graves	Kenney	Kinder	Klarich
Mueller	Rohrbach	Russell	Sims
Singleton	Steelman	Westfall	Yeckel—16

Absent—Senator Schneider—1

Absent with leave—Senators—None

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

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

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

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **SB 892**, entitled:

An Act to repeal section 221.120, RSMo Supp. 1999, relating to medical expenses of prisoners, and to enact in lieu thereof one new section relating to the same subject.

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 921**.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend Senate Bill No. 921, Page 1, In the Title, Line 2, by inserting immediately after "section" the following: "334.128, RSMo 1994, and section"; and

Further amend said bill, Page 1, In the Title, Line 3, by deleting "one new section" and inserting in lieu thereof the following: "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. Section 334.128, RSMo 1994, and section 334.120, RSMo Supp. 1999, are repealed and two new sections enacted in lieu thereof, to be known as sections 334.120 and 334.128, to read as follows:"; and

Further amend said bill, Page 2, Section 334.120, Line 46, by inserting immediately after said line the following:

"334.128. Any person who reports or provides information to the board, or any person who assists the board, including, but not limited to, applicants or licensees who are the subject of an investigation, physicians serving on competency panels, medical record custodians, consultants, **physicians' health programs operated in this state approved by the board for impaired physicians and individuals working, consulting or participating in the physicians' health program,** attorneys, board members, agents, employees or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the board pursuant to the provisions of this chapter**, or based upon voluntary participation by the licensee in the physicians' health program or upon any stipulation or order of the board mandating the licensee to the physicians' health program,** and who does so in good faith and without malice shall not be subject to an action for civil damages as a result thereof, and no cause of action of any nature shall arise against him **or her**. The attorney general shall defend such persons in any such

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action or proceeding."; 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 Speaker has appointed the following conferees to act with a like committee from the Senate on **HS** for **HCS** for **SS No. 2** for **SCS** for **SBs 934**, **546**, **578**, **579** and **782**, as amended: Representatives Hosmer, Parker, Schilling, Alter and Barnett.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **SS** for **HS** for **HCS** for **HBs 1652** and **1433**, as amended: Representatives Hoppe, Hollingsworth, Hosmer, Dolan and Griesheimer.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SS** for **HS** for **HCS** for **HB 1797**, as amended, and has taken up and passed **SS** for **HS** for **HCS** for **HB 1797**, as amended by the CCR.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HS** for **HB 1238**, as amended, and has taken up and passed **CCS** for **SCS** for **HS** for **HB 1238**.

Emergency clause adopted.

PRIVILEGED MOTIONS

Senator DePasco moved that **SB 996**, with **HS** for **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HS for **HCS** for **SB 996**, as amended, entitled:

HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 996

An Act to repeal sections 1.160, 43.500, 43.518, 43.521, 43.530, 43.543, 50.550, 150.380, 217.750, 516.371, 537.046, 544.170, 199.200, 565.030, 565.060, 570.020, 570.080, 570.090, 570.120, 575.110, 575.230 and 610.120, RSMo 1994, and sections 43.503, 43.506, 150.465, 195.017, 199.170, 199.180, 210.865, 211.321, 302.302, 304.012, 552.020, 552.040, 556.036, 556.037, 556.061, 558.018, 558.019, 559.021, 565.070, 565.084, 570.010, 570.030 and 577.020, RSMo Supp. 1999, relating to crimes and punishment, and to enact in lieu thereof sixty-eight new sections relating to the same subject, with penalty provisions.

Was taken up.

Senator DePasco moved that **HS** for **HCS** for **SB 996**, as amended, be adopted.

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

Senator DePasco moved that the Senate refuse to concur in **HS** for **HCS** for **SB 996**, as amended, and request the House to recede from its position and take up and pass **SB 996**, which motion prevailed.

MESSAGES FROM THE HOUSE

The following message was received from the House 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 **HS** for **HCS** for **SS** for **SCS** for **SB 925**, entitled:

An Act to amend chapters 26 and 262, RSMo, by adding thereto ten new sections relating to agriculture, with an emergency clause for a certain section.

With House Amendments Nos. 1, 2, 3, 4 and 5.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Substitute for

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Senate Committee Substitute for Senate Bill No. 925, Page 5, Section 26.700, Line 4 of said page, by inserting after all of said line the following:

"32.105. As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

Size of Household	Percent of State or Geographic Area Family Median Income
One Person	35%
Two Persons	40%
Three Persons	45%
Four Persons	50%
Five Persons	54%
Six Persons	58%
Seven Persons	62%
Eight Persons	66%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;

(4) "Commission", the Missouri housing development commission;

(5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

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(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed four million dollars from within any one fiscal year's allocation. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111, may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) **"Eligible farmer's market", a group of farmers, each of whom farms agricultural land located within this state which he or she rents or owns, and who have formed a group for the purpose of allowing each member farmer to sell his or her products derived from his or her farming activities to the public at a common structure or building when at least fifty percent of the costs of such structure or building are paid for by such group of farmers;**

(12) "Eligible new generation cooperative", as defined in section 348.340, RSMo;

(13) "Homeless assistance pilot project", the program established pursuant to section 32.117;

[(12)] **(14)** "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

[(13)] **(15)** "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not for profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964; **or**

(d) Contributing funds to help finance a building or structure or purchase equipment located within this state and used to sell agricultural food products or to add value to food products produced in this state by members of an eligible new generation cooperative; or contributing funds to help finance a building or structure or purchase equipment owned by a not-for-profit organization located within this state and used to sell agricultural food products or to add value to food products produced by family farms as

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defined in subdivision (4) of section 350.010, RSMo, or family farm corporations as defined in subdivision (5) of section 350.010, RSMo;

[(14)] **(16)** "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

[(15)] **(17)** "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

[(16)] **(18)** "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

32.110. Any business firm which engages in the activities of providing physical revitalization, economic development, job training or education for individuals, community services, **eligible farmers markets** or crime prevention in the state of Missouri shall receive a tax credit as provided in section 32.115 if the director of the department of economic development annually approves the proposal of the business firm; except that, no proposal shall be approved which does not have the endorsement of the agency of local government within the area in which the business firm is engaging in such activities which has adopted an overall community or neighborhood development plan that the proposal is consistent with such plan. The proposal shall set forth the program to be conducted, the neighborhood area to be served, why the program is needed, the estimated amount to be contributed to the program and the plans for implementing the program. If, in the opinion of the director of the department of economic development, a business firm's contribution can more consistently with the purposes of sections 32.100 to 32.125 be made through contributions to a neighborhood organization as defined in subdivision (12) of section 32.105, tax credits may be allowed as provided in section 32.115. The director of the department of economic development is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval and for establishing priorities for approval or disapproval of such proposals by business firms with the assistance and approval of the director of the department of revenue. The total amount of tax credit granted for programs approved pursuant to sections 32.100 to 32.125 shall not exceed fourteen million dollars in fiscal year 1999 and twenty-six million dollars in fiscal year 2000, and any subsequent fiscal year, except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117. All tax credits authorized pursuant to the provisions of sections 32.100 to 32.125 may be used as a state match to secure additional federal funding. **The total amount of tax credits allowed for programs of neighborhood organizations defined pursuant to paragraph (d) of subdivision (15) of section 32.105 is two and one-half million dollars per fiscal year for fiscal years 2002 to 2006.**

32.116. Notwithstanding any provision of law to the contrary, tax credits authorized to be used against the tax otherwise due pursuant to chapter 148, RSMo, may be used by insurers on their quarterly estimated installments and reconciling installment for payment of taxes due for the current year or any other year authorized by the underlying tax credit.

135.813. 1. Any taxpayer who has provided funds to the department of economic development for the support of a rural housing development revolving loan pilot program, as provided in section 620.1350, shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer has contributed for the program.

2. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. Any amount of credit which exceeds the tax due shall not be refunded but may be carried over to any subsequent taxable year, not to exceed four years. The cumulative amount of tax credits

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which may be claimed by all the taxpayers in any one fiscal year shall not exceed two hundred ten thousand dollars.

3. The taxpayer shall apply for the credit to the department of economic development. The department may require the taxpayer to provide information that is reasonably necessary to determine the applicant's eligibility for a tax credit.

4. The department of economic development shall certify to the department of revenue each applicant which qualifies for the tax credit.

5. This section shall become effective January 1, 2002, and shall apply to all tax years after December 31, 2001.

261.032. The director of the department of agriculture shall, for the use of the marketing division of the department of agriculture, develop and implement rules and regulations by product category for all Missouri agricultural products included in the AgriMissouri marketing program or any equivalent successor program. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

261.037. 1. There is hereby created in the state treasury for the use of the marketing division of the state department of agriculture a fund to be known as "The Missouri Agricultural Products Marketing Development Fund". The general assembly shall appropriate to the fund from the general revenue fund one million three hundred thousand dollars for fiscal year 2002, one million dollars for fiscal year 2003 and seven hundred fifty thousand dollars for fiscal years 2004 through 2006. All moneys received by the state department of agriculture for Missouri agricultural products marketing development from any source, including trademark fees, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state department of agriculture, be expended by the marketing division of the state department of agriculture for purposes of Missouri agricultural products marketing development as specified in this section. The unexpended balance in the Missouri agricultural products marketing development fund at the end of the biennium shall not be transferred to the ordinary revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

2. There is hereby created within the department of agriculture the "Citizens' Advisory Commission for Marketing Missouri Agricultural Products". The commission shall establish guidelines for the spending by the marketing division of the department of agriculture of all moneys in the Missouri agricultural products marketing development fund created pursuant to subsection 1 of this section. The guidelines shall focus on the promotion of the AgriMissouri or successor trademark associated with Missouri agricultural products which has been approved by the general assembly, and shall advance the following objectives:

(1) Increasing the impact and fostering the effectiveness of local efforts to promote Missouri agricultural products;

(2) Enabling and encouraging expanded advertising efforts for Missouri agricultural products;

(3) Encouraging effective, high-quality advertising projects, innovative marketing strategies, and the coordination of local, regional and statewide marketing efforts;

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(4) Providing training and technical assistance to cooperative-marketing partners.

The commission shall establish a fee structure for sellers electing to use the AgriMissouri or successor trademark associated with Missouri agricultural products. Under the fee structure: (1) A seller having gross annual sales greater than two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri or successor trademark; and (2) All sellers having gross annual sales less than or equal to two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall, after three years of selling Missouri agricultural products carrying the AgriMissouri or successor trademark, shall remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri or successor trademark. All trademark fees shall be deposited to the credit of the Missouri agricultural products marketing development fund, created pursuant to section 261.037. The commission may also create two additional trademark labels to be associated with Missouri agricultural products which are certified organic products and certified family farm produced products.

3. The marketing division of the department of agriculture is authorized to promote rules consistent with the guidelines and fee structure established by the commission. No rules or portion of a rule shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate. One member shall be the director of the market development division of the department of agriculture. At least one member shall be a specialist in advertising; at least one member shall be a specialist in agribusiness; at least one member shall be a specialist in the retail grocery business; at least one member shall be a specialist in communications; at least one member shall be a specialist in product distribution; at least one member shall be a family farmer with expertise in livestock farming; at least one member shall be a family farmer with expertise in grain farming and at least one member shall be a family farmer with expertise in organic farming. Members shall serve for four-year terms, except in the first appointments three members shall be appointed for terms of four years, three members shall be appointed for terms of three years and three members shall be appointed for terms of two years each. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of the term of the member causing the vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by the commission.

5. Commission members shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties on the commission. The division of market development of the department of agriculture shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts and to conduct all other business of the commission. The commission shall meet quarterly and at any such time that it deems necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the members of the commission. Ten days notice shall be given in writing to such members prior to the meeting date. A simple majority of the members of the commission shall be present to constitute a quorum. Proxy voting shall not be permitted.

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261.038. The marketing division of the department of agriculture shall create an Internet web site for the purpose of fostering the marketing of Missouri agricultural products over the Internet. The web site shall allow consumers to place orders for Missouri agricultural products over the Internet and shall enable small companies which process Missouri agricultural products to pool products with other such small companies.

261.110. 1. The department of agriculture shall develop standards and labeling for organic farming.

2. The department of agriculture shall adopt rules to implement the provisions of this section.

3. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

262.260. **1.** The commission shall establish admission fees to be charged at the gates of the fairgrounds. The admission fees, revenues from the sale of privileges and revenues as a result of pari-mutuel wagering shall be payable to and collected by **the department of agriculture and transmitted to** the state director of revenue who shall deposit the same [in the general revenue fund to the credit of the state fair fee account] **to the credit of the "State Fair Fee Fund" which is hereby created in the state treasury. Such fund may also receive gifts, grants, contributions, appropriations and funds or benefits from any other source or sources**. The money in the state fair fee [account] **fund** may be used in improving and beautifying the grounds, paying premiums and defraying expenses of the state fair, including officers' salaries, the hire of assistants, expense and equipment, capital improvements and maintenance and repair.

2. The unexpended balance in the state fair fee fund at the end of each fiscal year shall not be transferred to the general revenue fund of the state, and the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund of the state by the state treasurer shall not apply to the state fair fee fund.

3. Any portion of the fund not immediately needed for the purposes authorized shall be invested by the state treasurer as provided by the constitution and laws of this state. All income from such investments shall be deposited in the state fair fee fund."; and

Further amend said bill, Page 10, Section 262.762, Line 16 of said page, by inserting after all of said line the following:

"**263.232. It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands to control the spread of and to eradicate by methods approved by the state department of agriculture cut-leaved teasel (Dipsacus laciniatus), common teasel (Dipsacus fullonum) and kudzu vine (Pueraria lobata) which are hereby designated as noxious and dangerous weeds to agriculture.**

348.430. 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

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

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility;

(5) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. For tax year 1999, a contributor who contributes funds to the authority may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution. The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill. A contributor that receives tax credits for a contribution provided in this section may not be a member, owner, investor or lender of an eligible new generation cooperative that receives financial assistance from the authority either at the time the contribution is made or for a period of two years thereafter.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall initially be claimed for the taxable year in which the contributor contributes funds to the authority. Any amount of credit that exceeds the tax due for a contributor's taxable year may be carried forward to any of the contributor's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred or sold. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407, to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority members or women shall be given consideration in the allocation of funds.

348.432. 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

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

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Development facility", a facility producing either a good derived from an

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agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) "Member", a person, partnership, corporation, trust or limited liability company that invests cash funds to an eligible new generation cooperative;

(5) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. Beginning tax year 1999, and subsequent tax years, any member who invests cash funds in an eligible new generation cooperative may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such member's investment or fifteen thousand dollars.

4. A member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall initially be claimed for the taxable year in which the member contributes capital to an eligible new generation cooperative. Any amount of credit that exceeds the tax due for a member's taxable year may be carried back to any of the member's three prior taxable years and carried forward to any of the member's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred**,** [or] sold **or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the member**. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. At least ten percent of the tax credits authorized pursuant to this section shall be offered in any fiscal year to projects with capital costs of no more than one million dollars. If the amount of tax credits allowed pursuant to this section exceeds the amount needed for such smaller projects, the remaining tax credits may be offered for projects with capital costs in excess of one million dollars.

6. If members of a project would be eligible for tax credits in excess of one million five hundred thousand dollars, tax credits authorized pursuant to this section shall be prorated between the members on a percent of investment basis, not to exceed the maximum allowed per member.

620.1350. 1. The department of economic development shall establish three rural housing development revolving loan pilot programs as provided in this section.

2. Three pilot programs shall provide loans for the construction of single family houses within incorporated communities with a population of five thousand or less in a county of the third classification.

3. The loans shall be at no interest and shall be made to nonprofit corporations. The amount of each loan shall be no more than seventy thousand dollars.

4. Any nonprofit corporation desiring to construct single family housing pursuant to section 620.1350 shall apply to the department for such funds. The application shall include information pertaining to, but not limited to, the following:

(1) The area in which the housing is intended to be constructed;

(2) A statement about the need for single family housing in such area;

(3) The time period required for

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constructing each home and making it available on the market;

(4) A list of the officers, with addresses and phone numbers, of the corporation;

(5) The assets and experience of the corporation and the individual or agency who will advise such corporation in the construction of such housing; and

(6) A statement as to availability and cost of sewage and water lines for such housing.

5. The department shall award loans to qualified nonprofit organizations according to the statement of need and compliance with this section.

6. The department shall set criteria that could result in the expiration of the loan, may require reasonable reports on the progress of housing construction and may inspect the construction sites and records of the nonprofit corporation.

7. A nonprofit corporation receiving a loan shall place the funds in an account to pay for the costs of construction, buying, selling, and preparing a property. Any interest earned on the account shall be kept in the account and used for the same purposes.

8. Upon the sale of a home, the proceeds shall be placed in the fund and used to finance the construction of another home or to repay the loan. Any deficit on a loan shall be repaid by the nonprofit corporation. Any surplus remaining after repayment of a loan shall remain in the fund to be used for the public benefit in construction or rehabilitation of housing.

9. Separate records shall be kept for the costs of each home built by the nonprofit corporation.

10. The construction of homes by nonprofit corporations pursuant to this section shall be done on site at a location where water and sewage services are available. Cities and other political subdivisions may waive the costs of connecting utilities or providing building permits or other services.

11. All homes shall be constructed in accordance with the rural development building standards of the United States Department of Agriculture or in urban areas shall meet the codes in effect in those communities, but additional consideration may be given to those entities constructing homes which incorporate basic elements of universal design for elderly and disabled occupants.

12. The nonprofit corporation may contract with other entities for the buying and selling of property and for construction of housing pursuant to this section.

13. Homes constructed by nonprofit corporations pursuant to this section shall be sold at cost plus a two thousand five hundred dollar administration fee. The administration fee may be used to pay an individual or agency with previous experience in housing construction for supervising the purchase of land and construction of each house. Any such agent of the corporation shall ensure that all legal and insurance requirements are met. Any part of the administration fee remaining after paying such costs shall be placed into the fund.

14. The buyer of the home may use any available financing mechanism to make the purchase, including any other state or federal assistance programs.

15. The nonprofit corporation shall establish priorities for selling homes to low income or moderate income persons and families, as defined in section 215.010, insofar as such buyers have financing arrangements completed previous to occupancy. The nonprofit corporation shall contact any local housing authority or community housing development organization to ascertain qualified buyers prior to the completion of construction.

16. The nonprofit corporation shall ensure that the sales contract shall contain a clause to prevent speculative purchases. The clause shall require an interest-free second mortgage to be obtained for the difference between the sale price and the appraised price, if any. The interest-free second mortgage shall be payable

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to the nonprofit organization and shall become due and payable to such organization if the buyer of the home sells the property prior to five years of ownership. The interest-free second mortgage shall be null and void after a period of five years following the closing date of the home purchase if the following requirements are met:

(1) The home has been the primary home of the purchaser for a period of five years after the closing date; and

(2) The property has not been used as rental property for such five-year period.

620.1353. 1. The "Rural Housing Development Revolving Loan Pilot Program Fund" is hereby established within the department of economic development. The fund shall consist of all moneys provided by taxpayers to support the rural housing development revolving loan pilot program pursuant to section 135.813, RSMo.

2. The fund shall be administered by the department of economic development. Upon appropriation, money in the fund shall be used solely for the purposes contained in section 620.1350. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Interest and moneys earned on such investments shall be credited to the fund.

3. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund shall not be transferred to the general revenue fund."; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 925, Page 13, Section 4, Lines 21-25, by deleting all of said lines and inserting in lieu thereof the following:

"**Section 4. Nothing in sections 1 to 3 of the farmland protection act shall apply to any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county as the boundary of that city existed on January 1, 2000 nor to any sewer district established pursuant to article VI, section 30(a) of the Missouri constitution as the boundary of said sewer district existed on January 1, 2000.**".

HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 925, Page 5, Section 26.700, Line 4 of said page, by inserting after all of said line the following:

"135.500. 1. Sections 135.500 to 135.529 shall be known and may be cited as the "Missouri Certified Capital Company Law".

2. As used in sections 135.500 to 135.529, the following terms mean:

(1) "Affiliate of a certified company":

(a) Any person, directly or indirectly owning, controlling or holding power to vote [ten] **fifteen** percent or more of the outstanding voting securities or other ownership interests of the Missouri certified capital company;

(b) Any person [ten] **fifteen** percent or more of whose outstanding voting securities or other ownership interest are directly or indirectly owned, controlled or held with power to vote by the Missouri certified capital company;

(c) Any person directly or indirectly controlling, controlled by, or under common control with the Missouri certified capital company;

(d) A partnership in which the Missouri certified capital company is a general partner;

(e) Any person who is an officer, director or agent of the Missouri certified capital company or an immediate family member of such officer, director or agent;

(2) "Applicable percentage", one hundred percent;

(3) "Capital in a qualified Missouri business **or qualified Missouri agricultural business**", any debt, equity or hybrid security, of any nature and description whatsoever, including a debt instrument

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or security which has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants which are acquired by a Missouri certified capital company as a result of a transfer of cash to a business. Capital in a qualified Missouri business shall not include secured debt instruments;

(4) "Certified capital", an investment of cash by an investor in a Missouri certified capital company;

(5) "Certified capital company", any partnership, corporation, trust or limited liability company, whether organized on a profit or not for profit basis, that is located, headquartered and registered to conduct business in Missouri that has as its primary business activity, the investment of cash in qualified Missouri businesses, and which is certified by the department as meeting the criteria of sections 135.500 to 135.529;

(6) "Department", the Missouri department of economic development;

(7) "Director", the director of the department of economic development or a person acting under the supervision of the director;

(8) "Investor", any insurance company that contributes cash;

(9) "Liquidating distribution", payments to investors or to the certified capital company from earnings;

(10) "Person", any natural person or entity, including a corporation, general or limited partnership, trust or limited liability company;

(11) "Qualified distribution", any distribution or payment to equity holders of a certified capital company in connection with the following:

(a) Reasonable costs and expenses of forming, syndicating, managing and operating the certified capital company;

(b) Management fees for managing and operating the certified capital company; and

(c) Any increase in federal or state taxes, penalties and interest, including those related to state and federal income taxes, of equity owners of a certified capital company which related to the ownership, management or operation of a certified capital company;

(12) "Qualified investment", the investment of cash by a Missouri certified capital company in such a manner as to acquire capital in a qualified Missouri business**, or in the case of certified capital raised after August 28, 2000, a qualified Missouri agricultural business**;

(13) "Qualified Missouri agricultural business", any independently owned and operated business, which is headquartered and located in Missouri, and which is either:

(a) A rural agricultural business whose projects add value to agricultural products and aid the economy of a rural community, including any development facility as defined in subdivision (3) of subsection 2 of section 348.430, RSMo, and whose gross sales during its most recent complete fiscal year shall not have exceeded five million dollars; or

(b) Any business that is an eligible borrower as described pursuant to section 4279.108 of the Rural Development Instructions of the United States Department of Agriculture and whose gross sales during its most recent complete fiscal year shall not have exceeded five million dollars.

[(13)] **(14)** "Qualified Missouri business", an independently owned and operated business, which is headquartered and located in Missouri and which is in need of venture capital and cannot obtain conventional financing. Such business shall have no more than two hundred employees, eighty percent of which are employed in Missouri. Such business shall be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, real estate development, insurance and professional services provided by accountants, lawyers or physicians. If such business has been in existence for three years or less, its gross sales during its most recent complete fiscal years shall not have exceeded four million dollars. If such business has been in existence for longer than three years, its

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gross sales during its most recent complete fiscal year shall not have exceeded three million dollars. Any business which is classified as a qualified Missouri business at the time of the first investment in such business by a Missouri certified capital company shall, for a period of seven years from the date of such first investment, remain classified as a qualified Missouri business and may receive follow-on investments from any Missouri certified capital company and such follow-on investments shall be qualified investments even though such business may not meet the other qualifications of this subsection at the time of such follow-on investments;

[(14)] **(15)** "State premium tax liability", any liability incurred by an insurance company pursuant to the provisions of section 148.320, 148.340, 148.370 or 148.376, RSMo, and any other related provisions, which may impose a tax upon the premium income of insurance companies after January 1, 1997.

135.503. 1. Any investor that makes an investment of certified capital shall, in the year of investment, earn a vested credit against state premium tax liability equal to the applicable percentage of the investor's investment of certified capital. An investor shall be entitled to take up to ten percent of the vested credit in any taxable year of the investor. Any time after three years after August 28, 1996, the director, with the approval of the commissioner of administration, may reduce the applicable percentage on a prospective basis. Any such reduction in the applicable percentage by the director shall not have any effect on credits against state premium tax liability which have been claimed or will be claimed by any investor with respect to credits which have been earned and vested pursuant to an investment of certified capital prior to the effective date of any such change.

2. An insurance company claiming a state premium tax credit earned through an investment in a certified capital company shall not be required to pay any additional retaliatory tax levied pursuant to section 375.916, RSMo, as a result of claiming such credit.

3. The credit against state premium tax liability which is described in subsection 1 of this section may not exceed the state premium tax liability of the investor for any taxable year. All such credits against state premium tax liability may be carried forward indefinitely until the credits are utilized. The maximum amount of certified capital in one or more certified capital companies for which earned and vested tax credits will be allowed in any year to any one investor or its affiliates shall be limited to ten million dollars.

4. Except as provided in subsection 5 of this section, the aggregate amount of certified capital for which earned and vested credits against state premium tax liability are allowed for all persons pursuant to sections 135.500 to 135.529 shall not exceed the following amounts: for calendar year 1996, $0.00; for calendar year 1997, an amount which would entitle all Missouri certified capital company investors to take aggregate credits of five million dollars; [and for any year thereafter, an additional amount to be determined by the director but not to exceed aggregate credits of ten million dollars for any year with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of section 33.282, RSMo, provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years to take them, pursuant to subsection 1 of this section] **in calendar year 1998, an amount which would entitle all Missouri certified capital company investors, on an aggregate basis, to take an additional five million dollars in tax credits; and for calendar year 2000, an amount which would entitle all Missouri certified capital company investors, on an aggregate basis, to take an additional five million dollars in tax credits. Thereafter, the aggregate amount of earned and vested certified capital company credits that may be taken on an annual basis by all Missouri certified capital company investors shall not exceed an amount equal to ten percent of the cumulative credits earned in respect of certified capital invested in previous years**. During any calendar year in which the limitation described in this subsection will limit the amount of certified capital for which earned and vested credits against state premium tax liability are allowed, certified

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capital for which credits are allowed will be allocated in order of priority based upon the date of filing of information described in subdivision (1) of subsection 5 of section 135.516. [Certified capital limited in any calendar year by the application of the provisions of this subsection shall be allowed and allocated in the immediately succeeding calendar year in the order of priority set forth in this subsection.] The department shall make separate allocations of certified capital for which credits are allowed under the limitations described in this subsection and under the limitations described in subsection 5 of this section.

5. In addition to the maximum amount pursuant to subsection 4 of this section, the aggregate amount of certified capital for which earned and vested credits against state premium tax liability are allowed for persons pursuant to sections 135.500 to 135.529 shall be the following: for calendar year 1999 and for any year thereafter, an amount to be determined by the director which would entitle all Missouri certified capital company investors to take aggregate credits not to exceed four million dollars for any year with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of section 33.282, RSMo, provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years or pursuant to the provisions of subsection 4 of this section to take them, pursuant to subsection 1 of this section. For purposes of any requirement regarding the schedule of qualified investments for certified capital for which earned and vested credits against state premium tax liability are allowed pursuant to this subsection only, the definition of a "qualified Missouri business" as set forth in subdivision [(13)] **(14)** of subsection 2 of section 135.500 means a Missouri business that is located in a distressed community as defined in section 135.530, and meets all of the requirements of subdivision [(13)] **(14)** of subsection 2 of section 135.500, except that its gross sales during its most recent complete fiscal year shall not have exceeded five million dollars. During any calendar year in which the limitation described in this subsection limits the amount of additional certified capital for which earned and vested credits against state premium tax liability are allowed, additional certified capital for which credits are allowed shall be allocated in order of priority based upon the date of filing of information described in subdivision (1) of subsection 5 of section 135.516 with respect to such additional certified capital. The department shall make separate allocations of certified capital for which credits are allowed under the limitations described in this subsection and under the limitations described in subsection 4 of this section. No limitation applicable to any certified capital company with respect to certified capital for which credits are allowed pursuant to subsection 4 of this section shall limit the amount of certified capital for which credits are allowed pursuant to this subsection. No limitation applicable to any certified capital company with respect to certified capital for which credits are allowed pursuant to this subsection shall limit the amount of certified capital for which credits are allowed pursuant to subsection 4 of this section.

6. The department shall advise any Missouri certified capital company, in writing, within fifteen days after receiving the filing described in subdivision (1) of subsection 5 of section 135.516 whether the limitations of subsection [3] **4** of this section then in effect will be applicable with respect to the investments and credits described in such filing with the department.

135.516. 1. To continue to be certified, a Missouri certified capital company shall make qualified investments according to the following schedule:

(1) Within two years after the date on which a Missouri certified capital company is designated as a Missouri certified capital company at least twenty-five percent of its certified capital shall be, or have been, placed in qualified investments;

(2) Within three years after the date on which a Missouri certified capital company is designated as a Missouri certified capital company at least forty percent of its certified capital shall be, or have been, placed in qualified investments;

(3) Within four years after the date on which a Missouri certified capital company is designated

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as a Missouri certified capital company, at least fifty percent of its total certified capital shall be, or have been, placed in qualified investments **and in the case of any certified capital raised after August 28, 2000, at least twenty-five percent of which in terms of dollars shall be, or have been, placed in qualified investments in qualified Missouri agricultural businesses**. A Missouri certified capital company may not make an investment in an affiliate of the certified capital company. For the purposes of this subsection, if a legal entity is not an affiliate before a certified capital company initially invests in the entity, it will not be an affiliate if a certified capital company provides additional investment in such entity subsequent to its initial investment;

(4) A certified capital company, at least fifteen working days prior to making what it determines to be an initial qualified investment in a specific qualified Missouri business, shall certify to the department that the company in which it proposes to invest meets the definition of a qualified Missouri business pursuant to subdivision (14) of subsection 2 of section 135.500. The certified capital company shall state the amount of capital it intends to invest and the name of the business in which it intends to invest. The certified capital company shall also provide to the department an explanation of its determination that the business meets the definition of a qualified Missouri business. If the department determines that the business does not meet the definition of a qualified Missouri business, it shall, within the fifteen-working-day period prior to the making of the proposed investment, notify the certified capital company of its determination and an explanation thereof. If the department fails to notify the certified capital company with respect to the proposed investment within the fifteen-working-day period prior to the making of the proposed investment, the company in which the certified capital company proposes to invest shall be deemed to be a qualified Missouri business. If a certified capital company fails to notify the department prior to making an initial investment in a business, the department may subsequently determine that the business in which the certified capital company invested was not a qualified Missouri business even though the business, at the time of the investment, met the requirements of subdivision (14) of subsection 2 of section 135.500;

(5) All certified capital which is not required to be placed in qualified investments or which has been placed in qualified investments and can be received by the company, may be held or invested in such manner as the Missouri certified capital company, in its discretion, deems appropriate**, including, subject to the approval of the department upon terms and conditions determined by it, investments with an investor of the Missouri certified capital company or an affiliate or subsidiary of such investor of the Missouri certified capital company which is providing a guarantee, indemnity, bond, insurance policy or other guaranteed payment undertaking in favor of the investors that have invested certified capital in the Missouri certified capital company and which is rated AA or better by Standard and Poor's Ratings Group or the equivalent by another nationally recognized agency**. The proceeds of all certified capital which is received by a certified capital company after it was originally placed in qualified investments may be placed again in qualified investments and shall count toward any requirement in sections 135.500 to 135.529 with respect to placing certified capital in qualified investments.

2. A certified capital company may make qualified distributions at any time. In order to make distributions, other than qualified distributions, a certified capital company must have placed an amount cumulatively equal to one hundred percent of its certified capital in qualified investments **and, with respect to qualified investments made with certified capital raised after August 28, 2000, twenty-five percent of such qualified investment must be in qualified Missouri agricultural businesses**. Cumulative distributions to equity holders, other than qualified distributions, in excess of the certified capital company's original certified capital and any additional capital contributions to the certified capital company shall be subject to audit by a

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nationally recognized certified public accounting firm acceptable to the department, at the expense of the certified capital company. The audit shall determine whether aggregate cumulative distributions to all investors and equity holders, other than qualified distributions, when combined with all tax credits utilized by investors pursuant to sections 135.500 to 135.529, have resulted in an annual internal rate of return of fifteen percent computed on the sum of total original certified capital of the certified capital company and any additional capital contributions to the certified capital company. Twenty-five percent of distributions made, other than qualified distributions, in excess of the amount required to produce a fifteen percent annual internal rate of return, as determined by the audit, shall be payable by the certified capital company to the Missouri development finance board. Distributions or payments to debt holders of a certified capital company, however, may be made without restriction with respect to debt owed to them by a certified capital company. A debt holder that is also an investor or equity holder of a certified capital company may receive distributions or payments with respect to such debt without restriction.

3. No qualified investment may be made at a cost to a Missouri certified capital company greater than fifteen percent of the total certified capital under management of the Missouri certified capital company at the time of investment.

4. Documents and other materials submitted by Missouri certified capital companies or by businesses for purposes of the continuance of certification may be deemed "closed records" pursuant to the provisions of section 620.014, RSMo.

5. Each Missouri certified capital company shall report the following to the department:

(1) As soon as practicable after the receipt of certified capital, the name of each investor from which the certified capital was received, the amount of each investor's investment of certified capital and tax credits computed without regard to any limitations under subsection [3] **4** of section 135.503, and the date on which the certified capital was received;

(2) On a quarterly basis, the amount of the Missouri certified capital company's certified capital at the end of the quarter, whether or not the Missouri certified capital company has invested more than fifteen percent of the total certified capital under management in any one company, and all qualified investments that the Missouri certified capital company has made;

(3) Each Missouri certified capital company shall provide annual audited financial statements to the department which include an opinion of an independent certified public accountant to the department within ninety days of the close of the fiscal year. The audit shall address the methods of operation and conduct of the business of the Missouri certified capital company to determine if the Missouri certified capital company is complying with the statutes and program rules and that the funds received by the Missouri certified capital company have been invested as required within the time limits provided by sections 135.500 to 135.529."; and

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 925, Page 10, Section 262.762, Line 16, by inserting after all of said line the following:

"**263.232. It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands to control the spread of and to eradicate by methods approved by the state department of agriculture cut-leaved teasel (Dipsacus laciniatus), common teasel (Dipsacus fullonum) and kudzu vine (Pueraria lobata)**

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which are hereby designated as noxious and dangerous weeds to agriculture."; and

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

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 925, Page 10, Section 262.762, by inserting after Line 16 the following:

"**4. The provisions of Sections 262.750, 262.753, 262.756, 262.759 and 262.762 shall become effective on January 1, 2001.**".

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

PRIVILEGED MOTIONS

Senator Scott moved that **SB 921**, with **HA 1**, be taken up for 3rd reading and final passage, which motion prevailed.

HA 1 was taken up.

Senator Scott moved that the above amendment be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Carter	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Jacob	Kenney	Kinder	Klarich
Mathewson	Maxwell	Mueller	Russell
Schneider	Scott	Sims	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senators—None

Absent—Senators

Bland	Johnson	Quick	Rohrbach
Singleton—5			

Absent with leave—Senators—None

On motion of Senator Scott, **SB 921**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Maxwell
Mueller	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

Bill ordered enrolled.

CONFERENCE COMMITTEE REPORTS

Senator Maxwell, on behalf of the conference committee appointed to act with a like committee from the House on **HS** for **HCS** for **SB 858**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 858

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Substitute for House Committee Substitute for Senate Bill No. 858, with House Amendments Nos. 1 and 2, House Substitute Amendment No. 1 for House Amendment No. 3, Part 1 of House Amendment No. 4, Part 2 of House Amendment No. 4, House Amendment No. 5,

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House Substitute Amendment No. 1 for House Amendment No. 6, House Amendment No. 9, House Substitute Amendment No. 1 for House Amendment No. 10, House Amendments Nos. 11, 12, 13, 14 and 15; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Substitute for House Committee Substitute for Senate Bill No. 858, as amended;

2. That the Senate recede from its position on Senate Bill No. 858;

3. That the attached Conference Committee Amendment No. 1 be adopted; and

4. That the attached Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Bill No. 858, with Conference Committee Amendment No. 1, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Joe Maxwell	/s/ Phil Smith
/s/ Ed Quick	/s/ Bill Skaggs
/s/ Lacy Clay	/s/ Ralph Monaco
/s/ Larry Rohrbach	Michael Gibbons
/s/ Steve Ehlmann	/s/ Luann Ridgeway

CONFERENCE COMMITTEE AMENDMENT NO. 1

Amend Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Bill No. 858, Page 16, Section 610.027, Line 14 of said page, by inserting after the word “a” the word “**knowing**”.

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

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

PRIVILEGED MOTIONS

Senator Quick moved that **SB 892**, with **HS**, be taken up for 3rd reading and final passage, which motion prevailed.

HS for **SB 892**, entitled:

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 892

An Act to repeal section 221.120, RSMo Supp. 1999, relating to medical expenses of prisoners, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Quick moved that **HS** for **SB 892**, be adopted, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Maxwell
Mueller	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

On motion of Senator Quick, **HS** for **SB 892**, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Maxwell
Mueller	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

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The President declared the bill passed.

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

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

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

Bill ordered enrolled.

Senator Caskey moved that **SS** for **SCS** for **SB 925**, with **HS** for **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HS for **HCS** for **SS** for **SCS** for **SB 925**, as amended, entitled:

HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 925

An Act to amend chapters 26 and 262, RSMo, by adding thereto ten new sections relating to agriculture, with an emergency clause for a certain section.

Was taken up.

Senator Caskey moved that **HS** for **HCS** for **SS** for **SCS** for **SB 925**, as amended, be adopted.

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

CONFERENCE COMMITTEE REPORTS

Senator Mathewson, on behalf of the conference committee appointed to act with a like committee from the House on **SCS** for **HS** for **HB 1238**, as amended, submitted the following report:

CONFERENCE COMMITTEE REPORT ON
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE BILL NO. 1238

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on Senate Committee Substitute for House Substitute for House Bill No. 1238, with Senate Amendments Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20 and 21; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Committee Substitute for House Substitute for House Bill No. 1238, as amended;

2. That the House recede from its position on House Substitute for House Bill No. 1238;

3. That the attached Conference Committee Substitute for Senate Committee Substitute for House Substitute for House Bill No. 1238, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Jim Mathewson	/s/ Thomas J. Hoppe
/s/ Ed Quick	/s/ Henry Rizzo
/s/ Sidney Johnson	/s/ Phil Smith
/s/ Doyle Childers	/s/ Don Lograsso
/s/ Walt Mueller	/s/ Judy Berkstresser

Senator Mathewson moved that the rules be suspended and that the conference committee report be adopted, **CCS** for **SCS** for **HS** for **HB 1238**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR SENATE COMMITTEE SUBSTITUTE
FOR HOUSE SUBSTITUTE FOR
HOUSE BILL NO. 1238

An Act to repeal sections 64.342, 67.1062, 67.1063, 71.014, 135.355, 140.160, 141.220, 141.540, 141.610 and 353.020, RSMo 1994, sections 67.410, 67.1401, 67.1461, 72.424, 82.300, 92.031, 135.481, 139.053, 140.110, 144.757, 144.759, 144.761, 249.470 and 260.210, RSMo Supp. 1999, and both versions of section 141.550 as they appear in RSMo Supp. 1999, relating to the use and improvement of property, and to enact in lieu thereof forty new sections relating to the same subject, with an emergency clause for certain sections and a termination date for a certain section.

Be read the 3rd time and finally passed and the emergency clause be adopted all in one vote, which motion prevailed by the following vote:

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YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Mueller
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

NAYS—Senators—None

Absent—Senator Maxwell—1

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

Senator Goode, on behalf of the conference committee appointed to act with a like committee from the House on **SS** for **HS** for **HCS** for **HB 1797**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
SENATE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1797

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House on Senate Substitute for House Substitute for House Committee Substitute for House Bill No. 1797 with Senate Amendment No. 1, Senate Amendment No. 2, Senate Amendment No. 3, Senate Amendment No. 4, Senate Amendment No. 6, Senate Amendment No. 7, Senate Amendment No. 9 and Senate Amendment No. 10, begs leave to report that we, after free and fair discussion of the differences between the House and the Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Amendment No. 3 and Senate Amendment No. 7;

2. That the House recede from its rejection of Senate Substitute for House Substitute for House Committee Substitute for House Bill No. 1797, with Senate Amendment No. 1, Senate Amendment No. 2, Senate Amendment No. 4, Senate Amendment No. 6, Senate Amendment No. 9 and Senate Amendment No. 10;

3. That the Senate Substitute for House Substitute for House Committee Substitute for House Bill No. 1797, with Senate Amendment No. 1, Senate Amendment No. 2, Senate Amendment No. 4, Senate Amendment No. 6, Senate Amendment No. 9 and Senate Amendment No. 10, and with attached Conference Committee Amendment No. 1, Conference Committee Amendment No. 2, Conference Committee Amendment No. 3 and Conference Committee Amendment No. 4, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Wayne Goode	/s/ Bill Gratz
/s/ Ed Quick	/s/ Jim Kreider 142
/s/ J. T. Howard	/s/ Chuck Graham
/s/ Morris Westfall	/s/ Charles Nordwald
/s/ Franc Flotron	/s/ Bill Tudor

CONFERENCE COMMITTEE AMENDMENT
NO. 1

Amend Senate Substitute for House Substitute for House Committee Substitute for House Bill No. 1797, Page 22, Section 303.406, Line 12 of said page, by inserting after the word "department" the following: "**and shall receive funding from the "Motorist Insurance Identification Database Fund", which is hereby created in the state treasury. Effective July 1, 2002, the state treasurer shall credit to and deposit in the motorist insurance identification database fund six percent of the net general revenue portion received from collections of the insurance premiums tax levied and collected pursuant to sections 148.310 to 148.461, RSMo.**".

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CONFERENCE COMMITTEE AMENDMENT NO. 2

Amend Senate Substitute for House Substitute for House Committee Substitute for House Bill No. 1797, Page 1, Section A, Line 7, by inserting after all of said line the following:

"**301.3051. 1. Any member of the Ancient Arabic Order, Nobles of the Mystic Shrine of North America (Shriners) or any person living within the state of Missouri and who has a motor vehicle which complies with the provisions of section 303.025, RSMo, may receive special license plates as prescribed in this section after an annual payment of an emblem-use authorization fee to the Shrine temple to which the person is a member in good standing. The Shrine temple described in this section shall authorize the use of its official emblem to be affixed on multi-year personalized license plates as provided in this section. Any contribution to such Shrine temple derived from this section, except reasonable administrative costs, shall be contributed to the Shriners Hospitals for Crippled and Burned Children. Any member of such Shrine temple may annually apply to the temple for the use of the emblem.**

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Shrine temple, the temple shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the member to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen-dollar fee in addition to the registration fees and documents which may be required by law, the department of revenue shall issue a personalized license plate, which shall bear the emblem of the Shrine, to the vehicle owner.

3. The license plate authorized by this section shall be in a form as prescribed in section 301.129, except that such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

4. A vehicle owner, who was previously issued a plate with the Shrine emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Shrine emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section."; and

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

CONFERENCE COMMITTEE AMENDMENT NO. 3

Amend Senate Substitute for House Substitute for House Committee Substitute for House Bill No. 1797, Page 1, In the Title, Line 2, by deleting the word "and" and inserting in lieu thereof a comma ","; and

Further amend said bill, Page 1, In the Title, Line 4, by inserting at the end of said line the following: "section 301.025, as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, and section 301.025, as enacted by the conference committee substitute no. 2 for house committee substitute for senate bill no. 778, eighty-ninth general assembly, second regular session,"; and

Further amend said bill, Page 1, In the Title, Line 6, by deleting the word "twelve" and inserting in lieu thereof the word "thirteen"; and

Further amend said bill, Page 1, Section A, Line 1, by deleting the word "and" and inserting in lieu thereof a comma ","; and

Further amend said bill, Page 1, Section A, Line 3, by deleting all of said line and inserting in lieu thereof the following: "303.412, 303.415, RSMo Supp. 1999, section 301.025, as enacted by conference committee substitute for house substitute for senate substitute for senate committee

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substitute for senate bill no. 19, ninetieth general assembly, first regular session, and section 301.025, as enacted by the conference committee substitute no. 2 for house committee substitute for senate bill no. 778, eighty-ninth general assembly, second regular session, are repealed and thirteen new"; and

Further amend said bill, Page 1, Section A, Line 5, by inserting at the beginning of said line the following: "301.025," and

Further amend said bill, Section A, Line 7, by inserting after all of said line the following:

"301.025. 1. No state registration license to operate any motor vehicle in this state shall be issued unless the application for license of a motor vehicle or trailer is accompanied by a tax receipt for the tax year which immediately precedes the year in which the vehicle's or trailer's registration is due and which reflects that all taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county or township collector of the county or township in which the applicant's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant or that no such taxes were due or, if the applicant is not a resident of this state and serving in the armed forces of the United States, the application is accompanied by a leave and earnings statement from such person verifying such status. In the event the registration is a renewal of a registration made two or three years previously, the application shall be accompanied by proof that taxes were not due or have been paid for the two or three years which immediately precede the year in which the motor vehicle's or trailer's registration is due. The county or township collector shall not be required to issue a receipt for the immediately preceding tax year until all personal property taxes, including all delinquent taxes currently due, are paid. **If the applicant was a resident of another county of this state in the applicable preceding years, he or she must submit to the collector in the county or township of residence proof that the personal property tax was paid in the applicable tax years.** Every county and township collector shall give each person a tax receipt or a certified statement of tangible personal property taxes paid. The receipt issued by the county collector in any county of the first classification with a charter form of government which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand inhabitants which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any county of the first classification without a charter form of government with a population of at least one hundred ten thousand but less than one hundred fifty thousand inhabitants shall be determined null and void if the person paying tangible personal property taxes issues or passes a check or other similar sight order which is returned to the collector because the account upon which the check or order was drawn was closed or did not have sufficient funds at the time of presentation for payment by the collector to meet the face amount of the check or order. The collector may assess and collect in addition to any other penalty or interest that may be owed, a penalty of ten dollars or five percent of the total amount of the returned check or order whichever amount is greater to be deposited in the county general revenue fund, but in no event shall such penalty imposed exceed one hundred dollars. The collector may refuse to accept any check or other similar sight order in payment of any tax currently owed plus penalty or interest from a person who previously attempted to pay such amount with a check or order that was returned to the collector unless the remittance is in the form of a cashier's check, certified check or money order. If a person does not comply with the provisions of this section, a tax receipt issued pursuant to this section is null and void and no state registration license shall be issued or renewed. Where no such taxes are due each such collector shall, upon request, certify such fact and transmit such statement to the person making the request. Each receipt or statement shall describe by type the total number of motor vehicles on which personal property taxes were paid, and no

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renewal of any state registration license shall be issued to any person for a number greater than that shown on his or her tax receipt or statement except for a vehicle which was purchased without another vehicle being traded therefor, or for a vehicle previously registered in another state, provided the application for title or other evidence shows that the date the vehicle was purchased or was first registered in this state was such that no personal property tax was owed on such vehicle as of the date of the last tax receipt or certified statement prior to the renewal. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms. **If electronic data is not available, residents of counties with a township form of government and with township collectors shall present personal property tax receipts which have been paid for the preceding two years when registering under this section.**

2. Every county collector in counties with a population of over six hundred thousand and less than nine hundred thousand shall give priority to issuing tax receipts or certified statements pursuant to this section for any person whose motor vehicle registration expires in January. Such collector shall send tax receipts or certified statements for personal property taxes for the previous year within three days to any person who pays the person's personal property tax in person, and within twenty working days, if the payment is made by mail. Any person wishing to have priority pursuant to this subsection shall notify the collector at the time of payment of the property taxes that a motor vehicle registration expires in January. Any person purchasing a new vehicle in December and licensing such vehicle in January of the following year, may use the personal property tax receipt of the prior year as proof of payment.

3. In addition to all other requirements, the director of revenue shall not register any vehicle subject to the heavy vehicle use tax imposed by Section 4481 of the Internal Revenue Code of 1954 unless the applicant presents proof of payment, or that such tax is not owing, in such form as may be prescribed by the United States Secretary of the Treasury. No proof of payment of such tax shall be required by the director until the form for proof of payment has been prescribed by the Secretary of the Treasury.

4. Beginning July 1, 2000, a county or township collector may notify, by ordinary mail, any owner of a motor vehicle for which personal property taxes have not been paid that if full payment is not received within thirty days the collector may notify the director of revenue to suspend the motor vehicle registration for such vehicle. Any notification returned to the collector by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. Thereafter, if the owner fails to timely pay such taxes the collector may notify the director of revenue of such failure. Such notification shall be on forms designed and provided by the department of revenue and shall list the motor vehicle owner's full name, including middle initial, the owner's address, and the year, make, model and vehicle identification number of such motor vehicle. Upon receipt of this notification the director of revenue may provide notice of suspension of motor vehicle registration to the owner at the owner's last address shown on the records of the department of revenue. Any suspension imposed may remain in effect until the department of revenue receives notification from a county or township collector that the personal property taxes have been paid in full. Upon the owner furnishing proof of payment of such taxes and paying a twenty dollar reinstatement fee to the director of revenue the motor vehicle or vehicles registration shall be reinstated. In the event a motor vehicle registration is suspended for nonpayment of personal property tax the owner so aggrieved may appeal to the circuit court of the county of his or her residence for review of such suspension at any time within thirty days after notice of motor vehicle registration suspension. Upon such appeal the cause shall be heard de novo in the manner provided by chapter 536, RSMo, for the review of administrative decisions. The circuit court may order the director to reinstate such registration, sustain the suspension of registration by the director or set aside or modify such suspension. Appeals from the judgment of the circuit court may be taken as in civil cases. The prosecuting attorney of the county where such

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appeal is taken shall appear in behalf of the director, and prosecute or defend, as the case may require.

5. [No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.**

> [301.025. 1. No state registration license to operate any motor vehicle in this state shall be issued unless the application for license of a motor vehicle or trailer is accompanied by a tax receipt for the tax year which immediately precedes the year in which the vehicle's or trailer's registration is due or a statement certified by the county or township collector of the county or township in which the applicant's property was assessed showing that the state and county tangible personal property taxes for such previous tax year have been paid by the applicant or that no such taxes were due or, if the applicant is not a resident of this state and serving in the armed forces of the United States, the application is accompanied by a leave and earnings statement from such person verifying such status. Every county and township collector shall give each person a tax receipt or a certified statement of tangible personal property taxes paid. The receipt issued by the county collector in any county of the first classification with a charter form of government which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand inhabitants which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any county of the first classification without a charter form of government with a population of at least one hundred ten thousand but less than one hundred fifty thousand inhabitants shall be determined null and void if the person paying tangible personal property taxes issues or passes a check or other similar sight order which is returned to the collector because the account upon which the check or order was drawn was closed or did not have sufficient funds at the time of presentation for payment by the collector to meet the face amount of the check or order. The collector may assess and collect in addition to any other penalty or interest that may be owed, a penalty of ten dollars or five percent of the total amount of the returned check or order whichever amount is greater to be deposited in the county general revenue fund, but in no event shall such penalty imposed exceed one hundred dollars. The collector may refuse to accept any check or other similar sight order in payment of any tax currently owed plus penalty or interest from a person who previously attempted to pay such amount with a check or order that was returned to the collector unless the remittance is in the form of a cashier's check, certified check or money order. If a person does not comply with the provisions of this section, a tax receipt issued pursuant to this section is null and void and no state registration license shall be issued or renewed. Where no such taxes are due each such collector shall, upon request, certify such fact and transmit such

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statement to the person making the request. Each receipt or statement shall describe by type the total number of motor vehicles on which personal property taxes were paid, and no renewal of any state registration license shall be issued to any person for a number greater than that shown on his or her tax receipt or statement except for a vehicle which was purchased without another vehicle being traded therefor, or for a vehicle previously registered in another state, provided the application for title or other evidence shows that the date the vehicle was purchased or was first registered in this state was such that no personal property tax was owed on such vehicle as of the date of the last tax receipt or certified statement prior to the renewal. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms.

2. Every county collector in counties with a population of over six hundred thousand and less than nine hundred thousand shall give priority to issuing tax receipts or certified statements pursuant to this section for any person whose motor vehicle registration expires in January. Such collector shall send tax receipts or certified statements for personal property taxes for the previous year within three days to any person who pays the person's personal property tax in person, and within twenty working days, if the payment is made by mail. Any person wishing to have priority pursuant to this subsection shall notify the collector at the time of payment of the property taxes that a motor vehicle registration expires in January. Any person purchasing a new vehicle in December and licensing such vehicle in January of the following year, may use the personal property tax receipt of the prior year as proof of payment.

3. In addition to all other requirements, the director of revenue shall not register any vehicle subject to the heavy vehicle use tax imposed by Section 4481 of the Internal Revenue Code of 1954 unless the applicant presents proof of payment, or that such tax is not owing, in such form as may be prescribed by the United States Secretary of the Treasury. No proof of payment of such tax shall be required by the director until the form for proof of payment has been prescribed by the Secretary of the Treasury.]"; and

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

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CONFERENCE COMMITTEE AMENDMENT NO. 4

Amend Senate Substitute for House Substitute for House Committee Substitute for House Bill No. 1797, Page 22, Section 303.406, Line 13 of said page by deleting the words "[may] **shall**" and inserting in lieu thereof the word "may"; and

Further amend said bill, Page 22, Section 303.406, Line 14 of said page, by deleting the number "**2001**" and inserting in lieu thereof the number "**2002**"; and

Further amend said bill, Page 23, Section 303.406, Line 1 of said page, by deleting the number "2001" and inserting in lieu thereof the following: "[2001] **2002**"; and

Further amend said bill, Page 29, Section 303.412, Line 25 of said page, by deleting the number "**2002**" and inserting the number "**2003**"; and

Further amend said bill, Page 31, Section 303.415, Line 10 of said page, by deleting the number "**2001**" and inserting in lieu thereof the number "**2002**"; and

Further amend said bill, Page 31, Section 303.415, Line 11 of said page, by deleting the number "**2006**" and inserting in lieu thereof the number "**2007**"; and

Further amend said bill, Page 31, Section 303.415, Line 14 of said page, by deleting the

number "2001" and inserting in lieu thereof the following: "[2001] **2002**"; and

Further amend said bill, Page 31, Section 303.415, Line 16 of said page, by deleting the number "**2006**" and inserting in lieu thereof the number "**2007**"; and

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

Senator Goode moved that the rules be suspended and that the conference committee report be adopted, **SS** for **HS** for **HCS** for **HB 1797**, as amended by the conference committee report, be read the 3rd time and finally passed all in one vote, which motion prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Jacob	Johnson	Kenney
Kinder	Klarich	Mathewson	Maxwell
Mueller	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

The President declared the bill passed.

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

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

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

Senator House, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SS** for **SB 813**, as amended, submitted the following conference committee report no. 2:

CONFERENCE COMMITTEE REPORT NO. 2
ON HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 813

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Committee Substitute for Senate Substitute for Senate Bill No. 813, with House Amendment Nos. 1, 3, 4, 5, 6, 7, House Substitute Amendment No. 2 for House Amendment No. 8, House Amendment No. 9, House Amendment No. 1 to House Amendment No. 10 and House Amendment No. 10, as amended, House Amendment Nos. 11, 12 and 13; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Substitute for Senate Bill No. 813, as amended;

2. That the Senate recede from its position on Senate Substitute for Senate Bill No. 813;

3. That the attached Conference Committee Substitute No. 2 for House Committee Substitute for Senate Substitute for Senate Bill No. 813 be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Ted House	/s/ Don Kissell
/s/ William Clay	/s/ Phillip Britt
/s/ Stephen Stoll	/s/ Steve McLuckie
/s/ Sarah Steelman	/s/ Jon Dolan
/s/ David J. Klarich	Rex Barnett

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

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

Senator Schneider, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SS** for **SCS** for **SBs 678** and **742**, as amended, submitted the following conference committee report no. 2:

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CONFERENCE COMMITTEE REPORT NO. 2
ON HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 678 and 742

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, with House Amendments Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18, House Amendment No. 1 to House Amendment No. 19, House Amendment No. 19, as amended, House Amendments Nos. 20, 21, 23, 24, 25, 26, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44 and 45; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, as amended;

2. That the Senate recede from its position on Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742; and

3. That the attached Conference Committee Amendment No. 1 be adopted; and

4. That the attached Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, with Conference Committee Amendment No. 1, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ John Schneider	/s/ Brian May
/s/ Harry Wiggins	/s/ Ralph Monaco
/s/ William Clay	/s/ Robert M. Clayton III
/s/ Steve Ehlmann	Mark Richardson
/s/ David J. Klarich	/s/ Don Lograsso

CONFERENCE COMMITTEE AMENDMENT NO. 1

Amend Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 678 and 742, Page 6, Section 34.046, Line 20 of said page, by inserting after all of said line by the following:

"34.055. 1. Except as otherwise provided in section 34.057, all invoices for supplies and services purchased by the state, duly approved and processed, shall be subject to interest charges or late payment charges as provided in this section.

2. After the [forty-fifth] **sixtieth** day following the later of the date of delivery of the supplies and services or the date upon which the invoice is [duly approved and processed] **presented**, interest retroactive to the thirtieth day shall be paid on any unpaid balance**, provided that such payment is not legitimately disputed,**[, except balances for services provided by a gas corporation, electrical corporation, water corporation, or sewer corporation which has received authorization from the public service commission to impose late payment charges on delinquent utility bills,] upon application of the vendor thereof. The rate of such interest shall be three percentage points above the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System. **The rate of interest paid on the undisputed, unpaid balance shall increase by two percent for each subsequent thirty-day period that the balance remains unpaid. In any case in which the state wrongfully contested payment without any reasonable dispute, the above rates of interest shall be trebled.**

3. **The interest and penalties authorized in subsection 2 of this section shall not apply to balances for services provided by a gas corporation, electrical corporation, water corporation, or sewer corporation which has received authorization from the public service commission to impose late payment charges on delinquent utility bills. Balances for such services shall be subject to the interest and penalties authorized pursuant to this subsection.** The state shall be liable for late payment charges on any delinquent bill for services purchased by the state from a gas corporation, electrical corporation, water corporation, or sewer corporation which has

received authorization from the public service commission to impose late payment charges on delinquent utility bills. The rate of such late payment charges shall be as established for each such corporation by order of the public service commission, but bills rendered to the state shall not be considered delinquent until thirty days after rendition of the bill by the corporation.

4. Any such interest charges or late payment charges shall be paid from appropriations which were made for the fiscal year in which the supplies or services were delivered to the respective departments purchasing such supplies or services. The commissioner of administration shall be responsible for the timely implementation of this section and all officers, departments, institutions and agencies of state government shall fully cooperate with the commissioner of administration in the implementation of this section. No late payment penalty shall be assessed against, nor payable by, the state unless pursuant to the provisions of this section.

5. Notwithstanding any other provision of this section, recipients of funds from the low-income energy assistance program shall be exempt from interest charges imposed by such section for the duration of the recipient's participation in the program."; and

Further amend said bill, Pages 41-42, Section 286.010, by striking all of said section; and

Further amend said bill, Pages 118-119, Section 512.180, by striking all of said section; and

Further amend the title and enacting clause accordingly.

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

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt Conference Committee Report on **SS** for **HS** for **HCS** for **HBs 1652** and **1433**, as amended, and requests a further conference on **SS** for **HS** for **HCS** for **HBs 1652** and **1433**, 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 **HS** for **HCS** for **SCS** for **SB 683**, entitled:

An Act to repeal sections 303.044, 304.180 and 304.580, RSMo 1994, and sections 301.010, 302.178, 303.025, 303.026, 303.041, 303.042, 303.190, 303.406, 303.409, 303.412, 303.415, 304.001, 304.015, 304.170, 304.200, 307.173 and 307.375, RSMo Supp. 1999, relating to traffic regulations, and to enact in lieu thereof twenty-four new sections relating to the same subject, with penalty provisions.

With House Amendments Nos. 1, 2, 3, 4, 5 and 6.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 683, Page 84, Section 2, Line 6, by inserting after said line the following:

"**Section 3. The department of transportation shall have the authority to designate the lanes in which all trucks weighing more than twelve tons, including cargo, in motion upon a highway having three or more lanes of traffic proceeding in the same direction shall be driven, except that such regulations shall not apply when such trucks are overtaken and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.**".

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 683, Page 2, Section A, Line 1, by inserting after all of said line the following:

"**54.247. 1. Any city not within a county may, by ordinance, permit the city's treasurer's office to issue citations for violations of the city's moving traffic ordinances.**"; and

Further amend title, enacting clause and

intersectional references accordingly.

HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 683, Page 37, Section 303.406, Line 21, by striking the words "[may] **shall**" and inserting in lieu thereof the word "may"; and

Further amend said bill and section, Page 37, Line 22, by striking the number "**2001**" and inserting in lieu thereof the number "**2002**"; and

Further amend said bill, Section 303.406, Page 38, Line 10, by striking the number "2001" and inserting in lieu thereof the following: "[2001] **2002**"; and

Further amend said bill, Section 303.406, Page 37, Line 20, by inserting before the period "." on said line the following: "**and shall receive funding from the "Motorist Insurance Identification Database Fund", which is hereby created in the state treasury. Effective July 1, 2002, the state treasurer shall credit to and deposit in the motorist insurance identification database fund six percent of the net general revenue portion received from collections of the insurance premiums tax levied and collected pursuant to sections 148.310 to 148.461, RSMo.**"; and

Further amend said bill, Section 303.412, Page 45, Line 16 of said page, by striking the number "**2002**" and inserting in lieu thereof the number "**2003**"; and

Further amend said bill, Section 303.415, Page 47, Line 3, by striking the number "**2001**" and inserting in lieu thereof the number "**2002**"; and

Further amend said bill and section, Page 47, Line 4 of said page, by striking the number "**2006**" and inserting in lieu thereof the number "**2007**"; and

Further amend said bill and section, Page 47, Line 7 of said page, by striking the number "2001" and inserting in lieu thereof the following: "[2001] **2002**"; and

Further amend said bill, section and page, Line 9 of said page, by striking the number "**2006**" and inserting in lieu thereof the number "**2007**".

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 683, Page 55, Section 304.027, Line 3 of said page, by inserting after all of said line the following:

"304.157. 1. If a person abandons property, as defined in section 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within his **or her** jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:

(1) The abandoned property is left unattended [for more than forty-eight hours]; or

(2) In the judgment of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

2. A local government agency may also provide for the towing of motor vehicles from real property under the authority of any local ordinance providing for the towing of vehicles which are derelict, junk, scrapped, disassembled or otherwise harmful to the public health under the terms of the ordinance. Any local government agency authorizing a tow [under] **pursuant to** this subsection shall report the tow to the local law enforcement agency within two hours with a crime inquiry and inspection report pursuant to section 304.155.

3. Neither the law enforcement officer, local government agency nor anyone having custody of abandoned property under his or her direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

4. The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property

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may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this subsection may be made only under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four-hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property;

(2) [The abandoned property is left unattended on owner-occupied residential property with four residential units or less, and the owner, lessee or agent of the real property in lawful possession has notified the appropriate law enforcement agency, and ten hours have elapsed since that notification; or

(3)] The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency[, and ninety-six hours have elapsed since that notification].

5. Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to section 575.060, RSMo. The report shall be in the form designed, printed and distributed by the director of revenue and shall contain the following:

(1) The year, model, make and abandoned property identification number of the property and the owner and any lienholders, if known;

(2) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;

(3) The license plate or registration number and the state of issuance, if available;

(4) The physical location of the property and the reason for requesting the property to be towed;

(5) The date the report is completed;

(6) The printed name, address and phone number of the owner, lessee or property or security manager in possession of the real property;

(7) The towing company's name and address;

(8) The signature of the towing operator;

(9) The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;

(10) Space for the name of the law enforcement agency notified of the towing of the abandoned property and for the signature of the law enforcement official receiving the report; and

(11) Any additional information the director of revenue deems appropriate.

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subsection 4 of this section shall deliver a copy of the abandoned property report to the local law enforcement agency having jurisdiction over the location from which the abandoned property was towed. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the law

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enforcement agency receiving the report has the technological capability of receiving such copy and has registered the towing company for such purpose. The registration requirements shall not apply to law enforcement agencies located in counties of the third or fourth classification. The report shall be delivered within two hours if the tow was made from a signed location pursuant to subdivision (1) of subsection 4 of this section, otherwise the report shall be delivered within twenty-four hours.

7. The law enforcement agency receiving such abandoned property report must record the date on which the abandoned property report is filed with such agency and shall promptly make an inquiry into the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The law enforcement agency shall enter the information pertaining to the towed property into the statewide law enforcement computer system, and an officer shall sign the abandoned property report and provide the towing company with a signed copy. The department of revenue may design and sell to towing companies informational brochures outlining owner or lessee of real property obligations pursuant to this section.

8. The law enforcement agency receiving notification that abandoned property has been towed by a towing company shall search the records of the department of revenue and provide the towing company with the latest owner and lienholder information on the abandoned property. If the abandoned property is not claimed within ten working days, the towing company shall send a copy of the abandoned property report signed by a law enforcement officer to the department of revenue.

9. If any owner or lessee of real property knowingly authorizes the removal of abandoned property in violation of this section, then the owner or lessee shall be deemed guilty of a class C misdemeanor.

10. The provisions in this section shall only apply to any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification.

[304.157. 1. If a person abandons property, as defined in section 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:

(1) The abandoned property is left unattended for more than forty-eight hours; or

(2) In the judgment of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

2. The owner of real property or lessee or property or security manager in lawful possession of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow under this subsection may be made only under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or

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property improperly parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained; or a twenty-four-hour staffed emergency information telephone number, other than the number of a towing company, by which the owner of the abandoned property or improperly parked property may call to receive information regarding the location of such owner's property; or

(2) The abandoned property is on private property and lacks an engine, transmission, wheels, tires, doors, windshield or any other major part or equipment necessary to operate safely on the highways, the owner or lessee of the private property has notified the city police or county sheriff, as appropriate, and ninety-six hours have elapsed since that notification; or

(3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency, and ten days have elapsed since that notification.

3. Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall within one hour of the tow file an abandoned property report with the appropriate law enforcement agency where the property is located. The report shall contain the following:

(1) The year, model, make and abandoned property identification number of the property and the owner and any lienholders, if known;

(2) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;

(3) The license plate or registration number and the state of issuance, if available;

(4) The physical location of the property and the reason for requesting the property to be towed;

(5) The date the report is completed;

(6) The signature and printed name, address and phone number of the owner, lessee or property or security manager in possession of the real property;

(7) The towing company's name and address;

(8) The signature of the towing operator;

(9) The name of the law enforcement agency notified of the abandoned property.

The department of revenue may design and make available to police agencies throughout the state a uniform "Authorization to Tow" form. The form shall contain lines for time, date, location, descriptive information of the vehicle, reason for towing, the tow operator and company and signature of authorizing officer. The cost of the forms shall be determined by the department of revenue. The completed form shall be issued by the authorizing officer to the tow operator for that company's records as proof of authorization to tow a particular vehicle.

4. The law enforcement agency receiving such abandoned property report must record the date the abandoned

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property report is filed with such agency and within five days of such filing make an inquiry into the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The law enforcement agency shall enter the information pertaining to the towed property into the statewide enforcement computer system. The department of revenue may design and sell to towing companies informational brochures outlining owner or lessee of real property obligations pursuant to this section.

5. Neither the law enforcement officer nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subdivision (1) of subsection 2 of this section shall within one hour of the tow report the event and the circumstances to the local law enforcement agency where the abandoned property report was filed.

7. The law enforcement agency receiving notification that abandoned property has been towed by a towing company shall record the date the property was towed and shall forward a copy of the abandoned property report to the director of revenue.

8. If any owner or lessee of real property authorizes the removal of abandoned property pursuant to subsection 2 of this section and such property is so removed and no sign is displayed prior to such removal as required pursuant to subsection 2 of this section, then the owner or lessee shall be deemed guilty of a class C misdemeanor.]"; and

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

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 683, pages 33 to 37, Section 303.190, by deleting all of said section; and

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

HOUSE AMENDMENT NO. 6

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 683, Page 16, Section 301.010, Line 10 of said page, by inserting after all of said line the following:

"301.457. Any person who served in the Vietnam conflict and either currently serves in any branch of the United States armed forces or was honorably discharged from such service may apply for special motor vehicle license plates, either solely or jointly, for issuance either for any passenger motor vehicle subject to the registration fees provided in section 301.055 or for a nonlocal property-carrying commercial motor vehicle licensed for a gross weight of [nine] **six** thousand one pounds to [twelve] **eighteen** thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service in the Vietnam conflict and status as currently serving in a branch of the armed forces of the United States or as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "VIETNAM VETERAN" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the Vietnam service

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medal. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.463. The children's trust fund board established in section 210.170, RSMo, may authorize the use of their logo to be incorporated on multiyear personalized license plates as provided in this section. The license plate shall contain an emblem designed by the board depicting two handprints of a child and the words "Children's Trust Fund" and the children's trust fund logo in preference to the words "SHOW-ME STATE". The license plates shall have a common background and shall bear as many letters and numbers as will fit on the plate without damaging the plate's aesthetic appearance, as determined by the director of revenue. Any vehicle owner may annually apply to the board **or director** for the use of the logo. Upon annual application and payment of a twenty-five dollar logo use contribution to the board, the board shall issue to the vehicle owner, without further charge, a "logo use authorization statement", which shall be presented by the vehicle owner to the department of revenue at the time of registration. **Application for use of the logo and payment of the twenty-five dollar contribution may also be made at the time of registration to the director, who shall deposit such contribution in the state treasury to the credit of the children's trust fund.** Upon presentation of the annual statement [and payment of the fee required for personalized license plates in section 301.144], **or upon application to the director for use of the logo with the twenty-five dollar contribution,** and **presentation of** other fees and documents which may be required by law, the department of revenue shall issue a personalized license plate described in this section to the vehicle owner. **A fee for the issuance of personalized license plates pursuant to section 301.144 shall not be required for plates issued pursuant to this section.** The license plate authorized by this section shall be issued with a design approved by both the board and the director of revenue. The bidding process used to select a vendor for the material to manufacture the license plates authorized by this section shall consider the aesthetic appearance of the plate. A vehicle owner, who was previously issued a plate with [an emblem] **a logo** authorized by this section and who does not provide [an emblem] **a logo** use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the [emblem] **logo**, as otherwise provided by law. Any contribution to the board derived from this section shall be deposited in the state treasury to the credit of the children's trust fund established in section 210.173, RSMo.

301.3035. 1. Any person, as prescribed in this section after an annual payment of a logo use authorization fee to the Missouri Botanical Garden, may receive special license plates for any passenger motor vehicle subject to the registration fees provided in section 301.055 or for a nonlocal property-carrying commercial motor vehicle licensed for a gross weight of six thousand to eighteen thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. The Missouri Botanical Garden hereby authorizes the use of its official logo to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Botanical Garden derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Botanical Garden. Any member of the Missouri Botanical Garden may annually apply for the use of the logo.

2. Upon annual application and payment of a thirty-five dollar logo use contribution to the Missouri Botanical Garden, the Missouri Botanical Garden shall issue to the vehicle owner, without further charge, a "logo use authorization statement", which shall be presented by the vehicle owner to the department of revenue at the time of registration. Upon presentation of the annual statement and payment of any fees and

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documents which may be required by law, the department of revenue shall issue to the vehicle owner a special license plate which shall bear the logo of the Missouri Botanical Garden. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130, RSMo.

3. A vehicle owner who was previously issued a plate with the Missouri Botanical Garden's logo authorized by this section, but who does not provide a logo use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Botanical Garden's logo, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3037. 1. Any person, as prescribed in this section after an annual payment of a logo use authorization fee to the Missouri State Humane Association, may receive special license plates for any passenger motor vehicle subject to the registration fees provided in section 301.055 or for a nonlocal property-carrying commercial motor vehicle licensed for a gross weight of six thousand to eighteen thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. The Missouri State Humane Association hereby authorizes the use of its official logo to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri State Humane Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri State Humane Association. Any member of the Missouri State Humane Association may annually apply for the use of the logo.

2. Upon annual application and payment of a thirty-five dollar logo use contribution to the Missouri State Humane Association, the Missouri State Humane Association shall issue to the vehicle owner, without further charge, a "logo use authorization statement", which shall be presented by the vehicle owner to the department of revenue at the time of registration. Upon presentation of the annual statement and payment of any fees and documents which may be required by law, the department of revenue shall issue to the vehicle owner a special license plate which shall bear the logo of the Missouri State Humane Association. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner who was previously issued a plate with the Missouri State Humane Association's logo authorized by this section, but who does not provide a logo use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri State Humane Association's logo, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3039. 1. Any person, as prescribed in this section after an annual payment of a logo use authorization fee to the Saint Louis Zoo, may receive special license plates for any passenger motor vehicle subject to the registration fees provided in section 301.055 or for a nonlocal property-carrying commercial motor vehicle licensed for a gross weight of six thousand to eighteen thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. The Saint Louis Zoo hereby authorizes the use of its official logo to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Saint Louis Zoo derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Saint Louis Zoo. Any member of the Saint Louis Zoo may annually apply for the use of the logo.

2. Upon annual application and payment of

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a thirty-five dollar logo use contribution to the Saint Louis Zoo, the Saint Louis Zoo shall issue to the vehicle owner, without further charge, a "logo use authorization statement", which shall be presented by the vehicle owner to the department of revenue at the time of registration. Upon presentation of the annual statement and payment of any fees and documents which may be required by law, the department of revenue shall issue to the vehicle owner a special license plate which shall bear the logo of the Saint Louis Zoo. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner who was previously issued a plate with the Saint Louis Zoo's logo authorized by this section, but who does not provide a logo use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Saint Louis Zoo's logo, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3057. 1. Any person, as prescribed in this section after an annual payment of a logo use authorization fee to the Kansas City Zoo, may receive special license plates for any passenger motor vehicle subject to the registration fees provided in section 301.055 or for a nonlocal property-carrying commercial motor vehicle licensed for a gross weight of six thousand to eighteen thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. The Kansas City Zoo hereby authorizes the use of its official logo to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Kansas City Zoo derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Kansas City Zoo. Any member of the Kansas City Zoo may annually apply for the use of the logo.

2. Upon annual application and payment of a thirty-five dollar logo use contribution to the Kansas City Zoo, the Kansas City Zoo shall issue to the vehicle owner, without further charge, a "logo use authorization statement", which shall be presented by the vehicle owner to the department of revenue at the time of registration. Upon presentation of the annual statement and payment of any fees and documents which may be required by law, the department of revenue shall issue to the vehicle owner a special license plate which shall bear the logo of the Kansas City Zoo. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner who was previously issued a plate with the Kansas City Zoo's logo authorized by this section, but who does not provide a logo use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Kansas City Zoo's logo, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3059. 1. Any person, as prescribed in this section after an annual payment of a logo use authorization fee to the Springfield Zoo, may receive special license plates for any passenger motor vehicle subject to the registration fees provided in section 301.055 or for a nonlocal property-carrying commercial motor vehicle licensed for a gross weight of six thousand to eighteen thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. The Springfield Zoo hereby authorizes the use of its official logo to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Springfield Zoo derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Springfield Zoo. Any member of the Springfield Zoo may annually apply for the

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use of the logo.

2. Upon annual application and payment of a thirty-five dollar logo use contribution to the Springfield Zoo, the Springfield Zoo shall issue to the vehicle owner, without further charge, a "logo use authorization statement", which shall be presented by the vehicle owner to the department of revenue at the time of registration. Upon presentation of the annual statement and payment of any fees and documents which may be required by law, the department of revenue shall issue to the vehicle owner a special license plate which shall bear the logo of the Springfield Zoo. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner who was previously issued a plate with the Springfield Zoo's logo authorized by this section, but who does not provide a logo use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Springfield Zoo's logo, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by 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 adopted **SS** for **SCS** for **HB 1082** and has again taken up and passed **SS** for **SCS** for **HB 1082**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 573**.

Emergency clause adopted.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **SCS** for **SCR 41**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **SCR 22**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HS** for **SB 1053**, as amended, and has taken up and passed **CCS** for **HS** for **SB 1053**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SJR 50**, as amended, and has taken up and passed **SJR 50**.

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 **SCS** for **SB 540**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HS** for **HCS** for **SB 896**, as amended, and has taken up and passed **CCS** for **HS** for **HCS** for **SB 896**.

Emergency clause adopted.

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Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HS** for **HCS** for **SCS** for **SB 894**, as amended, and has taken up and passed **CCS** for **HS** for **HCS** for **SCS** for **SB 894**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HS** for **HCS** for **SB 788**, as amended, and has taken up and passed **CCS** for **HS** for **HCS** for **SB 788**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HCS** for **SB 741**, as amended, and has taken up and passed **HCS** for **SB 741**, as amended.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HCS** for **SS** for **SCS** for **SB 763**, as amended, and has taken up and passed **CCS** for **HCS** for **SS** for **SCS** for **SB 763**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HS** for **HCS** for **SS** for **SB 902**, as amended, and has taken up and passed **CCS** for **HS** for **HCS** for **SS** for **SB 902**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HCS** for **SS** for **SS No. 3** for **SJR 35**, as amended, and has taken up and passed **CCS** for **HCS** for **SS** for **SS No. 3** for **SJR 35**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 885**.

Bill ordered enrolled.

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RESOLUTIONS

Senator Caskey offered Senate Resolution No. 1845, regarding Eldon S. Miller, Belton, which was adopted.

Senator Bland offered Senate Resolution No. 1846, regarding the Emergency Mutual-Aid Rescue Squad, Jackson County, which was adopted.

Senator Staples offered Senate Resolution No. 1847, regarding Rachel Staples, Eminence, which was adopted.

Senator Kenney offered Senate Resolution No. 1848, regarding Marjorie Larson, Lee's Summit, which was adopted.

Senator Kenney offered Senate Resolution No. 1849, regarding the Eightieth Birthday of Earl Beard, Overland Park, Kansas, which was adopted.

Senator Singleton offered Senate Resolution No. 1850, regarding Angie Jones, Joplin, which was adopted.

Senator DePasco offered Senate Resolution No. 1851, regarding the Phi Tau Omega Sorority, which was adopted.

Senator House offered Senate Resolution No. 1852, regarding College United Methodist Church, Warrenton, which was adopted.

Senator Bentley offered Senate Resolution No. 1853, regarding the death of William Michael Greene, Edmond, Oklahoma, which was adopted.

Senator Scott offered Senate Resolution No. 1854, regarding Joseph C. Gray, St. Louis, which was adopted.

Senator Scott offered Senate Resolution No. 1855, regarding Mr. Jim Goldammer, Jefferson City, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Jacob introduced to the Senate, the Physician of the Day, Dr. Jerry Kennett, M.D., Columbia.

On motion of Senator DePasco, the Senate adjourned until 10:00 a.m., Thursday, May 18, 2000.

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