Journal of the Senate

FIRST REGULAR SESSION

SEVENTY-SECOND DAY—MONDAY, MAY 14, 2001

The Senate met pursuant to adjournment.

President Maxwell in the Chair.

Reverend Carl Gauck offered the following prayer:

"(O LORD,) you hem me in, behind and before, and lay your hand upon me." (Psalm 139:5)

O Lord our God, You know all our deeds and thoughts intimately. So lay now Your hand upon us and fill us with the knowledge of Your grace-filled presence so that we, in turn, may share this miracle of grace with others who feel the stressors and tensions and short tempers as we do. Bless us with Your peace and grace this week because You surely know we will need it. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

Senator Kenney moved that the Journal for Friday, May 11, 2001, be corrected on Page 1305, Column 1, Line 6, by deleting "**SA 6**" and inserting in lieu thereof "**SA 16**", which motion prevailed.

The Journal for Friday, May 11, 2001, was read and approved, as corrected.

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

Present—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	DePasco	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

Absent with leave—Senator Carter—1

The Lieutenant Governor was present.

RESOLUTIONS

Senator House offered Senate Resolution No. 802, regarding Timothy A. Byrd, Chesterfield, which was adopted.

Senator Schneider, joined by the entire membership of the Senate, offered Senate Resolution No. 803, regarding Joan Gummels, Jefferson City, which was adopted.

Senator Johnson offered Senate Resolution No. 804, regarding the One Hundred Fiftieth Anniversary of Christ Episcopal Church, St. Joseph, which was adopted.

Senator Schneider offered Senate Resolution No. 805, regarding Bob Russell, Bellefontaine Neighbors, which was adopted.

CONCURRENT RESOLUTIONS

Senator Staples moved that **HCR 14** be taken up for adoption, which motion prevailed.

On motion of Senator Staples, **HCR 14** was adopted by the following vote:

YEAS—Senators

Caskey	Cauthorn	Childers	DePasco
Dougherty	Foster	Gibbons	Goode

Gross	House	Johnson	Kenney
Kinder	Klarich	Klindt	Mathewson
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senators—None

Absent—Senators

Bentley	Bland	Jacob	Loudon—4

Absent with leave—Senator Carter—1

Senator Goode moved that **HCR 12** be taken up for adoption, which motion prevailed.

On motion of Senator Goode, **HCR 12** was adopted by the following vote:

YEAS—Senators

Bentley	Caskey	Cauthorn	Childers
DePasco	Dougherty	Foster	Gibbons
Goode	Gross	House	Johnson
Kenney	Kinder	Klarich	Klindt
Mathewson	Quick	Russell	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senator Rohrbach—1

Absent—Senators

Bland	Jacob	Loudon—3

Absent with leave—Senator Carter—1

REPORTS OF STANDING COMMITTEES

Senator Singleton, Chairman of the Committee on State Budget Control, submitted the following report:

Mr. President: Your Committee on State Budget Control, to which was referred **HS** for **HCS** for **HB 107**, with **SCS**, begs leave to report that it has considered the same and recommends that the bill do pass.

REFERRALS

President Pro Tem Kinder referred **HS** for **HB 555**, with **SCS**; **HS** for **HB 349**, with **SCS**; and **HS** for **HCS** for **HBs 835**, **90**, **707**, **373**, **641**, **510**, **516** and **572**, with **SCS**, to the Committee on State Budget Control.

HOUSE BILLS ON THIRD READING

HS for **HCS** for **HB 107**, with **SCS**, entitled:

An Act to repeal section 537.675, RSMo 2000, relating to judicial and administrative procedures, and to enact in lieu thereof eight new sections relating to the same subject.

Was taken up by Senator Klarich.

SCS for **HS** for **HCS** for **HB 107**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 107

An Act to repeal section 537.675, RSMo 2000, relating to judicial and administrative procedures, and to enact in lieu thereof seven new sections relating to the same subject.

Was taken up.

Senator Klarich moved that **SCS** for **HS** for **HCS** for **HB 107** be adopted.

Senator Dougherty offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill No. 107, Page 1, Section A, Line 3, by inserting immediately 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, in addition to any moneys deposited pursuant to section 488.636. 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 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.

488.636. In addition to all other court costs for domestic relations cases, the circuit clerk shall collect an additional surcharge in the amount of two dollars per case for each domestic relations petition filed before a circuit judge or associate circuit judge. Such surcharges collected by circuit court clerks shall be collected and disbursed as provided by sections 488.010 to 488.020. Such fees shall be payable to the state treasurer, to be deposited into the Missouri CASA fund."; and

Further amend the title and enacting clause accordingly.

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

Senator Klarich moved that **SCS** for **HS** for **HCS** for **HB 107**, as amended, be adopted, which motion prevailed.

On motion of Senator Klarich, **SCS** for **HS** for **HCS** for **HB 107**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	DePasco	Dougherty	Foster
Gibbons	Goode	Gross	House
Johnson	Kenney	Kinder	Klarich
Klindt	Loudon	Quick	Russell
Schneider	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senator Rohrbach—1

Absent—Senators

Jacob	Mathewson	Scott	Staples—4

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

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

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

HB 163, introduced by Representatives Berkowitz and Wagner, entitled:

An Act to repeal section 43.265, RSMo 2000, relating to the highway patrol's motor vehicle and aircraft revolving fund, and to enact in lieu thereof one new section relating to the same subject.

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

Senator Singleton offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend House Bill No. 163, Page 1, Section A, Line 2, by inserting after all of said line the following:

"43.130. 1. The superintendent shall prescribe a distinctive style of uniform and badge for members of the patrol to be made of the material and of the color he specifies, and it shall be unlawful for any person to wear the prescribed uniform or badge, or any distinctive part thereof,

except on order of the superintendent. The uniform shall be purchased at the times the superintendent requires, and the superintendent shall fix a uniform allowance for such purpose for each member of the patrol.

2. The members of the patrol shall, at the expense of the state, be furnished with the vehicles, equipment, arms, ammunition, supplies and insignia of office as the superintendent deems necessary, all of which shall remain the property of the state and be strictly accounted for by each member of the patrol. All such vehicles and equipment shall be distinctively marked, and all vehicles used by members of the patrol shall be distinctively lighted at night.

3. Members of the patrol shall wear their uniform and insignia of office at all times when on duty, unless otherwise designated by the superintendent. **Members of the patrol shall wear their uniforms, and be ready to respond to emergencies, at all times when traveling, operating, or riding in a highway patrol vehicle.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Singleton offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend House Bill No. 163, Page 1, Section A, Line 2, by inserting after all of said line the following:

"43.150. 1. After a probation period of one year the members of the patrol shall be subject to removal, reduction in rank or suspension of more than three days only for cause after a formal charge has been filed in writing before or by the superintendent and upon a finding by a majority of a board of six members randomly selected from troops or divisions other than that of the accused. The board shall be composed of six unbiased members including one nonvoting captain, one sergeant and four members of the same rank as the accused member. The randomly selected captain shall serve as presiding officer at the hearing. Within thirty days after the petition is filed, unless the accused consents to an extension of time, the board shall conduct a hearing and report to the superintendent the finding by the majority of the board, whether the charges are true and what discipline, if any, should be imposed. All lawful rules, regulations, and orders of the superintendent shall be obeyed by the members of the patrol who shall be subject to dismissal as provided or to one or more of the following:

(1) Suspension not to exceed thirty days;

(2) Fine;

(3) Reduction in rank; or

(4) Disciplinary transfer at the member's expense;

as the superintendent may adjudge. Nothing in this section shall be construed to prevent nondisciplinary transfers of members if the superintendent determines that such transfers are for the good of the patrol. No hearings shall be required in the case of reprimands or suspensions of three days or less which may be imposed at the discretion of the superintendent.

2. Subject to the exceptions set forth in subsection 3, if a complaint is filed against a member, the member will be provided a copy of the complaint promptly after the complaint is filed by or received by the patrol. Unless the member consents in writing to an earlier time, the member will not be interrogated by the patrol or ordered to respond in writing in connection with the complaint until forty-eight hours after the member has received a copy of the complaint. The member will be entitled to reasonable opportunity to have counsel present during any interrogation related to the complaint. Prior to the superintendent or the patrol making an initial recommendation of discipline, the member shall be entitled to a copy of any investigation reports and any other written or recorded information or other evidence reviewed by the patrol which relates to the complaint; and the member will be afforded an opportunity to present a written response thereto.

3. Notwithstanding any provisions in the preceding subsection, the superintendent may postpone notifying the member that a complaint

has been filed and may withhold the complaint and part or all of the investigation report and other evidence if the superintendent determines that such disclosures will seriously interfere with the investigation regarding that complaint or any other investigation being conducted by the patrol or will likely jeopardize the health or safety of any person. Nothing in this subsection shall be construed to limit the rights of parties to discovery in civil or criminal litigation.

4. Notwithstanding any provisions or rule, all decisions will be reviewed and all final decisions made by the director of the department of public safety."; and

Further amend the title and enacting clause accordingly.

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

On motion of Senator Westfall, **HB 163** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bland	Caskey	Cauthorn	Childers
DePasco	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kenney	Kinder	Klarich
Klindt	Loudon	Mathewson	Rohrbach
Russell	Scott	Sims	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators—None

Absent—Senators

Bentley	Quick	Schneider	Singleton
Staples—5			

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

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

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

HCS for **HBs 441**, **94** and **244**, entitled:

An Act to amend chapter 160, RSMo, by adding thereto one new section relating to the awarding of honorary high school diplomas to certain veterans.

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

On motion of Senator Johnson, **HCS** for **HBs 441**, **94** and **244** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	DePasco	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Sims
Singleton	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Schneider	Scott	Staples—3

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

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

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

HB 621, with **SCA 1**, introduced by Representatives Gratz and Vogel, entitled:

An Act to amend chapter 217, RSMo, relating to the department of corrections by adding thereto one new section creating the Missouri state penitentiary redevelopment commission.

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

SCA 1 was taken up.

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

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

SENATE AMENDMENT NO. 1

Amend House Bill No. 621, Page 1, Section 217.900, Line 6, by inserting after the word "city" and before the ";" on said line the following: "with the advice and consent of the governing body of that city".

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

On motion of Senator Rohrbach, **HB 621**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
DePasco	Dougherty	Foster	Gibbons
Goode	Gross	House	Johnson
Kenney	Kinder	Klarich	Klindt
Loudon	Mathewson	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Childers	Jacob	Staples—3

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

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

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

Photographers from KRCG-TV were given permission to take pictures in the Senate Chamber today.

HB 769, introduced by Representative Harlan, entitled:

An Act to amend chapter 166, RSMo, by adding thereto one new section relating to the privacy of personal information of participants in the Missouri higher education savings program.

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

Senator Bentley offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend House Bill No. 769, Page 1, Section A, Line 2, by inserting after all of said line the following:

"**160.560. 1. The provisions of this section shall be known and may be cited as the "Mastering Math Program".**

2. Beginning July 1, 2003, the department of elementary and secondary education shall provide four-year, competitive matching grants to assist public school districts:

(1) In interpretation of algebraic and pre-algebraic concepts throughout the district's elementary school, middle school and junior high school curriculum; and

(2) With the establishment or enhancement of middle school or junior high school programs providing a curriculum that focuses on algebra to be offered no later than the ninth grade in the school's curriculum.

3. Grant applications may be submitted on behalf of a school building, a combination of school buildings or for all schools in the district.

4. Grant applications shall include, but shall not be limited to:

(1) A description of the school's current mathematics program, which shall, at a minimum, specifically address the focus on algebra or pre-algebra concepts in the curriculum;

(2) An evaluation of the areas of needed instructional improvement or enhancement;

(3) A description of the process of instructional improvement, including a statement regarding parental involvement in program implementation; and

(4) A description of the method for evaluating student progress, which shall, at a minimum, include stated goals for improvement in student performance.

5. Continued funding to a grantee after the second year of the grant shall be based upon improvement in student performance on the eighth grade mathematics portion of the state-wide assessment established pursuant to section 160.518.

6. Upon the conclusion of the grant and based on improvement in student performance on the mathematics portion of the state-wide assessment established pursuant to section 160.518 during the period of the grant, the department of elementary and secondary education may reimburse the grantee for its local match under the grant, with such reimbursement funds to be placed to the credit of the school district's operating funds.

7. The department of elementary and secondary education shall establish standards by rule promulgated pursuant to chapter 536, RSMo, for improvement of student performance relating to continued grant funding and refund of matching funds pursuant to this section.

8. Grants shall be distributed in equal amounts within geographic areas established proportionately based upon student population; provided that funds may be reallocated by the department of elementary and secondary education if an area has insufficient applications or insufficient eligible applications to obligate all funds for the area."; and

Further amend the title and enacting clause accordingly.

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

Senator Klarich offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend House Bill No. 769, Page 1, Section A, Line 2, by inserting after said line the following:

"**160.067. 1. All personally identifiable student records maintained by a public elementary or secondary school shall be kept in such a manner that such records shall not be open for inspection to persons not employed by the school district, except as otherwise provided by law or as otherwise provided pursuant to 34 CFR Part 99. Any personally identifiable student records maintained on electronic media shall be maintained in such a manner as to assure that there is no access to such records by any unauthorized person. No personally identifiable student records, however maintained, shall be made available to any person who is not employed by the school district, except:**

(1) With the prior written permission of the parent, guardian or other custodian of a student under the age of eighteen years; or

(2) With the prior written permission of the parent, guardian or other custodian of the student or the student, if the student is eighteen years of age or older; or

(3) In response to a subpoena in a pending civil or criminal action.

2. The provisions of this section shall not apply to section 160.261, 167.115, RSMo, or 167.117, RSMo."; and

Further amend the title and enacting clause accordingly.

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

Senator Rohrbach offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend House Bill No. 769, Page 1, Section 166.456, Line 5, by adding after the end of said line the following:

"Section 1. The home address, home email address and home phone number of any state employee shall not be released without their express permission."; and

Further amend said bill, by amending the titling and enacting clause accordingly.

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

Senator Steelman offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend House Bill No. 769, Page 1, Section

166.456, Line 5, by inserting after all of said line the following:

"**172.880. 1. There is hereby established, at the Rolla campus of the University of Missouri, a summer program to be known as the "Missouri Engineering and Science Academy" (MESA) for the purpose of educating high ability high school students who have an interest in science, math or engineering and have demonstrated abilities in science and mathematics.**

2. The academy curriculum will be developed by faculty at the Rolla campus of the University of Missouri. The academy will be managed and funded through the Rolla campus of the University of Missouri subject to appropriation.

172.890. 1. There is hereby established, at the Rolla campus of the University of Missouri, a science summer program for in-service science teachers to enhance their knowledge and awareness of environmental matters associated with the history of natural resource development and land use changes in Missouri.

2. The goals of this program shall include:

(1) Educating teachers who are community leaders about environmental concerns and potential health and public safety risks;

(2) Increasing the local capacity of educators to develop and deliver a coordinated environmental education program;

(3) Developing and illustrating the concepts that demonstrate how the geologic environment directly impacts and controls the social and economic development of Missouri;

(4) Providing opportunities for participants to acquire knowledge about the development of Missouri's mineral and agricultural resources; and

(5) Providing opportunities for science teachers to build networks for common growth and support as they pursue effective careers in teaching the children of Missouri.

3. The science summer program established pursuant to this section will be funded, administered and taught by faculty at the Rolla campus of the University of Missouri with assistance from the department of elementary and secondary education.

4. Participating in the science summer program may be included as part of a teacher's participation in the career plan of a school district participating in the career development and teacher excellence plan pursuant to sections 168.500 to 168.515, RSMo, to the extent such participation is consistent with the teacher's career plan approved by the school board."; and

Further amend the title and enacting clause accordingly.

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

Senator Gross offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend House Bill No. 769, Page 1, Section 166.456, Line 5, by inserting immediately after said line the following:

"188.015. **[**Unless the language or context clearly indicates a different meaning is intended, the following words or phrases for the purposes of sections 188.010 to 188.130 shall be given the meaning ascribed to them**] As used in this chapter, the following terms mean**:

(1) "Abortion", the intentional destruction of the life of an embryo or fetus in his or her mother's womb or the intentional termination of the pregnancy of a mother with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;

(2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed other than a hospital;

(3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

(4) "Department", the department of health and senior services;

[(4)**] (5)** "Gestational age", **[**length**] duration** of pregnancy as measured from the first day of the woman's last menstrual period;

[(5)**] (6)** "Physician", any person licensed to practice medicine in this state by the state board of registration of the healing arts;

[(6)**] (7)** "Unborn child", the offspring of human beings from the moment of conception until birth and at every stage of its biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

[(7)**] (8)** "Viability", that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

188.052. 1. An individual abortion report for each abortion performed or induced upon a woman shall be completed by her attending physician. **The report shall include:**

(1) Information required by the United States Standard Report of Induced Termination of Pregnancy, published by the National Center for Health Statistics, Centers for Disease Control and Prevention, United States Department of Health and Human Services, or its successor publication or agency; and

(2) Additional information on the type of abortion procedure used, including the specific surgical or nonsurgical method or the specific abortion-inducing drug or drug combination employed, including by way of example, but not of limitation:

(a) First trimester surgical methods, such as: menstrual regulation, also sometimes referred to as menstrual extraction, menstrual induction, miniabortion and endometrial aspiration; vacuum aspiration, also sometimes referred to as suction curettage; and sharp curettage;

(b) Second and third trimester surgical methods, such as: dilation and evacuation or "D&E", intact D&E, dilation and extraction or "D&X"; partial birth abortion; hysterotomy; and hysterectomy;

(c) Labor induction methods, such as: intrauterine saline instillation, intrauterine prostaglandin instillation, intrauterine urea instillation; oxytocin infusion; and prostaglandin vaginal suppository;

(d) Drugs or drug combinations employed in early pregnancy, such as methotrexate; mifepristone; tamoxifen; misoprostol; other prostaglandin analogues; and any combination thereof;

(e) Other methods and drugs employed, such as: incomplete drug-induced abortion followed by a surgical abortion; and injection of potassium chloride or digoxin to cause fetal death.

2. An individual complication report for any post-abortion care performed upon a woman shall be completed by the physician providing such post-abortion care. This report shall include**, but not be limited to**:

(1) The date of the abortion;

(2) The name and address of the abortion facility or hospital where the abortion was performed;

(3) The nature of the abortion complication diagnosed or treated.

3. All abortion reports shall be signed by the attending physician, and submitted to the **[**state**]** department **[**of health**]** within forty-five days from the date of the abortion. All complication reports shall be signed by the physician providing the post-abortion care and submitted to the department **[**of health**]** within forty-five days from the date of the post-abortion care.

4. A copy of the abortion report shall be made a part of the medical record of the patient of the facility or hospital in which the abortion was performed.

5. The **[**state**]** department **[**of health**]** shall be responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom and shall annually publish a statistical report based on such data from abortions performed **or induced and post-abortion care provided** in the previous calendar year. **The report shall include the duration of pregnancy, by weekly increments, at which abortions were performed or induced. The report shall not include any information that would allow the public to identify a specific:**

(1) Patient who obtained an abortion or who received post-abortion care;

(2) Physician who performed or induced an abortion or who provided post-abortion care; or

(3) Hospital or abortion facility where the abortion was performed or induced or which provided post-abortion care.

188.055. 1. Every abortion facility, hospital, and physician shall be supplied with forms by the department **[**of health**]** for use in regards to the consents and reports required by sections 188.010 to 188.085. A purpose and function of such consents and reports shall be the preservation of maternal health and life by adding to the sum of medical knowledge through the compilation of relevant maternal health and life data and to monitor all abortions performed to assure that they are done only under and in accordance with the provisions of the law.

2. All information obtained by physician, hospital, or abortion facility from a patient for the purpose of preparing reports to the department **[**of health under**]** **pursuant to** sections 188.010 to 188.085 or reports received by the **[**division of health**]** **department** shall be confidential and shall be used only for statistical purposes. Such records, however, may be inspected and health data acquired by local, state, or national public health officers.

188.070. Any **[**physician or other**]** person who **[**fails to maintain**]** **knowingly violates** the confidentiality of any records **[**or**],** reports **[**required under**] or documents maintained by the abortion facility or hospital or received by the department pursuant to** sections 188.010 to 188.085 is guilty of a **[**misdemeanor and, upon conviction, shall be punished as provided by law**]** **class D felony**.

191.655. 1. Any individual aggrieved by a violation of chapter 188, RSMo, relating to the confidentiality of medical records may, if a civil remedy is not otherwise provided for in the statute, bring a civil action for damages. If it is found in a civil action that:

(1) A person has negligently violated the statute, the person is liable, for each violation, for:

(a) The greater of actual damages or liquidated damages of one thousand dollars; and

(b) Court costs and reasonable attorney's fees incurred by the person bringing the action; and

(c) Such other relief, including injunctive relief, as the court may deem appropriate; or

(2) A person has willfully or intentionally or recklessly violated the statute, the person is liable, for each violation, for:

(a) The greater of actual damages or liquidated damages of five thousand dollars; and

(b) Exemplary damages; and

(c) Court costs and reasonable attorney's fees incurred by the person bringing the action; and

(d) Such other relief, including injunctive relief, as the court may deem appropriate.

2. The remedies available in this section are cumulative and in addition to any other criminal or administrative penalties otherwise provided for by law."; and

Further amend the title and enacting clause accordingly.

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

Senators Jacob and Kenney offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend House Bill No. 769, Page 1, Section A, Line 2, by inserting immediately after said line the following:

"162.481. 1. Except as otherwise provided in this section, all elections of school directors in urban districts shall be held biennially at the same times and places as municipal elections.

2. In any urban district which includes all or the major part of a city which first obtained a population of more than seventy-five thousand inhabitants by reason of the 1960 federal decennial

census, elections of directors shall be held on municipal election days of even-numbered years. The directors of the prior district shall continue as directors of the urban district until their successors are elected as herein provided. On the first Tuesday in April, 1964, four directors shall be elected, two for terms of two years to succeed the two directors of the prior district who were elected in 1960 and two for terms of six years to succeed the two directors of the prior district who were elected in 1961. The successors of these directors shall be elected for terms of six years. On the first Tuesday in April, 1968, two directors shall be elected for terms to commence on November 5, 1968, and to terminate on the first Tuesday in April, 1974, when their successors shall be elected for terms of six years. No director shall serve more than two consecutive six-year terms after October 13, 1963.

3. **Except as otherwise provided in subsection 4 of this section,** hereafter when a seven-director district becomes an urban district, the directors of the prior seven-director district shall continue as directors of the urban district until the expiration of the terms for which they were elected and until their successors are elected as provided in this subsection. The first biennial school election for directors shall be held in the urban district at the time provided in subsection 1 which is on the date of or subsequent to the expiration of the terms of the directors of the prior district which are first to expire, and directors shall be elected to succeed the directors of the prior district whose terms have expired. If the terms of two directors only have expired, the directors elected at the first biennial school election in the urban district shall be elected for terms of six years. If the terms of four directors have expired, two directors shall be elected for terms of six years and two shall be elected for terms of four years. At the next succeeding biennial election held in the urban district, successors for the remaining directors of the prior seven-director district shall be elected. If only two directors are to be elected they shall be elected for terms of six years each. If four directors are to be elected, two shall be elected for terms of six years and two shall be elected for terms of two years. After seven directors of the urban district have been elected under this subsection, their successors shall be elected for terms of six years.

4. In any school district in 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, **or any school district which becomes an urban school district by reason of the 2000 federal decennial census,** elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after August 28, 1998."; and

Further amend the title and enacting clause accordingly.

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

On motion of Senator House, **HB 769**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kenney	Kinder	Klarich
Klindt	Loudon	Mathewson	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senator Quick—1

Absent—Senators

DePasco	Staples—2

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

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

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

HB 626, with **SCS**, introduced by Representative Hosmer, entitled:

An Act to repeal section 451.040, RSMo 2000, relating to marriage licenses, and to enact in lieu thereof one new section relating to the same subject.

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

SCS for **HB 626**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 626

An Act to repeal sections 451.022 and 451.040, RSMo 2000, relating to marriage, and to enact in lieu thereof two new sections relating to the same subject, with penalty provisions.

Was taken up.

Senator Bentley moved that **SCS** for **HB 626** be adopted, which motion prevailed.

On motion of Senator Bentley, **SCS** for **HB 626** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	DePasco	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Scott	Singleton	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senators

Sims	Staples—2

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

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

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

HB 678, with **SCS**, introduced by Representative Seigfreid, entitled:

An Act to repeal sections 105.473, 105.475, 105.477, 105.961, 130.011, 130.016, 130.021, 130.026, 130.031, 130.032, 130.041, 130.046, 130.049, 130.050, 130.056 and 130.081, RSMo 2000, relating to ethics, and to enact in lieu thereof nineteen new sections relating to the same subject, with penalty provisions.

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

SCS for **HB 678**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 678

An Act to repeal sections 105.473, 105.475, 105.477, 105.961, 130.011, 130.016, 130.021, 130.031, 130.041, 130.046, 130.049, 130.050, 130.056 and 130.081, RSMo 2000, relating to ethics, and to enact in lieu thereof fifteen new sections relating to the same subject, with penalty provisions.

Was taken up.

Senator Mathewson moved that **SCS** for **HB 678** be adopted.

Senator Mathewson offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 678, Page 22, Section 130.016, Line 88, by inserting the following:

"130.016. 1. No candidate for statewide elected office, general assembly, judicial office other than municipal judge, or municipal office in a city with a population of more than one hundred thousand shall be required to comply with the requirements to file a statement of organization or disclosure reports of contributions and expenditures for any election in which neither the aggregate of contributions received nor the aggregate of expenditures made on behalf of such candidate exceeds five hundred dollars and no single contributor, other than the candidate, has contributed more than two hundred **[**fifty**]** **seventy-five** dollars of the aggregate contributions received, provided that:

(1) The candidate files a sworn exemption

statement with the appropriate officer that the candidate does not intend to either receive contributions or make expenditures in the aggregate of more than five hundred dollars or receive contributions from any single contributor, other than himself or herself, that aggregate more than two hundred **[**fifty**]** **seventy-five** dollars and that the total of all contributions received or expenditures made by the candidate and all committees or any other person with his knowledge and consent in support of his candidacy will not exceed five hundred dollars and that the aggregate of contributions received from any single contributor will not exceed two hundred **[**fifty**]** **seventy-five** dollars. Such exemption statement shall be filed no later than the date set forth in section 130.046 on which a disclosure report would otherwise be required if the candidate does not file the exemption statement. The exemption statement shall be filed on a form furnished to each appropriate officer by the executive director of the Missouri ethics commission. Each appropriate officer shall make the exemption statement available to candidates and shall direct each candidate's attention to the exemption statement and explain its purpose to the candidate; and

(2) The sworn exemption statement includes a statement that the candidate understands that records of contributions and expenditures must be maintained from the time the candidate first receives contributions or makes expenditures and that an exemption from filing a statement of organization or disclosure reports does not exempt the candidate from other provisions of this chapter. Each candidate described in subsection 1 of this section, who files a statement of exemption, shall file a statement of limited activity for each reporting period, described in section 130.046.

2. Any candidate who has filed an exemption statement as provided in subsection 1 of this section shall not accept any contribution or make any expenditure in support of the person's candidacy, either directly or indirectly or by or through any committee or any other person acting with the candidate's knowledge and consent, which would cause such contributions or expenditures to exceed the limits specified in subdivision (1) of subsection 1 of this section unless the candidate later rejects the exemption pursuant to the provisions of subsection 3 of this section. Any contribution received in excess of such limits shall be returned to the donor or transmitted to the state treasurer to escheat to the state.

3. If, after filing the exemption statement provided for in this section, the candidate subsequently determines the candidate wishes to exceed any of the limits in subdivision (1) of subsection 1 of this section, the candidate shall file a notice of rejection of the exemption with the appropriate officer; however, such rejection shall not be filed later than thirty days before election. A notice of rejection of exemption shall be accompanied by a statement of organization as required by section 130.021 and any other statements and reports which would have been required if the candidate had not filed an exemption statement.

4. A primary election and the immediately succeeding general election are separate elections, and restrictions on contributions and expenditures set forth in subsection 2 of this section shall apply to each election; however, if a successful primary candidate has correctly filed an exemption statement prior to the primary election and has not filed a notice of rejection prior to the date on which the first disclosure report applicable to the succeeding general election is required to be filed, the candidate shall not be required to file an exemption statement for that general election if the limitations set forth in subsection 1 of this section apply to the succeeding general election.

5. A candidate who has an existing candidate committee formed for a prior election for which all statements and reports required by this chapter have been properly filed shall be eligible to file the exemption statement as provided in subsection 1 of this section and shall not be required to file the disclosure reports pertaining to the election for which the candidate is eligible to file the exemption statement if the candidate and the treasurer or deputy treasurer of such existing candidate committee continue to comply with the requirements, limitations and restrictions set forth in subsections 1, 2, 3 and 4 of this section. The exemption permitted by this subsection does not

exempt a candidate or the treasurer of the candidate's existing candidate committee from complying with the requirements of subsections 6 and 7 of section 130.046 applicable to a prior election.

6. No **[**nonpartisan**]** candidate for supreme court, circuit court, or associate circuit court, or candidate for political party office, or for county office or municipal office in a city of one hundred thousand or less, or for any special purpose district office shall be required to file an exemption statement pursuant to this section in order to be exempted from forming a committee and filing disclosure reports required of committees pursuant to this chapter if the aggregate of contributions received or expenditures made by the candidate and any other person with the candidate's knowledge and consent in support of the person's candidacy does not exceed one thousand dollars and the aggregate of contributions from any single contributor does not exceed two hundred **[**fifty**]** **seventy-five** dollars. No candidate for any office listed in this subsection shall be excused from complying with the provisions of any section of this chapter, other than the filing of an exemption statement under the conditions specified in this subsection.

7. If any candidate for an office listed in subsection 6 of this section exceeds the limits specified in subsection 6 of this section, the candidate shall form a committee no later than thirty days prior to the election for which the contributions were received or expended which shall comply with all provisions of this chapter for committees."; and

Further amend the title and enacting clause accordingly.

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

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

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Bill No. 678, Pages 20-22, Section 130.016, Lines 1-88, by striking said section from the bill and further amend the title and enacting clause accordingly.

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

At the request of Senator Mathewson, **HB 678**, with **SCS**, as amended (pending), was placed on the Informal Calendar.

On motion of Senator Kenney, the Senate recessed until 2:00 p.m.

RECESS

The time of recess having expired, the Senate was called to order by President Maxwell.

RESOLUTIONS

Senator Caskey offered Senate Resolution No. 806, regarding Patricia Bruto, Adrian, which was adopted.

Senator Caskey offered Senate Resolution No. 807, regarding Ima West, Warrensburg, which was adopted.

Senator Caskey offered Senate Resolution No. 808, regarding Georgia Everts-Oser, Warrensburg, which was adopted.

Senator Caskey offered Senate Resolution No. 809, regarding Elaine Ruth, Warrensburg, which was adopted.

Senator Caskey offered Senate Resolution No. 810, regarding Elizabeth Love, Warrensburg, which was adopted.

Senator Quick offered Senate Resolution No. 811, regarding Michael David Jones, Kansas City, which was adopted.

Photographers from KOMU-TV were given permission to take pictures in the Senate Chamber today.

HOUSE BILLS ON THIRD READING

Senator Mathewson moved that **HB 678**, with **SCS**, as amended (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SCS for **HB 678**, as amended, was again taken up.

Senator Jacob offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Bill No. 678, Page 45, Section 130.081, Line 14, by inserting after said line the following:

"**Section 1. 1. A person shall not be a sponsor of any published material on behalf of or in opposition to any candidate or ballot issue that contains any assertion, representation, or statement of fact, including, but not limited to, information concerning a candidate's prior public record, which the sponsor knows to be untrue, deceptive or misleading.**

2. For purposes of this section, "published material" means statements or graphic representations made through any public medium which includes, but is not limited to, any of the following:

(1) Electronic media such as live or prerecorded radio or television broadcasts, broadcasts or transmissions through other publicly available electronic communications, and video or audio tape recordings which are publicly distributed;

(2) Print media, such as newspapers, pamphlets, folders, display cards, signs, posters, or billboard advertisements;

(3) Any other methods or mediums designed for publicly advertising or publishing information.

3. For purposes of this section, "sponsor" means a person who pays for or approves published material and shall include a candidate or committee which knows and approves of an independent expenditure made by another person."; and

Further amend the title and enacting clause accordingly.

Senator Jacob moved that the above amendment be adopted.

Senator Kenney offered **SA 1** to **SA 3**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Committee Substitute for House Bill No. 678, Page 1, Section 1, Line 4, by putting an opening bracket before the second comma on said line and a closing bracket after the word "misleading".

Senator Kenney moved that the above amendment be adopted.

Senator Jacob requested a roll call vote be taken on the adoption of **SA 1** to **SA 3** and was joined in his request by Senators Childers, Dougherty, Quick and Wiggins.

At the request of Senator Kenney, **SA 1** to **SA 3** was withdrawn.

Senator Childers offered **SA 2** to **SA 3**, which was read:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Committee Substitute for House Bill No. 678, Page 1, Section 1, Line 4, by inserting after the word "untrue," the word "**and**".

Senator Childers moved that the above amendment be adopted.

Senator Jacob requested a roll call vote be taken on the adoption of **SA 2** to **SA 3** and was joined in his request by Senators Gross, Wiggins, Childers and Westfall.

SA 2 to **SA 3** was adopted by the following vote:

YEAS—Senators

Bentley	Cauthorn	Childers	Foster
Gibbons	Gross	Kenney	Kinder
Klarich	Klindt	Loudon	Rohrbach
Russell	Schneider	Sims	Singleton
Steelman	Westfall	Yeckel—19	

NAYS—Senators

Bland	Caskey	DePasco	Dougherty
Goode	House	Jacob	Johnson
Mathewson	Quick	Scott	Stoll
Wiggins—13			

Absent—Senator Staples—1

Absent with leave—Senator Carter—1

SA 3, as amended, was again taken up.

Senator Jacob moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Bland, Mathewson, Stoll and Wiggins.

SA 3, as amended, was adopted by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	DePasco	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Mathewson	Quick
Russell	Schneider	Scott	Staples
Steelman	Stoll	Wiggins—23	

NAYS—Senators

Kenney	Kinder	Klindt	Loudon
Rohrbach	Sims	Singleton	Westfall
Yeckel—9			

Absent—Senator Klarich—1

Absent with leave—Senator Carter—1

At the request of Senator Mathewson, **HB 678**, with **SCS**, as amended (pending), was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

Senator Singleton, Chairman of the Committee on State Budget Control, submitted the following reports:

Mr. President: Your Committee on State Budget Control, to which were referred **HS** for **HB 882**, with **SCS**; **HS** for **HCS** for **HBs 924**, **714**, **685**, **756**, **734** and **518**, with **SCS**; **HS** for **HCS** for **HB 327**, with **SCS**; and **HCS** for **HB 780**, with **SCS**, begs leave to report that it has considered the same and recommends that the bills do pass.

HOUSE BILLS ON THIRD READING

HCS for **HB 738**, entitled:

An Act to repeal sections 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530 and 408.500, RSMo 2000, relating to small loans, and to enact in lieu thereof eighteen new sections relating to the same subject, with penalty provisions.

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

Senator Klarich offered **SS** for **HCS** for **HB 738**, entitled:

SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 738

An Act to repeal sections 139.050, 139.052, 139.053, 148.064, 148.400, 301.600, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530, 408.052, 408.140, 408.500 and 513.430, RSMo 2000, relating to financial services, and to enact in lieu thereof thirty-nine new sections relating to the same subject, with penalty provisions.

Senator Klarich moved that **SS** for **HCS** for **HB 738** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Committee Substitute for House Bill No. 738, Page 42, Section 367.100, Line 5 of said page, by inserting after said line the following:

"**The provisions of Section 367.100(1)(b) shall not be effective until January 1, 2002.**".

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

Senator Singleton offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Committee Substitute for House Bill No. 738, Page 70, Section 408.510, Lines 18-29, by deleting all of said lines; and

Further amend the title and enacting clause accordingly.

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

Senator Kenney offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for House Committee Substitute for House Bill No. 738, Page 1, Section 139.050, Line 14, by inserting immediately before said line the following:

"135.230. 1. The exemption or credit established and allowed by section 135.220 and the credits allowed and established by subdivisions (1), (2), (3) and (4) of subsection 1 of section 135.225 shall be granted with respect to any new business facility located within an enterprise zone for a vested period not to exceed ten years following the date upon which the new business facility commences operation within the enterprise zone and such exemption shall be calculated, for each succeeding year of eligibility, in accordance with the formulas applied in the initial year in which the new business facility is certified as such, subject, however, to the limitation that all such credits allowed in sections 135.225 and 135.235 and the exemption allowed in section 135.220 shall be removed not later than fifteen years after the enterprise zone is designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of subsection 1 of section 135.225 or section 135.235 and no exemption shall be allowed pursuant to section 135.220 unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two or the new business facility is a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200. In order to qualify for either the exemption pursuant to section 135.220 or the credit pursuant to subdivision (4) of subsection 1 of section 135.225, or both, it shall be required that at least thirty percent of new business facility employees, as determined by subsection 4 of section 135.110, meet the criteria established in section 135.240 or are residents of an enterprise zone or some combination thereof, except taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 or any taxpayer that is an insurance company that established a new business facility satisfying the requirements of subdivision (8) of section 135.100 located within an enterprise zone after June 30, 1993, and before December 31, 1994, and that employs in excess of three hundred fifty new business facility employees at such facility each tax period for which the credits allowable pursuant to subdivisions (1) to (4) of subsection 1 of section 135.225 are claimed shall not be required to meet such requirement. A new business facility described as SIC 3751 shall be required to employ fifteen percent of such employees instead of the required thirty percent. For the purpose of satisfying the thirty-percent requirement, residents must have lived in the enterprise zone for a period of at least one full calendar month and must have been employed at the new business facility for at least one full calendar month, and persons qualifying because they meet the requirements of section 135.240 must have satisfied such requirement at the time they were employed by the new business facility and must have been employed at the new business facility for at least one full calendar month. The director may temporarily reduce or waive this requirement for any business in an enterprise zone with ten or less full-time employees, and for businesses with eleven to twenty full-time employees this requirement may be temporarily reduced. No reduction or waiver may be granted for more than one tax period and shall not be renewable. The exemptions allowed in sections 135.215 and 135.220 and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245 shall not be allowed to any "public utility", as such term is defined in section 386.020, RSMo. **For the purposes of achieving the fifteen percent employment requirement set forth in this subsection, a new business facility described as NAICS 336991 may count employees who were residents of the enterprise zone at the time they were employed by the new business facility and for at least ninety days thereafter, regardless of whether such employees continue to reside in the enterprise zone, so long as the employees remain employed by the new business facility and residents of the state of Missouri.**

2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge lines or railroads engaged in transporting property for hire or any interexchange telecommunications company that establish a new business facility shall be eligible to qualify for the exemptions allowed in sections 135.215 and 135.220, and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245, except that trucks, truck-trailers, truck semitrailers, rail or barge vehicles or other rolling stock for hire, track, switches, bridges, barges, tunnels, rail yards and spurs shall not constitute new business facility investment nor shall truck drivers or rail or barge vehicle operators constitute new business facility employees.

3. Notwithstanding any other provision of sections 135.200 to 135.256 to the contrary, motor carriers establishing a new business facility on or after January 1, 1993, but before January 1, 1995, may qualify for the tax credits available pursuant to sections 135.225 and 135.235 and the exemption provided in section 135.220, even if such new business facility has not satisfied the employee criteria, provided that such taxpayer employs an average of at least two hundred persons at such facility, exclusive of truck drivers and provided that such taxpayer maintains an average investment of at least ten million **dollars** at such facility, exclusive of rolling stock, during the tax period for which such credits and exemption are being claimed.

4. Any governing authority having jurisdiction of an area that has been designated an enterprise zone may petition the department to expand the boundaries of such existing enterprise zone. The director may approve such expansion if the director finds that:

(1) The area to be expanded meets the requirements prescribed in section 135.207 or 135.210, whichever is applicable;

(2) The area to be expanded is contiguous to the existing enterprise zone; **and**

(3) The number of expansions do not exceed three after August 28, 1994.

5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this section, any governing authority having jurisdiction of an area that has been designated as an enterprise zone by the director, except one designated pursuant to this subsection, may file a petition, as prescribed by the director, for redesignation of such area for an additional period not to exceed seven years following the fifteenth anniversary of the enterprise zone's initial designation date; provided:

(1) The petition is filed with the director within three years prior to the date the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 are required to be removed pursuant to subsection 1 of this section;

(2) The governing authority identifies and conforms the boundaries of the area to be designated a new enterprise zone to the political boundaries established by the latest decennial census, unless otherwise approved by the director;

(3) The area satisfies the requirements prescribed in subdivisions (3), (4) and (5) of section 135.205 according to the latest decennial census or other appropriate source as approved by the director;

(4) The governing authority satisfies the requirements prescribed in sections 135.210, 135.215 and 135.255;

(5) The director finds that the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation; and

(6) The director's recommendation that the area be designated as an enterprise zone, is approved by the joint committee on economic development policy and planning, as otherwise required in subsection 3 of section 135.210.

6. Any taxpayer having established a new business facility in an enterprise zone except one designated pursuant to subsection 5 of this section, who did not earn the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 for the full ten-year period because of the fifteen-year limitation as prescribed in subsection 1 of this section, shall be granted such benefits for ten tax years, less the

number of tax years the benefits were claimed or could have been claimed prior to the expiration of the original fifteen-year period, except that such tax benefits shall not be earned for more than seven tax periods during the ensuing seven-year period, provided the taxpayer continues to operate the new business facility in an area that is designated an enterprise zone pursuant to subsection 5 of this section. Any taxpayer who establishes a new business facility subsequent to the commencement of the ensuing seven-year period, as authorized in subsection 5 of this section, may qualify for the tax credits authorized in sections 135.225 and 135.235, and the exemptions authorized in sections 135.215 and 135.220, pursuant to the same terms and conditions as prescribed in sections 135.100 to 135.256. The designation of any enterprise zone pursuant to subsection 5 of this section shall not be subject to the fifty enterprise zone limitation imposed in subsection 4 of section 135.210."; and

Further amend the title and enacting clause accordingly.

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

Senator DePasco offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for House Committee Substitute for House Bill No. 738, Page 64, Section 408.052, Line 10, by inserting immediately after said line the following:

"408.100. This section shall apply to all loans which are not made as permitted by other laws of this state except that it shall not apply to loans which are secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations. On any loan subject to this section, any person, firm, or corporation may charge, contract for and receive interest on the unpaid principal balance at rates agreed to by the parties**, except that such rate shall not exceed eighteen percent per year or the prime rate of interest as established pursuant to the Federal Reserve plus ten percent per year whichever rate is lower.**"; and

Further amend said bill, title and enacting clause accordingly.

Senator DePasco moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Johnson, Kenney, Mathewson and Westfall.

SA 4 failed of adoption by the following vote:

YEAS—Senators

Bentley	Bland	DePasco	Staples
Wiggins—5			

NAYS—Senators

Caskey	Cauthorn	Childers	Dougherty
Foster	Gibbons	Goode	Gross
House	Jacob	Johnson	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Rohrbach	Russell	Schneider
Sims	Singleton	Steelman	Stoll
Westfall	Yeckel—26		

Absent—Senators

Quick	Scott—2

Absent with leave—Senator Carter—1

Senator Schneider offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for House Committee Substitute for House Bill No. 738, Page 41, Section 362.942, Line 9 of said page, by inserting after all of said line the following:

"364.120. 1. A premium finance company shall not charge, contract for, receive, or collect any interest or discount charge other than as permitted by sections 364.100 to 364.160.

2. The interest or discount is to be computed on the balance of the premiums due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance contract, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

3. The interest or discount shall be a maximum of fifteen dollars per one hundred dollars per year, which shall be computed as a fifteen percent add-on interest rate, plus an additional service charge of ten dollars per premium finance

agreement which need not be refunded on cancellation or prepayment; except that, if the insurance premiums being financed are for other than personal, family or household purposes, the parties to the premium finance agreement may agree to any rate of interest which shall be stated in the premium finance agreement. The interest or discount permitted by this subsection anticipates timely repayment in consecutive monthly installments equal in amount for a period of one year. For repayment in greater or lesser periods or in unequal, irregular, or other than monthly installments, the interest or discount may be computed at an equivalent effective rate having due regard for the timely payments of installments.

4. Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time and shall receive a refund credit**[**, which shall represent at least as great a proportion of the interest or discount as the sum of the periodic balances, after the month in which prepayment is made, bears to the sum of all periodic balances under the schedule of installments in the agreement; except that, if the initial term of the contract is greater than sixty-one months, the interest earned shall be computed to the date of prepayment on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding. Where the amount of the refund credit is less than one dollar, no refund need be made**]**. **The amount of the refund shall be calculated by the actuarial method of calculating refunds and no more interest shall be retained by the lender than is actually earned.**

365.140. Notwithstanding the provisions of any retail installment contract to the contrary any buyer may prepay in full, whether by payment in cash, extension or renewal, at any time before maturity the debt of any retail installment contract and on so paying the debt shall receive a refund credit thereon for the anticipation of payment. The amount of the refund shall **[**represent at least as great a proportion of the time price differential as the sum of the monthly time balances beginning one month after prepayment is made bears to the sum of all the monthly time balances under the schedule of payment in the contract after deducting from the refund an acquisition cost of fifteen dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of the time price differential earned shall be computed to the date of prepayment on the basis of the rate originally contracted for on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080. Where the amount of credit is less than one dollar no refund need be made**] be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail installment contract is prepaid. Any insurance rendered unnecessary by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080**."; and

Further amend said bill, Page 61, Section 367.532, Line 27 of said page, by inserting after all of said line the following:

"385.050. 1. Any insurer may revise its schedules of premium rates from time to time and shall file the revised schedules with the director. No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as then approved by the director.

2. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that no refund of less than one dollar need be made. The formula to be used in computing the refund shall be the **[**"sum of the digits" formula with respect to decreasing term credit life insurance and credit accident and sickness insurance, and the pro rata unearned gross premium with respect to level term credit life

insurance**] actuarial method of calculating refunds**.

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to the debtor and shall promptly make an appropriate credit to the account.

4. The amount charged to a debtor for any credit life or credit accident and sickness insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

5. Nothing in sections 385.010 to 385.080 shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions."; and

Further amend said bill, Page 64, Section 408.052, Line 10 of said page, by inserting after all of said line the following:

"408.083. Notwithstanding any other provision of law to the contrary, all credit contracts with interest or time price differential calculated on an add-on basis entered into after August **[**13, 1988, with an initial term greater than sixty-one months**] 28, 2001**, the proceeds of which are used for personal, family or household purposes, shall provide that the amount of interest or time price differential earned upon prepayment in full will be computed on the basis of the rate or rate formula originally contracted for on the actual unpaid principal balances for the time actually outstanding."; and

Further amend said bill, Page 67, Section 408.140, Line 1 of said page, by inserting after all of said line the following:

"408.170. **[**1.**]** If a note or loan contract providing for amount of interest, added to the principal of the loan is prepaid in full **[**(by cash, renewal, or refinancing) one month or more before the final installment date, the lender shall either:

(1) Recompute the amount of interest earned to the date of prepayment in full on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding; or

(2) If the initial term of the contract is sixty-one months or less, give a refund of a portion of the amount of interest originally contracted for which shall be computed as follows: The amount of the refund shall be at least as great a proportion of such amount of interest as the sum of the full monthly balances of the contract scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the monthly balances of the contract, both sums to be determined according to the payment schedule provided by the contract; except that, if prepayment in full occurs during the first installment period, interest shall be recomputed and charged only for the actual number of days elapsed. When the period before the first installment is more or less than one month, the portion of the interest earned for such period shall be determined by counting each day in such period as one-thirtieth of a month and one three hundred and sixtieth of a year.

2. No refund shall be required for any partial prepayment.

3. The word "refund" as used herein shall mean a credit or deduction from the amount of interest originally contracted for**] at any time by cash, renewal or refinancing, the buyer shall receive a refund which shall be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a note or loan contract is prepaid**.

408.320. Notwithstanding the provisions of any retail time contract to the contrary, any buyer may prepay in full at any time before maturity the debt of any retail time contract and on so paying such debt shall receive a refund credit thereof for such anticipation of payments. The amount of such refund shall **[**represent at least as great a proportion of the time charge as the sum of the monthly time balances, beginning one month after prepayment is made, bears to the sum of all the monthly time balances under the schedule of payments in the contract after deducting from such refund an acquisition cost of twelve dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of time charge earned shall be

computed to the date of prepayment on the basis of the rate originally contracted for computed on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 5 of section 408.280. Where the amount of credit is less than one dollar no refund need be made**] be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail time contract is prepaid**."; and

Further amend the title and enacting clause accordingly.

Senator Schneider moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Childers, Goode, Johnson and Russell.

SA 5 failed of adoption by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Childers
DePasco	Dougherty	Goode	Johnson
Russell	Schneider	Singleton	Wiggins—12

NAYS—Senators

Cauthorn	Foster	Gibbons	Gross
House	Jacob	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Rohrbach	Scott	Sims	Staples
Steelman	Stoll	Westfall	Yeckel—20

Absent—Senator Quick—1

Absent with leave—Senator Carter—1

Senator Kinder requested unanimous consent of the Senate to allow the Senate conferees on **SS** for **SCS** for **HS** for **HB 421**, as amended, meet while the Senate is in session, which request was granted.

Senator Klarich moved that **SS** for **HCS** for **HB 738**, as amended, be adopted, which motion prevailed.

On motion of Senator Klarich, **SS** for **HCS** for **HB 738**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
DePasco	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kenney	Kinder	Klarich
Klindt	Loudon	Mathewson	Rohrbach
Russell	Schneider	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Childers	Quick	Scott—3

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

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

Senator Kenney 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 **SB 460**, entitled:

An Act to repeal section 144.815, RSMo 2000, and to enact in lieu thereof twelve new sections relating to sales and use tax assessment and collection procedures of the department of revenue, with an emergency clause for certain sections.

With House Amendment No. 1 to House Substitute, House Amendments Nos. 1, 2, 4 and 5 to Part 1 of House Substitute, House Substitute Amendment No. 1 for House Amendment No.1, House Amendments Nos. 2 and 3 to Part 2 of House Substitute.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Bill No. 460, Page 8, Section 144.049, Line 17, by inserting after the word "**all**" the words "**state and**"; and

Further amend said bill, Page 8, Section 144.049, Line 20, by inserting after the word "**all**" the words "**state and**"; and

Further amend said bill, Page 11, Section 144.815, Line 15, by inserting after the word "from" the words "**all state and**"; and

Further amend said bill, Page 11, Section 144.815, Line 22, by inserting after the words "pursuant to" the words "**all state and**"; and

Further amend said bill, Page 19, Section 2, Line 7, by inserting after the word "**all**" the words "**state and**"; and

Further amend said bill, Page 19, Section 2, Line 10, by inserting after the word "**all**" the words "**state and**".

HOUSE AMENDMENT NO. 1 TO PART I

Amend Part I to House Substitute for House Committee Substitute for Senate Bill No. 460, Page 8, Section 32.378, Line 14, by inserting after said line the following:

"144.025. 1. Notwithstanding any other provisions of law to the contrary, in any retail sale other than retail sales governed by subsection 3 of this section, where any article is taken in trade as a credit or part payment on the purchase price of the article being sold, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the actual allowance made for the article traded in or exchanged, if there is a bill of sale or other record showing the actual allowance made for the article traded in or exchanged. Where the purchaser of a motor vehicle, trailer, boat or outboard motor receives a rebate from the seller or manufacturer, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the amount of the rebate, if there is a bill of sale or other record showing the actual rebate given by the seller or manufacturer. Where the trade-in or exchange allowance plus any applicable rebate exceeds the purchase price of the purchased article there shall be no sales or use tax owed. This section shall also apply to motor vehicles, trailers, boats, and outboard motors sold by the owner or holder of the properly assigned certificate of ownership if the seller purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within one hundred eighty days before or after the date of the sale of the original article and a notarized bill of sale showing the paid sale price is presented to the department of revenue at the time of licensing. A copy of the bill of sale shall be left with the licensing office. Where the subsequent motor vehicle, trailer, boat, or outboard motor is titled more than one hundred eighty days after the sale of the original motor vehicle, trailer, boat, or outboard motor, the allowance pursuant to this section shall be made if the person titling such article establishes that the purchase or contract to purchase was finalized prior to the expiration of the one hundred eighty-day period. **For purposes of this section "trade-in" shall include any insurance proceeds received as the result damage to a motor vehicle, trailer, boat, or outboard motor when such proceeds are used to purchase a replacement motor vehicle, trailer, boat, or outboard motor.**

2. As used in this section, the term "boat" includes all motorboats and vessels, as the terms "motorboat" and "vessel" are defined in section 306.010, RSMo.

3. As used in this section, the term "motor vehicle" includes motor vehicles as defined in section 301.010, RSMo, recreational vehicles as defined in section 700.010, RSMo, or a combination of a truck as defined in section 301.010, RSMo, and a trailer as defined in section 301.010, RSMo.

4. The provisions of subsection 1 of this section shall not apply to retail sales of manufactured homes in which the purchaser receives a document known as the "Manufacturer's Statement of Origin" for purposes of obtaining a title to the manufactured home from the department of revenue of this state or from the appropriate

agency or officer of any other state."; and

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

HOUSE AMENDMENT NO. 2 TO
PART I

Amend Part I to House Substitute for House Committee Substitute for Senate Bill No. 460, Section 144.049, by inserting immediately before said section the following:

"144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment [or recreation], games and athletic events;

(3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made by telecommunications subscribers or others, pursuant to section 144.060, and any amounts paid for access to the Internet or interactive computer services shall not be considered as amounts paid for telecommunications services;

(5) A tax equivalent to four percent of the basic rate paid or charged for all sales of services for transmission of messages of telegraph companies;

(6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public;

(7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" as defined in subdivision (8) of section 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase or use of motor vehicles, trailers, boats, and outboard motors shall be taxed and the tax paid as provided in sections 144.070 and 144.440. No tax shall be collected on the rental or lease of motor vehicles, trailers, boats, and outboard motors, except as provided in sections 144.070 and 144.440. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard

motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof**;**

(9) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of recreation, with the exception of membership and other user fees paid to health and fitness centers. The sale of a membership solely for health-benefit activities at a health and fitness center shall not be taxable pursuant to this chapter. User fees charged by health and fitness centers, whether charged to members or non-members, shall not be taxable pursuant to this chapter if the fee is charged solely for a health-benefit activity. The sale of a recreational membership at a health and fitness center shall be taxed at the rate of four percent of the amount paid for the membership. User fees charged by health and fitness centers, whether charged to members or non-members, shall be taxed at the rate of four percent of the fee charged if the fee is charged for a recreational activity. For purposes of this subdivision, the term "health-benefit activities" means activities the primary purpose of which is to improve a person's health and fitness, including but not limited to strength programs, running and weight training; cardiovascular programs, exercises and training; lap swimming and aerobic programs, exercises and training; nutrition-related programs; weight control programs, exercises and training; multiple-step health programs; and any programs, activities, exercise, training or therapy which is referred by a physician or which is paid for by health insurance. For purposes of this subdivision, the term "recreational" or "recreational activities" means all activities not considered to be health-benefit activities, including but not limited to basketball, volleyball, racquetball, karate, dancing, golf, tennis or any games or competitions.

2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax.".**"**; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 4 TO
PART I

Amend Part I to House Substitute for House Committee Substitute for Senate Bill No. 460, Page Section 32.378, by inserting after all of said section the following:

"94.577. 1. The governing body of any municipality except those located in whole or in part within any first class county having a charter form of government and not containing any part of a city with a population of four hundred thousand or more and adjacent to a city not within a county for that part of the municipality located within such first class county is hereby authorized to impose, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half of one percent sales tax on all retail sales made in such municipality which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of funding capital improvements, including the operation and maintenance of capital improvements, which may be funded by issuing bonds which will be retired by the revenues received from the sales tax authorized by this section or the retirement of debt under previously authorized bonded indebtedness. A municipality located in a charter county may impose a sales tax on all retail sales for capital improvements as provided in section 94.890. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; but no ordinance imposing a sales tax under the provisions of this section shall be effective unless the governing body of the municipality submits to the voters of the municipality, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the municipality to impose such tax and, if such tax is to be used to retire bonds authorized under this section, to authorize such bonds and their retirement by such tax, or to authorize the retirement of debt under previously

authorized bonded indebtedness.

2. The ballot of submission shall contain, but need not be limited to:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section, the following language:

Shall the municipality of ..... (municipality's name) impose a sales tax of ..... (insert amount) for the purpose of funding capital improvements which may include the retirement of debt under previously authorized bonded indebtedness?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No"; or

(2) If the proposal submitted involves authorization to issue bonds and repay such bonds with revenues from the tax authorized by this section, the following language:

Shall the municipality of ..... (municipality's name) issue bonds in the amount ..... of ..... (insert amount) to fund capital improvements and impose a sales tax of ..... (insert amount) to repay bonds?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, including when the proposal authorizes the reduction of debt under previously authorized bonded indebtedness under subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect, except that any proposal submitted under subdivision (2) of this subsection to issue bonds and impose a sales tax to retire such bonds must be approved by the constitutionally required percentage of the voters voting thereon to become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality shall have no power to issue any bonds or impose the sales tax authorized in this section unless and until the governing body of the municipality shall again have submitted another proposal to authorize the governing body of the municipality to issue any bonds or impose the sales tax authorized by this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section**, except that any municipality with a population of greater than four hundred thousand and located within more than one county may submit a proposal pursuant to this section to the voters sooner than twelve months from the date of the last proposal submitted pursuant to this section, if the subsequent proposal is submitted to the voters on or before November 6, 2001**.

3. All revenue received by a municipality from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for capital improvements, including the operation and maintenance of capital improvements, for so long as the tax shall remain in effect. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with revenues raised by the tax authorized by this section. Any funds in the special trust fund required by this subsection which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have not been imposed to retire bonds issued pursuant to this section.

4. All revenue received by a municipality which issues bonds under this section and imposes the tax authorized by this section to retire such bonds shall be deposited in a special trust fund and shall be used solely to retire such bonds, except to the extent that such funds are required for the operation and maintenance of capital improvements. Once all of such bonds have been

retired, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with the revenue received as a result of the issuance of such bonds. Any funds in the special trust fund required by this subsection which are not needed to meet current obligations under the bonds issued under this section may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have been imposed to retire bonds issued under this section.

5. After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax in the same manner as provided in sections 94.500 to 94.570, and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed pursuant to this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. No tax imposed pursuant to this section for the purpose of retiring bonds issued under this section may be terminated until all of such bonds have been retired.

7. In any city not within a county, no tax shall be imposed pursuant to this section for the purpose of funding in whole or in part the construction, operation or maintenance of a sports stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility or anything incidental or necessary to a complex suitable for any type of professional sport or recreation, either upon, above or below the ground.

8. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such municipalities. If any municipality abolishes the tax, the municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such municipality, the director of revenue shall remit the balance in the account to the municipality and close the account of that municipality. The director of revenue shall notify each municipality of each instance of any amount refunded or any check redeemed from receipts due the municipality."; and

Further amend Page 19, Section B, Line 20, by adding after the word "clothing" the words "for the purpose of funding capital improvement and the repeal and reenactment of Section 94.577 and"; and

Further amend Page 19, Section B, Line 24, after the word and the words "the repeal and reenactment of Section 94.577 and"; and

Further amend Page 20, Line 1 and 2, by deleting said line and replacing with "**shall be in full force and effect upon its passage and approval**."; and

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

HOUSE AMENDMENT NO. 5 TO
PART I

Amend Part I to House Substitute for House Committee Substitute for Senate Bill No. 460, Page 12, Section 144.815, Line 14, by inserting after said line the following:

"**144.819. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from all state and local sales taxes, as defined in section 32.085, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.757, and from the computation of the tax levied, assessed or payable pursuant to all state and local sales**

taxes as defined in section 32.085, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.811, all materials and supplies used directly in the production of all printed material by firms classified in the 1987 standard industry code classification group 27, except 279 (or their equivalents in the 1997 North American industry classification system), which is intended to be sold ultimately for final use or consumption, if title to the materials and supplies is transferred for consideration to the purchaser of the printed material."; and

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

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

Amend Part II to House Substitute for House Committee Substitute for Senate Bill No. 460, Page 14, Section 144.1059, Line 3, by inserting after the words "**of the senate.**" the following: "**The delegates shall recommend to the committees responsible for reviewing tax issues in the senate and the house of representatives each year what state statutes are required to be amended to be substantially in compliance with the agreement.**"; and

Further amend said bill, Page 15, Section 144.1065, Line 8, by inserting after the word "**state.**" the following: "**Adoption of the agreement by this state does not amend or modify any law of this state.**"; and

Further amend said bill, Page 15, Section 144.1068, Line 12, by inserting after the number "**144.1068.**" the following:

"**1. The director of revenue shall not enter into the streamlined sales and use tax agreement until legislation substantially complying with the requirements of the agreement is enacted into law.**

2.".

HOUSE AMENDMENT NO. 2 TO
PART II

Amend Part II to House Substitute for House Committee Substitute for Senate Bill No. 460, Pages 13 and 14, Section 144.1059, Lines 23 and 24 on Page 13 and Lines 1 through 3 on Page 14, by deleting all of said lines and inserting in lieu thereof the following:

"**appointed by the governor, one member of the majority party in the house of representatives appointed by the speaker of the house of representatives, one member of the minority party in the house of representatives appointed by minority leader of the house of representatives, one member of the majority party in the senate appointed by the pro tempore of the senate and one member of the minority party in the senate appointed by minority leader of the senate. Such**".

HOUSE AMENDMENT NO. 3 TO
PART II

Amend Part II to House Substitute for House Committee Substitute for Senate Bill No. 460, Page 20, Section B, Line 2, by adding one new section:

"Section A. Chapter 144, RSMo, is amended by adding thereto one new section, to be known as section 144.817, to read as follows:

144.817. In addition to the exemptions granted pursuant to the provisions of section 144.030, RSMo, there shall also be specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745, RSMo, and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMO, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745, RSMo, purchases of any item of tangible personal property which is, within one year of such purchase, donated without charge to the state of Missouri. The exemption prescribed in this section includes purchases of all items of tangible personal property converted into an item donated as a gift to the state of Missouri."; and

Further amend said bill by amending title, enacting clauses, 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 that the House has taken up and passed **HS** for **HCS** for **SB 72**, entitled:

An Act to repeal sections 109.005, 109.120, 109.241, 610.010, 610.015, 610.021 and 610.027, RSMo 2000, and to enact in lieu thereof ten new sections relating to public and business records.

With House Substitute Amendment No. 1 for House Amendment No. 1, Part 1 of House Amendment No. 2, House Amendment No. 4, House Substitute Amendment No. 1 for House Amendment No. 5, House Amendments Nos. 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17.

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

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Pages 6-11, Section 191.940, by deleting all of said section and inserting in lieu thereof the following:

"**191.940. 1. For the purposes of this section the following terms mean:**

(1) "Disclose", to release, transfer, provide access to, or divulge in any other manner information outside the entity holding the information, except that disclosure shall not include any information divulged directly to the individual to whom such information pertains;

(2) "Federal Privacy Rules", the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the United States Department of Health and Human Services, 45 CFR Parts 160 to 164;

(3) "Health Information", any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or an individual that relates to:

(a) The past, present or future physical, mental or behavioral health or condition of an individual;

(b) The provision of health care to an individual; or

(c) Payment for the provision of health care to an individual;

(4) "Licensee", all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to chapter 375, RSMo, a health maintenance organization holding or required to hold, a certificate of authority pursuant to chapter 354, RSMo, or any other entity or person subject to the supervision and regulation of the department of insurance;

(5) "nonpublic personal health information", health information;

(a) That identifies an individual who is the subject of the information; or

(b) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual;

(6) "Person", without limitation, an individual, a foreign or domestic corporation whether for profit or not-for-profit, a partnership a limited liability company, an unincorporated society or association, two or more persons having a joint or common interest, a governmental agency or any other entity;

2. Any person who, in the ordinary course of business, practice of a profession or rendering of a service, creates, stores, receives or furnishes nonpublic personal health information shall not disclose by any means of communication such nonpublic personal health information except pursuant to a prior, written authorization of the person to whom such information pertains or such person's authorized representative, if;

(1) The nonpublic personal health information is disclosed in exchange for consideration to an affiliate or other third party; or

(2) The purpose of the disclosure is:

(a) For the marketing of services or goods for personal, family or household purposes;

(b) To facilitate an employer's employment-

related decisions, including, but not limited to, hiring, termination, and the establishment of any other conditions of employment, except as necessary to provide health or other benefits to an existing employee;

(c) For use in connection with the evaluation of an existing or requested extension of credit for personal, family or household purposes; or

(d) Unrelated to the business, practice or service offered by the disclosing person or entity.'

(3) Nothing in this section shall be deemed to prohibit any disclosure of nonpublic personal health information as is necessary to comply with any other state or federal law.

4. Any person other than a licensee who knowingly violates the provisions of this section shall be assessed an administrative penalty of not more than five hundred dollars for each violation of this section. An administrative penalty under this section may be assessed by a state agency responsible for regulating the person or by the attorney general.

5. In addition to the penalties provided in subsection 4 of this section, any person that violates this section shall be subject to civil action for damages or equitable relief.

6. To the extent a person other than a licensee is subject to and complies with all requirements of the federal privacy rules, such person shall be deemed to be in compliance with this section. Until April 14, 2003, a person other than a licensee that is subject to the federal privacy rules shall be deemed to be in compliance with this section upon demonstration of a good faith effort to comply with the requirements of the federal privacy rules.

7. Irrespective of whether a licensee is subject to the federal privacy rules, if a license complies with all requirements of the federal privacy rules except for the effective date provision, the licensee shall be deemed to be in compliance with this section. Until April 14, 2003, a licensee shall deemed to be in compliance with this section upon demonstration of a good faith effort to comply with the requirements of the federal privacy rules.

8. If a licensee complies with the model regulation adopted on September 26, 2000, by the National Association of Insurance Commissioners entitled "Privacy of Consumer Financial and Health Information Regulation", the licensee shall be deemed to be in compliance with this section.

9. Notwithstanding the provisions of subsections 5, 6 and 7 of this section, no person or licensee may disclose nonpublic personal health information for marketing purposes contrary to paragraph (a) of subdivision (2) of subsection 2 of this section.

10. The provisions of this act do no apply to information from or to consumer reporting agencies as defined by the federal Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq., or debt collectors as defined by the federal Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692 et seq. To the extent these entities are engaged in activities regulated by these federal acts.

11. The provisions of this act do not apply to information disclosed in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit, including but not limited to the sale of a portfolio of loans, if the disclosure of nonpublic personal health information concerns solely consumers of the business or unit and the disclosure of the nonpublic personal health information is not the primary reason for the sale, merger, transfer or exchange.

12. The director of the department of insurance shall have the sole authority to enforce this section with respect to licensees including without limitation, treating violations of this section by licensees as unfair practices pursuant to sections 375.930 to 375.948, RSMo.

13. There shall be established a "Commission on Health Information Privacy" to study the issue of the protection of the privacy of nonpublic personal health information. By January 1, 2003, the commission shall make a recommendation to the general assembly of what additional legislative measures should be

enacted to protect the privacy of nonpublic health information, after which the commission shall expire.

(1) The members of the commission shall be names by the governor and shall be citizens and residents of the state. The commission shall consist of fifteen individuals: one representative from the health insurance industry; one representative from the life insurance industry; one representative from the property and casualty insurance industry; three representatives from consumer advocacy organizations; three representatives from health care provider organizations; one representative from the department of health; one representative from the department of insurance; and four at-large representatives with demonstrated interest or expertise in health information privacy issues.

(2) Members shall receive no remuneration for their services but shall be reimbursed for actual and reasonable expenses incurred by them in the performance of their duties.".

PART I OF
HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Section A, Page 1, Line 13, by inserting all the following immediately after said line:

"105.473. 1. Each lobbyist shall, not later than five days after beginning any activities as a lobbyist, file standardized registration forms, verified by a written declaration that it is made under the penalties of perjury, along with a filing fee of ten dollars, with the commission. The forms shall include the lobbyist's name and business address, the name and address of all persons such lobbyist employs for lobbying purposes, the name and address of each lobbyist principal by whom such lobbyist is employed or in whose interest such lobbyist appears or works. The commission shall maintain files on all lobbyists' filings, which shall be open to the public. Each lobbyist shall file an updating statement under oath within one week of any addition, deletion, or change in the lobbyist's employment or representation. The filing fee shall be deposited to the general revenue fund of the state. The lobbyist principal or a lobbyist employing another person for lobbying purposes may notify the commission that a judicial, executive or legislative lobbyist is no longer authorized to lobby for the principal or the lobbyist and should be removed from the commission's files.

2. Each person shall, before giving testimony before any committee of the general assembly, give to the secretary of such committee such person's name and address and the identity of any lobbyist or organization, if any, on whose behalf such person appears. A person who is not a lobbyist as defined in section 105.470 shall not be required to give such person's address if the committee determines that the giving of such address would endanger the person's physical health.

3. (1) During any period of time in which a lobbyist continues to act as an executive lobbyist, judicial lobbyist or a legislative lobbyist, the lobbyist shall file with the commission on standardized forms prescribed by the commission monthly reports which shall be due at the close of business on the tenth day of the following month;

(2) Each report filed pursuant to this subsection shall include a statement, verified by a written declaration that it is made under the penalties of perjury, setting forth the following:

(a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all public officials, their staffs and employees, and their spouses and dependent children, which expenditures shall be separated into at least the following categories by the executive branch, judicial branch and legislative branch of government: **[**printing and publication expenses; media and other advertising expenses;**]** travel; entertainment; **[**honoraria;**]** meals, food and beverages; and gifts;

(b) An itemized listing of the name of the recipient and the nature and amount of each expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of value, for all expenditures made during any reporting period, paid or provided to or for a public official, such

official's staff, employees, spouse or dependent children;

(c) The total of all expenditures made by a lobbyist or lobbyist principal for occasions and the identity of the group invited, the date and description of the occasion and the amount of the expenditure for each occasion when any of the following are invited in writing:

a. All members of the senate;

b. All members of the house of representatives;

c. All members of a joint committee of the general assembly or a standing committee of either the house of representatives or senate; or

d. All members of a caucus of the general assembly if the caucus consists of at least ten members, a list of the members of the caucus has been previously filed with the ethics committee of the house or the senate, and such list has been approved by either of such ethics committees;

(d) Any expenditure made on behalf of a public official, or the public official's staff, employees, spouse or dependent children, if such expenditure is solicited by such public official, the public official's staff, employees, or spouse or dependent children, from the lobbyist or his or her lobbyist principals and the name of such person or persons, except any expenditures made to any not for profit corporation, charitable, fraternal or civic organization or other association formed to provide for good in the order of benevolence;

(e) A statement detailing any direct business relationship or association or partnership the lobbyist has with any public official.

The reports required by this subdivision shall cover the time periods since the filing of the last report or since the lobbyist's employment or representation began, whichever is most recent.

4. No expenditure reported pursuant to this section shall include any amount expended by a lobbyist or lobbyist principal on himself or herself. **No expenditure reported pursuant to this section shall include any payment, gift, compensation, fee expenditure or anything of value which is bestowed upon or given to any public official or a staff member, employee, spouse or dependent child of a public official when it is compensation for employment or given as an employment benefit and when such employment is in addition to their employment as a public official.** All expenditures disclosed pursuant to this section shall be valued on the report at the actual amount of the payment made, or the charge, expense, cost, or obligation, debt or bill incurred by the lobbyist or the person the lobbyist represents. Whenever a lobbyist principal employs more than one lobbyist, expenditures of the lobbyist principal shall not be reported by each lobbyist, but shall be reported by one of such lobbyists.

5. Any lobbyist principal shall provide in a timely fashion whatever information is reasonably requested by the lobbyist principal's lobbyist for use in filing the reports required by this section.

6. All information required to be filed pursuant to the provisions of this section with the commission shall be kept available by the executive director of the commission at all times open to the public for inspection and copying for a reasonable fee for a period of five years from the date when such information was filed.

7. No person shall knowingly employ any person who is required to register as a registered lobbyist but is not registered pursuant to this section. Any person who knowingly violates this subsection shall be subject to a civil penalty in an amount of not more than ten thousand dollars for each violation. Such civil penalties shall be collected by action filed by the commission.

8. No lobbyist shall knowingly omit, conceal, or falsify in any manner information required pursuant to this section.

9. The prosecuting attorney of Cole County shall be reimbursed only out of funds specifically appropriated by the general assembly for investigations and prosecutions for violations of this section.

10. Any public official or other person whose name appears in any lobbyist report filed pursuant to this section who contests the accuracy of the portion of the report applicable to such person may petition the commission for an audit of such report and shall state in writing in such petition the specific

disagreement with the contents of such report. The commission shall investigate such allegations in the manner described in section 105.959. If the commission determines that the contents of such report are incorrect, incomplete or erroneous, it shall enter an order requiring filing of an amended or corrected report.

11. The commission shall provide a report listing the total spent by a lobbyist for the month and year to any member or member-elect of the general assembly, judge or judicial officer, or any other person holding an elective office of state government on or before the twentieth day of each month. For the purpose of providing accurate information to the public, the commission shall not publish information in either written or electronic form for ten working days after providing the report pursuant to this subsection. The commission shall not release any portion of the lobbyist report if the accuracy of the report has been questioned pursuant to subsection 10 of this section unless it is conspicuously marked "Under Review".

12. Each lobbyist or lobbyist principal by whom the lobbyist was employed, or in whose behalf the lobbyist acted, shall provide a general description of the proposed legislation or action by the executive branch or judicial branch which the lobbyist or lobbyist principal supported or opposed. This information shall be supplied to the commission on March fifteenth and May thirtieth of each year.

105.475. **[**1. The provisions of sections 105.470 to 105.473 shall not apply to any public official or a staff member, employee, spouse or dependent child of a public official when employed by a lobbyist principal and who is acting on behalf of the lobbyist principal in their employment, except if such person's employment is as a lobbyist for the lobbyist principal.

2.**]** The provisions of sections 105.470 to 105.473 shall not apply to any member of a union who is acting in either an employment capacity or contractual capacity in association with the union, except if such person's employment or contractual capacity is as a lobbyist for the union.

105.477. 1. The commission shall supply a computer program which shall be used for filing by modem or by a common magnetic media chosen by the commission. The computer program shall be able to run on DOS, Windows or Macintosh based personal computers **[**or run on any other common personal computer operating environment which may become available in the future**]**.

2. The commission shall have the appropriate software and hardware in place by January 1, 1998, for acceptance of reports electronically. The commission shall make this information available via an Internet Web site connection by no later than January 1, 1999.

3. All lobbyists shall file expenditure reports required by the commission electronically either through modem or common magnetic media. In addition, lobbyists shall file a signed form prescribed by the commission which verifies the information filed electronically within five working days; except that, **[**if**]** **when** a means becomes available which will allow a verifiable electronic signature, the commission may accept this in lieu of a **[**written statement**]** **signed form.**

4. All records that are in electronic format, not otherwise closed by law, shall be available in electronic format to the public. The commission shall maintain and provide for public inspection, a listing of all reports, with a complete description for each field contained on the report, that has been used to extract information from their database files. The commission shall develop a report or reports which contain every field in each database.

5. Annually, the commission shall provide**[**, without cost, a system-wide dump of**]** **to the general assembly at no cost a complete copy of** information contained in the commission's electronic **reporting** database files **[**to the general assembly**]**. The information **[**is to**]** **shall** be copied onto a medium specified by the general assembly. Such information shall not contain records otherwise closed by law. It is the intent of the general assembly to provide open access to the commission's records. The commission shall make every reasonable effort to comply with requests for information and shall take a liberal interpretation when considering such requests. Priority shall be given to public requests for reports identifying

lobbyist or lobbyist principal expenditures per individual legislator.

105.961. 1. Upon receipt of a complaint as described by section 105.957, the commission shall assign the complaint to a special investigator, who may be a commission employee, who shall investigate and determine the merits of the complaint. Within ten days of such assignment, the special investigator shall review such complaint and disclose, in writing, to the commission any conflict of interest which the special investigator has or might have with respect to the investigation and subject thereof. Within one hundred twenty days of receipt of the complaint from the commission, the special investigator shall submit the special investigator's report to the commission. The commission, after review of such report, shall determine:

(1) That there is reasonable grounds for belief that a violation has occurred; or

(2) That there are no reasonable grounds for belief that a violation exists and the complaint should be dismissed; or

(3) That additional time is necessary to complete the investigation, and the status and progress of the investigation to date. The commission, in its discretion, may allow the investigation to proceed for additional successive periods of one hundred twenty days each, pending reports regarding the status and progress of the investigation at the end of each such period.

2. When the commission concludes, based on the report from the special investigator, or based on an audit conducted pursuant to section 105.959, that there are reasonable grounds to believe that a violation of any criminal law has occurred, and if the commission believes that criminal prosecution would be appropriate upon a vote of **at least** four members of the commission, the commission shall refer the report to the Missouri office of prosecution services, prosecutors coordinators training council established in section 56.760, RSMo, which shall submit a panel of five attorneys for recommendation to the court having criminal jurisdiction, for appointment of an attorney to serve as a special prosecutor; except that, the attorney general of Missouri or any assistant attorney general shall not act as such special prosecutor. The court shall then appoint from such panel a special prosecutor pursuant to section 56.110, RSMo, who shall have all the powers provided by section 56.130, RSMo. The court shall allow a reasonable and necessary attorney's fee for the services of the special prosecutor. Such fee shall be assessed as costs if a case is filed, or ordered by the court if no case is filed, and paid together with all other costs in the proceeding by the state, in accordance with rules and regulations promulgated by the state courts administrator, subject to funds appropriated to the office of administration for such purposes. If the commission does not have sufficient funds to pay a special prosecutor, the commission shall refer the case to the prosecutor or prosecutors having criminal jurisdiction. If the prosecutor having criminal jurisdiction is not able to prosecute the case due to a conflict of interest, the court may appoint a special prosecutor, paid from county funds, upon appropriation by the county or the attorney general to investigate and, if appropriate, prosecute the case. The special prosecutor or prosecutor shall commence an action based on the report by the filing of an information or seeking an indictment within sixty days of the date of such prosecutor's appointment, or shall file a written statement with the commission explaining why criminal charges should not be sought. If the special prosecutor or prosecutor fails to take either action required by this subsection, upon request of the commission, a new special prosecutor, who may be the attorney general, shall be appointed. The report may also be referred to the appropriate disciplinary authority over the person who is the subject of the report.

3. When the commission concludes, based on the report from the special investigator or based on an audit conducted pursuant to section 105.959, that there are reasonable grounds to believe that a violation of any law has occurred which is not a violation of criminal law or that criminal prosecution is not appropriate, the commission **[**shall**] may** conduct a hearing which shall be a closed meeting and not open to the public. The hearing shall be conducted pursuant to the procedures provided by sections 536.063 to

536.090, RSMo, and shall be considered to be a contested case for purposes of such sections. The commission shall determine, in its discretion, whether or not that there is probable cause that a violation has occurred. If the commission determines, by a vote of at least four members of the commission, that probable cause exists that a violation has occurred, the commission may refer its findings and conclusions to the appropriate disciplinary authority over the person who is the subject of the report, as described in subsection 7 of this section. **If the commission determines by a vote of at least four members that a hearing is not appropriate, the commission may, by a vote of at least four members, seek an agreement with the party or parties determined to have violated the provisions of subsection 1 of section 105.957, and the commission may collect a fee for such violation in an amount not greater than one thousand dollars.** After the commission determines by a vote of at least four members of the commission that probable cause exists that a violation has occurred, and the commission has referred the findings and conclusions to the appropriate disciplinary authority over the person subject of the report, the subject of the report may appeal the determination of the commission to the administrative hearing commission. Such appeal shall stay the action of the Missouri ethics commission. Such appeal shall be filed not later than the fourteenth day after the subject of the commission's action receives actual notice of the commission's action.

4. If the appropriate disciplinary authority receiving a report from the commission pursuant to subsection 3 of this section fails to follow, within sixty days of the receipt of the report, the recommendations contained in the report, or if the commission determines, by a vote of at least four members of the commission that some action other than referral for criminal prosecution or for action by the appropriate disciplinary authority would be appropriate, the commission shall take any one or more of the following actions:

(1) Notify the person to cease and desist violation of any provision of law which the report concludes was violated and that the commission may seek judicial enforcement of its decision pursuant to subsection 5 of this section;

(2) Notify the person of the requirement to file, amend or correct any report, statement, or other document or information required by sections 105.473, 105.483 to 105.492, or chapter 130, RSMo, and that the commission may seek judicial enforcement of its decision pursuant to subsection 5 of this section; and

(3) File the report with the executive director to be maintained as a public document; or

(4) Issue a letter of concern or letter of reprimand to the person, which would be maintained as a public document; or

(5) Issue a letter that no further action shall be taken, which would be maintained as a public document; or

(6) Through reconciliation agreements or civil action, the power to seek fees for violations in an amount not greater than one thousand dollars or double the amount involved in the violation.

5. Upon vote of at least four members, the commission may initiate formal judicial proceedings seeking to obtain any of the following orders:

(1) Cease and desist violation of any provision of sections 105.450 to 105.496, or chapter 130, RSMo, or sections 105.955 to 105.963;

(2) Pay any civil penalties required by sections 105.450 to 105.496 or chapter 130, RSMo;

(3) File any reports, statements, or other documents or information required by sections 105.450 to 105.496, or chapter 130, RSMo; or

(4) Pay restitution for any unjust enrichment the violator obtained as a result of any violation of any criminal statute as described in subsection 6 of this section.

The Missouri ethics commission shall give actual notice to the subject of the complaint of the proposed action as set out in this section. The subject of the complaint may appeal the action of the Missouri ethics commission, other than a referral for criminal prosecution, to the administrative hearing commission. Such appeal shall stay the action of the Missouri ethics

commission. Such appeal shall be filed no later than fourteen days after the subject of the commission's actions receives actual notice of the commission's actions.

6. In the proceeding in circuit court, the commission may seek restitution against any person who has obtained unjust enrichment as a result of violation of any provision of sections 105.450 to 105.496, or chapter 130, RSMo, and may recover on behalf of the state or political subdivision with which the alleged violator is associated, damages in the amount of any unjust enrichment obtained and costs and attorney's fees as ordered by the court.

7. The appropriate disciplinary authority to whom a report shall be sent pursuant to subsection 2 or 3 of this section shall include, but not be limited to, the following:

(1) In the case of a member of the general assembly, the ethics committee of the house of which the subject of the report is a member;

(2) In the case of a person holding an elective office or an appointive office of the state, if the alleged violation is an impeachable offense, the report shall be referred to the ethics committee of the house of representatives;

(3) In the case of a person holding an elective office of a political subdivision, the report shall be referred to the governing body of the political subdivision;

(4) In the case of any officer or employee of the state or of a political subdivision, the report shall be referred to the person who has immediate supervisory authority over the employment by the state or by the political subdivision of the subject of the report;

(5) In the case of a judge of a court of law, the report shall be referred to the commission on retirement, removal and discipline, or if the inquiry involves an employee of the judiciary to the applicable presiding judge;

(6) In the case of a person holding an appointive office of the state, if the alleged violation is not an impeachable offense, the report shall be referred to the governor;

(7) In the case of a statewide elected official, the report shall be referred to the attorney general;

(8) In a case involving the attorney general, the report shall be referred to the prosecuting attorney of Cole County.

8. The special investigator having a complaint referred to the special investigator by the commission shall have the following powers:

(1) To request and shall be given access to information in the possession of any person or agency which the special investigator deems necessary for the discharge of the special investigator's responsibilities;

(2) To examine the records and documents of any person or agency, unless such examination would violate state or federal law providing for confidentiality;

(3) To administer oaths and affirmations;

(4) Upon refusal by any person to comply with a request for information relevant to an investigation, an investigator may issue a subpoena for any person to appear and give testimony, or for a subpoena duces tecum to produce documentary or other evidence which the investigator deems relevant to a matter under the investigator's inquiry. The subpoenas and subpoenas duces tecum may be enforced by applying to a judge of the circuit court of Cole County or any county where the person or entity that has been subpoenaed resides or may be found, for an order to show cause why the subpoena or subpoena duces tecum should not be enforced. The order and a copy of the application therefor shall be served in the same manner as a summons in a civil action, and if, after hearing, the court determines that the subpoena or subpoena duces tecum should be sustained and enforced, the court shall enforce the subpoena or subpoena duces tecum in the same manner as if it had been issued by the court in a civil action; and

(5) To request from the commission such investigative, clerical or other staff assistance or advancement of other expenses which are necessary and convenient for the proper completion of an investigation. Within the limits of appropriations to the commission, the commission may provide such assistance, whether by contract

to obtain such assistance or from staff employed by the commission, or may advance such expenses.

9. (1) Any retired judge may request in writing to have the judge's name removed from the list of special investigators subject to appointment by the commission or may request to disqualify himself or herself from any investigation. Such request shall include the reasons for seeking removal;

(2) By vote of **at least** four members of the commission, the commission may disqualify a judge from a particular investigation or may permanently remove the name of any retired judge from the list of special investigators subject to appointment by the commission.

10. Any person who is the subject of any investigation pursuant to this section shall be entitled to be represented by counsel at any proceeding before the special investigator or the commission.

11. The provisions of sections 105.957, 105.959 and 105.961 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. The provisions of this section shall not be construed to limit or affect any other remedy or right of appeal or objection.

12. No person shall be required to make or file a complaint to the commission as a prerequisite for exhausting the person's administrative remedies before pursuing any civil cause of action allowed by law.

13. If, in the opinion of the commission, the complaining party was motivated by malice or reason contrary to the spirit of any law on which such complaint was based, in filing the complaint without just cause, this finding shall be reported to appropriate law enforcement authorities. Any person who knowingly files a complaint without just cause, or with malice, is guilty of a class A misdemeanor.

14. A respondent party who prevails in a formal judicial action brought by the commission shall be awarded those reasonable fees and expenses incurred by that party in the formal judicial action, unless the court finds that the position of the commission was substantially justified or that special circumstances make such an award unjust.

15. The special investigator and members and staff of the commission shall maintain confidentiality with respect to all matters concerning a complaint until and if a report is filed with the commission, with the exception of communications with any person which are necessary to the investigation. The report filed with the commission resulting from a complaint acted upon under the provisions of this section shall not contain the name of the complainant or other person providing information to the investigator, if so requested in writing by the complainant or such other person. Any person who violates the confidentiality requirements imposed by this section or subsection 17 of section 105.955 required to be confidential is guilty of a class A misdemeanor and shall be subject to removal from or termination of employment by the commission.

16. Any judge of the court of appeals or circuit court who ceases to hold such office by reason of the judge's retirement and who serves as a special investigator pursuant to this section shall receive annual compensation, salary or retirement for such services at the rates of compensation provided for senior judges by subsections 1, 2 and 4 of section 476.682, RSMo. Such retired judges shall by the tenth day of each month following any month in which the judge provided services pursuant to this section certify to the commission and to the state courts administrator the amount of time engaged in such services by hour or fraction thereof, the dates thereof, and the expenses incurred and allowable pursuant to this section. The commission shall then issue a warrant to the state treasurer for the payment of the salary and expenses to the extent, and within limitations, provided for in this section. The state treasurer upon receipt of such warrant shall pay the same out of any appropriations made for this purpose on the last day of the month during which the warrant was received by the state treasurer."; and,

Further amend said house substitute, section 109.241, page 6, line 1, by inserting all the following immediately after said line:

"130.011. As used in this chapter, unless the context clearly indicates otherwise, the following

terms mean:

(1) "Appropriate officer" or "appropriate officers", the person or persons designated in section 130.026 to receive certain required statements and reports;

(2) "Ballot measure" or "measure", any proposal submitted or intended to be submitted to qualified voters for their approval or rejection, including any proposal submitted by initiative petition, referendum petition, or by the general assembly or any local governmental body having authority to refer proposals to the voter;

(3) "Candidate", an individual who seeks nomination or election to public office. The term "candidate" includes an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined by such individual at the time the individual meets the conditions described in paragraph (a) or (b) of this subdivision, and an individual who is a "write-in candidate" as defined in subdivision (28) of this section. A candidate shall be deemed to seek nomination or election when the person first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the person's candidacy for office; or

(b) Knows or has reason to know that contributions are being received or expenditures are being made or space or facilities are being reserved with the intent to promote the person's candidacy for office; except that, such individual shall not be deemed a candidate if the person files a statement with the appropriate officer within five days after learning of the receipt of contributions, the making of expenditures, or the reservation of space or facilities disavowing the candidacy and stating that the person will not accept nomination or take office if elected; provided that, if the election at which such individual is supported as a candidate is to take place within five days after the person's learning of the above-specified activities, the individual shall file the statement disavowing the candidacy within one day; or

(c) Announces or files a declaration of candidacy for office;

(4) "Cash", currency, coin, United States postage stamps, or any negotiable instrument which can be transferred from one person to another person without the signature or endorsement of the transferor;

(5) "Check", a check drawn on a state or federal bank, or a draft on a negotiable order of withdrawal account in a savings and loan association or a share draft account in a credit union;

(6) "Closing date", the date through which a statement or report is required to be complete;

(7) "Committee", a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee:

(a) "Committee", does not include:

a. A person or combination of persons, if neither the aggregate of expenditures made nor the aggregate of contributions received during a calendar year exceeds five hundred dollars and if no single contributor has contributed more than two hundred **[**fifty**]** **seventy-five** dollars of such aggregate contributions;

b. An individual, other than a candidate, who accepts no contributions and who deals only with the individual's own funds or property;

c. A corporation, cooperative association, partnership, proprietorship, or joint venture organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or

defeat of any ballot measure, and it accepts no contributions, and all expenditures it makes are from its own funds or property obtained in the usual course of business or in any commercial or other transaction and which are not contributions as defined by subdivision (12) of this section;

d. A labor organization organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates, or the qualification, passage, or defeat of any ballot measure, and it accepts no contributions, and expenditures made by the organization are from its own funds or property received from membership dues or membership fees which were given or solicited for the purpose of supporting the normal and usual activities and functions of the organization and which are not contributions as defined by subdivision (12) of this section;

e. A person who acts as an authorized agent for a committee in soliciting or receiving contributions or in making expenditures or incurring indebtedness on behalf of the committee if such person renders to the committee treasurer or deputy treasurer or candidate, if applicable, an accurate account of each receipt or other transaction in the detail required by the treasurer to comply with all record keeping and reporting requirements of this chapter;

f. Any department, agency, board, institution or other entity of the state or any of its subdivisions or any officer or employee thereof, acting in the person's official capacity;

(b) The term "committee" includes, but is not limited to, each of the following committees: campaign committee, candidate committee, continuing committee and political party committee;

(8) "Campaign committee", a committee, other than a candidate committee, which shall be formed by an individual or group of individuals to receive contributions or make expenditures and whose sole purpose is to support or oppose the qualification and passage of one or more particular ballot measures in an election or the retention of judges under the nonpartisan court plan, such committee shall be formed no later than thirty days prior to the election for which the committee receives contributions or makes expenditures, and which shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the general election, except that no committee retiring debt shall engage in any other activities in support of a measure for which the committee was formed;

(9) "Candidate committee", a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy and which shall continue in existence for use by an elected candidate or which shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt shall engage in any other activities in support of the candidate for which the committee was formed. Any candidate for elective office shall have only one candidate committee for the elective office sought, which is controlled directly by the candidate for the purpose of making expenditures. A candidate committee is presumed to be under the control and direction of the candidate unless the candidate files an affidavit with the appropriate officer stating that the committee is acting without control or direction on the candidate's part;

(10) "Continuing committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. "Continuing committee" includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is

to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than thirty days prior to the election for which the committee receives contributions or makes expenditures;

(11) "Connected organization", any organization such as a corporation, a labor organization, a membership organization, a cooperative, or trade or professional association which expends funds or provides services or facilities to establish, administer or maintain a committee or to solicit contributions to a committee from its members, officers, directors, employees or security holders. An organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses;

(12) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure, or for the support of any committee supporting or opposing candidates or ballot measures or for paying debts or obligations of any candidate or committee previously incurred for the above purposes. A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value. "Contribution" includes, but is not limited to:

(a) A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

(b) Payment by any person, other than a candidate or committee, to compensate another person for services rendered to that candidate or committee;

(c) Receipts from the sale of goods and services, including the sale of advertising space in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of tickets or political merchandise;

(d) Receipts from fund-raising events including testimonial affairs;

(e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in an election campaign or used or intended for the payment of such debts or obligations of a candidate or committee previously incurred, or which was made or received by a committee;

(f) Funds received by a committee which are transferred to such committee from another committee or other source, except funds received by a candidate committee as a transfer of funds from another candidate committee controlled by the same candidate but such transfer shall be included in the disclosure reports;

(g) Facilities, office space or equipment supplied by any person to a candidate or committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or committees, on an equal basis for similar purposes on the same conditions;

(h) The direct or indirect payment by any person, other than a connected organization, of the costs of establishing, administering, or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee;

(i) "Contribution" does not include:

a. Ordinary home hospitality or services provided without compensation by individuals volunteering their time in support of or in opposition to a candidate, committee or ballot measure, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a contribution which is expressly and unconditionally rejected and returned

to the donor within ten business days after receipt or transmitted to the state treasurer;

c. Interest earned on deposit of committee funds;

d. The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021 for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization;

(13) "County", any one of the several counties of this state or the city of St. Louis;

(14) "Disclosure report", an itemized report of receipts, expenditures and incurred indebtedness which is prepared on forms approved by the Missouri ethics commission and filed at the times and places prescribed;

(15) "Election", any primary, general or special election held to nominate or elect an individual to public office, to retain or recall an elected officeholder or to submit a ballot measure to the voters, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections;

(16) "Expenditure", a payment, advance, conveyance, deposit, donation or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee; a payment, or an agreement or promise to pay, money or anything of value, including a candidate's own money or property, for the purchase of goods, services, property, facilities or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee. An expenditure of anything of value shall be deemed to have a money value equivalent to the fair market value. "Expenditure" includes, but is not limited to:

(a) Payment by anyone other than a committee for services of another person rendered to such committee;

(b) The purchase of tickets, goods, services or political merchandise in connection with any testimonial affair or fund-raising event of or for candidates or committees, or the purchase of advertising in a brochure, booklet, program or pamphlet of a candidate or committee;

(c) The transfer of funds by one committee to another committee;

(d) The direct or indirect payment by any person, other than a connected organization for a committee, of the costs of establishing, administering or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee; but

(e) "Expenditure" does not include:

a. Any news story, commentary or editorial which is broadcast or published by any broadcasting station, newspaper, magazine or other periodical without charge to the candidate or to any person supporting or opposing a candidate or ballot measure;

b. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders, provided that the cost incurred is reported pursuant to **[**subsection 2 of**]** section **[**130.051**]** **130.048**;

c. Repayment of a loan, but such repayment shall be indicated in required reports;

d. The rendering of voluntary personal services by

an individual of the sort commonly performed by volunteer campaign workers and the payment by such individual of the individual's necessary and ordinary personal expenses incidental to such volunteer activity, provided no compensation is, directly or indirectly, asked or given;

e. The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021 for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization;

f. The use of a candidate's own money or property for expense of the candidate's personal food, lodging, travel, and payment of any fee necessary to the filing for public office, if such expense is not reimbursed to the candidate from any source;

(17) "Exploratory committees", a committee which shall be formed by an individual to receive contributions and make expenditures on behalf of this individual in determining whether or not the individual seeks elective office.

Such committee shall terminate no later than December thirty-first of the year prior to the general election for the possible office;

(18) "Fund-raising event", an event such as a dinner, luncheon, reception, coffee, testimonial, rally, auction or similar affair through which contributions are solicited or received by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise;

(19) "In-kind contribution" or "in-kind expenditure", a contribution or expenditure in a form other than money;

(20) "Labor organization", any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;

(21) "Loan", a transfer of money, property or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part and which was contracted, used, or intended for use in an election campaign, or which was made or received by a committee or which was contracted, used, or intended to pay previously incurred campaign debts or obligations of a candidate or the debts or obligations of a committee;

(22) "Person", an individual, group of individuals, corporation, partnership, committee, proprietorship, joint venture, any department, agency, board, institution or other entity of the state or any of its political subdivisions, union, labor organization, trade or professional or business association, association, political party or any executive committee thereof, or any other club or organization however constituted or any officer or employee of such entity acting in the person's official capacity;

(23) "Political merchandise", goods such as bumper stickers, pins, hats, ties, jewelry, literature, or other items sold or distributed at a fund-raising event or to the general public for publicity or for the purpose of raising funds to be used in supporting or opposing a candidate for nomination or election or in supporting or opposing the qualification, passage or defeat of a ballot measure;

(24) "Political party", a political party which has the right under law to have the names of its candidates listed on the ballot in a general election;

(25) "Political party committee", a state, district, county, city, or area committee of a political party, as defined in section 115.603, RSMo, which may be organized as a not-for-profit corporation under Missouri law, and which committee is of continuing existence, and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party;

(26) "Public office" or "office", any state, judicial, county, municipal, school or other district, ward, township, or other political subdivision office or any political party office which is filled by a vote of

registered voters;

(27) "Regular session", includes that period beginning on the first Wednesday after the first Monday in January and ending following the first Friday after the second Monday in May;

(28) "Write-in candidate", an individual whose name is not printed on the ballot but who otherwise meets the definition of "candidate" in subdivision (3) of this section.

130.016. 1. No candidate for statewide elected office, general assembly, judicial office other than municipal judge, or municipal office in a city with a population of more than one hundred thousand shall be required to comply with the requirements to file a statement of organization or disclosure reports of contributions and expenditures for any election in which neither the aggregate of contributions received nor the aggregate of expenditures made on behalf of such candidate exceeds five hundred dollars and no single contributor, other than the candidate, has contributed more than two hundred **[**fifty**] seventy-five** dollars of the aggregate contributions received, provided that:

(1) The candidate files a sworn exemption statement with the appropriate officer that the candidate does not intend to either receive contributions or make expenditures in the aggregate of more than five hundred dollars or receive contributions from any single contributor, other than himself or herself, that aggregate more than two hundred **[**fifty**] seventy-five** dollars and that the total of all contributions received or expenditures made by the candidate and all committees or any other person with his knowledge and consent in support of his candidacy will not exceed five hundred dollars and that the aggregate of contributions received from any single contributor will not exceed two hundred **[**fifty**] seventy-five** dollars. Such exemption statement shall be filed no later than the date set forth in section 130.046 on which a disclosure report would otherwise be required if the candidate does not file the exemption statement. The exemption statement shall be filed on a form furnished to each appropriate officer by the executive director of the Missouri ethics commission. Each appropriate officer shall make the exemption statement available to candidates and shall direct each candidate's attention to the exemption statement and explain its purpose to the candidate; and

(2) The sworn exemption statement includes a statement that the candidate understands that records of contributions and expenditures must be maintained from the time the candidate first receives contributions or makes expenditures and that an exemption from filing a statement of organization or disclosure reports does not exempt the candidate from other provisions of this chapter. Each candidate described in subsection 1 of this section, who files a statement of exemption, shall file a statement of limited activity for each reporting period, described in section 130.046.

2. Any candidate who has filed an exemption statement as provided in subsection 1 of this section shall not accept any contribution or make any expenditure in support of the person's candidacy, either directly or indirectly or by or through any committee or any other person acting with the candidate's knowledge and consent, which would cause such contributions or expenditures to exceed the limits specified in subdivision (1) of subsection 1 of this section unless the candidate later rejects the exemption pursuant to the provisions of subsection 3 of this section. Any contribution received in excess of such limits shall be returned to the donor or transmitted to the state treasurer to escheat to the state.

3. If, after filing the exemption statement provided for in this section, the candidate subsequently determines the candidate wishes to exceed any of the limits in subdivision (1) of subsection 1 of this section, the candidate shall file a notice of rejection of the exemption with the appropriate officer; however, such rejection shall not be filed later than thirty days before election. A notice of rejection of exemption shall be accompanied by a statement of organization as required by section 130.021 and any other statements and reports which would have been required if the candidate had not filed an exemption statement.

4. A primary election and the immediately succeeding general election are separate elections, and restrictions on contributions and expenditures

set forth in subsection 2 of this section shall apply to each election; however, if a successful primary candidate has correctly filed an exemption statement prior to the primary election and has not filed a notice of rejection prior to the date on which the first disclosure report applicable to the succeeding general election is required to be filed, the candidate shall not be required to file an exemption statement for that general election if the limitations set forth in subsection 1 of this section apply to the succeeding general election.

5. A candidate who has an existing candidate committee formed for a prior election for which all statements and reports required by this chapter have been properly filed shall be eligible to file the exemption statement as provided in subsection 1 of this section and shall not be required to file the disclosure reports pertaining to the election for which the candidate is eligible to file the exemption statement if the candidate and the treasurer or deputy treasurer of such existing candidate committee continue to comply with the requirements, limitations and restrictions set forth in subsections 1, 2, 3 and 4 of this section. The exemption permitted by this subsection does not exempt a candidate or the treasurer of the candidate's existing candidate committee from complying with the requirements of subsections 6 and 7 of section 130.046 applicable to a prior election.

6. No nonpartisan candidate for supreme court, circuit court, or associate circuit court, or candidate for political party office, or for county office or municipal office in a city of one hundred thousand or less, or for any special purpose district office shall be required to file an exemption statement pursuant to this section in order to be exempted from forming a committee and filing disclosure reports required of committees pursuant to this chapter if the aggregate of contributions received or expenditures made by the candidate and any other person with the candidate's knowledge and consent in support of the person's candidacy does not exceed one thousand dollars and the aggregate of contributions from any single contributor does not exceed two hundred **[**fifty**]** **seventy-five** dollars. No candidate for any office listed in this subsection shall be excused from complying with the provisions of any section of this chapter, other than the filing of an exemption statement under the conditions specified in this subsection.

7. If any candidate for an office listed in subsection 6 of this section exceeds the limits specified in subsection 6 of this section, the candidate shall form a committee no later than thirty days prior to the election for which the contributions were received or expended which shall comply with all provisions of this chapter for committees.

130.021. 1. Every committee shall have a treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state. A committee may also have a deputy treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state, to serve in the capacity of committee treasurer in the event the committee treasurer is unable for any reason to perform the treasurer's duties.

2. Every candidate for offices listed in subsection 1 of section 130.016 who has not filed a statement of exemption pursuant to that subsection and every candidate for offices listed in subsection 6 of section 130.016 who is not excluded from filing a statement of organization and disclosure reports pursuant to subsection 6 shall form a candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all further contributions received by such candidate and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee. Nothing in this chapter shall prevent a candidate from appointing himself or herself as a committee of one and serving as the person's own treasurer, maintaining the candidate's own records and filing all the reports and statements required to be filed by the treasurer of a candidate committee.

3. A candidate who has more than one candidate committee supporting the person's candidacy shall designate one of those candidate committees as the committee responsible for consolidating the aggregate contributions to all such committees

under the candidate's control and direction as required by section 130.041.

4. (1) Every committee shall have a single official fund depository within this state which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan association, or a federally or state-chartered credit union in which the committee shall open and thereafter maintain at least one official depository account in its own name. An "official depository account" shall be a checking account or some type of negotiable draft or negotiable order of withdrawal account, and the official fund depository shall, regarding an official depository account, be a type of financial institution which provides a record of deposits, canceled checks or other canceled instruments of withdrawal evidencing each transaction by maintaining copies within this state of such instruments and other transactions. All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer or candidate. Contributions received by a committee shall not be commingled with any funds of an agent of the committee, a candidate or any other person, except that contributions from a candidate of the candidate's own funds to the person's candidate committee shall be deposited to an official depository account of the person's candidate committee. No expenditure shall be made by a committee when the office of committee treasurer is vacant except that when the office of a candidate committee treasurer is vacant, the candidate shall be the treasurer until the candidate appoints a new treasurer.

(2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a committee's official depository account and deposit such funds in one or more savings accounts in the committee's name in any bank, savings and loan association or credit union within this state, and may also withdraw funds from an official depository account for investment in the committee's name in any certificate of deposit, bond or security. Proceeds from interest or dividends from a savings account or other investment or proceeds from withdrawals from a savings account or from the sale of an investment shall not be expended or reinvested, except in the case of renewals of certificates of deposit, without first redepositing such proceeds in an official depository account. Investments, other than savings accounts, held outside the committee's official depository account at any time during a reporting period shall be disclosed by description, amount, any identifying numbers and the name and address of any institution or person in which or through which it is held in an attachment to disclosure reports the committee is required to file. Proceeds from an investment such as interest or dividends or proceeds from its sale, shall be reported by date and amount. In the case of the sale of an investment, the names and addresses of the persons involved in the transaction shall also be stated. Funds held in savings accounts and investments, including interest earned, shall be included in the report of money on hand as required by section 130.041.

5. The treasurer or deputy treasurer acting on behalf of any person or organization or group of persons which is a committee by virtue of the definitions of "committee" in section 130.011 and any candidate who is not excluded from forming a committee in accordance with the provisions of section 130.016 shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than **[**the date for filing the first report required pursuant to the provisions of section 130.046**] thirty days prior to the election for which the committee accepts contributions or makes expenditures.** The statement of organization shall contain the following information:

(1) The name, mailing address and telephone number, if any, of the committee filing the statement of organization. If the committee is deemed to be affiliated with a connected organization as provided in subdivision (11) of section 130.011, the name of the connected organization, or a legally registered fictitious name which reasonably identifies the connected organization, shall appear in the name of the

committee. If the committee is a candidate committee, the name of the candidate shall be a part of the committee's name;

(2) The name, mailing address and telephone number of the candidate;

(3) The name, mailing address and telephone number of the committee treasurer, and the name, mailing address and telephone number of its deputy treasurer if the committee has named a deputy treasurer;

(4) The names, mailing addresses and titles of its officers, if any;

(5) The name and mailing address of any connected organizations with which the committee is affiliated;

(6) The name and mailing address of its depository, and the name and account number of each account the committee has in the depository;

(7) Identification of the major nature of the committee such as a candidate committee, campaign committee, continuing committee, political party committee, incumbent committee, or any other committee according to the definition of "committee" in section 130.011;

(8) In the case of the candidate committee designated in subsection 3 of this section, the full name and address of each other candidate committee which is under the control and direction of the same candidate, together with the name, address and telephone number of the treasurer of each such other committee;

(9) The name and office sought of each candidate supported or opposed by the committee;

(10) The ballot measure concerned, if any, and whether the committee is in favor of or opposed to such measure.

6. A committee may omit the information required in subdivisions (9) and (10) of subsection 5 of this section if, on the date on which it is required to file a statement of organization, the committee has not yet determined the particular candidates or particular ballot measures it will support or oppose. Any contribution received over the allowable contribution limits described in section 130.032 shall be returned to the contributor by the committee within five business days of the declaration of candidacy or position on a candidate or a particular ballot measure of the committee.

7. A committee which has filed a statement of organization and has not terminated shall not be required to file another statement of organization, except that when there is a change in any of the information previously reported as required by subdivisions (1) to (8) of subsection 5 of this section an amended statement of organization shall be filed within twenty days after the change occurs, but no later than the date of the filing of the next report required to be filed by that committee by section 130.046.

8. Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed. The termination statement shall include: the distribution made of any remaining surplus funds and the disposition of any deficits; and the name, mailing address and telephone number of the individual responsible for preserving the committee's records and accounts as required in section 130.036.

9. Any statement required by this section shall be signed and attested by the committee treasurer or deputy treasurer, and by the candidate in the case of a candidate committee.

10. A committee domiciled outside this state shall be required to file a statement of organization and appoint a treasurer residing in this state and open an account in a depository within this state; provided that either of the following conditions prevails:

(1) The aggregate of all contributions received from persons domiciled in this state exceeds twenty percent in total dollar amount of all funds received by the committee in the preceding twelve months; or

(2) The aggregate of all contributions and expenditures made to support or oppose candidates and ballot measures in this state exceeds one thousand five hundred dollars in the current

calendar year.

11. If a committee domiciled in this state receives a contribution of one thousand five hundred dollars or more from any committee domiciled outside of this state, the committee domiciled in this state shall file a disclosure report with the commission. The report shall disclose the full name, mailing address, telephone numbers and domicile of the contributing committee and the date and amount of the contribution. The report shall be filed within forty-eight hours of the receipt of such contribution if the contribution is received after the last reporting date before the election.

130.031. 1. No contribution of cash in an amount of more than one hundred dollars shall be made by or accepted from any single contributor for any election by a continuing committee, a campaign committee, a political party committee, an exploratory committee or a candidate committee.

2. Except for expenditures from a petty cash fund which is established and maintained by withdrawals of funds from the committee's depository account and with records maintained pursuant to the record-keeping requirements of section 130.036 to account for expenditures made from petty cash, each expenditure of more than fifty dollars, except an in-kind expenditure, shall be made by check drawn on the committee's depository and signed by the committee treasurer, deputy treasurer or candidate. A single expenditure from a petty cash fund shall not exceed fifty dollars, and the aggregate of all expenditures from a petty cash fund during a calendar year shall not exceed the lesser of five thousand dollars or ten percent of all expenditures made by the committee during that calendar year. A check made payable to "cash" shall not be made except to replenish a petty cash fund.

3. No contribution shall be made or accepted and no expenditure shall be made or incurred, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to conceal the identity of the actual source of the contribution or the actual recipient and purpose of the expenditure. Any person who receives contributions for a committee shall disclose to that committee's treasurer, deputy treasurer or candidate the recipient's own name and address and the name and address of the actual source of each contribution such person has received for that committee. Any person who makes expenditures for a committee shall disclose to that committee's treasurer, deputy treasurer or candidate such person's own name and address, the name and address of each person to whom an expenditure has been made and the amount and purpose of the expenditures the person has made for that committee.

4. No anonymous contribution of more than twenty-five dollars shall be made by any person, and no anonymous contribution of more than twenty-five dollars shall be accepted by any candidate or committee. If any anonymous contribution of more than twenty-five dollars is received, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and if the contributor's identity cannot be ascertained, the candidate, committee treasurer or deputy treasurer shall immediately transmit that portion of the contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the state.

5. The maximum aggregate amount of anonymous contributions which shall be accepted in any calendar year by any committee shall be the greater of five hundred dollars or one percent of the aggregate amount of all contributions received by that committee in the same calendar year. If any anonymous contribution is received which causes the aggregate total of anonymous contributions to exceed the foregoing limitation, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and, if the contributor's identity cannot be ascertained, the committee treasurer, deputy treasurer or candidate shall immediately transmit the anonymous contribution to the state treasurer to escheat to the state.

6. Notwithstanding the provisions of subsection 5 of this section, contributions from individuals whose names and addresses cannot be ascertained which are received from a fund-raising activity or event, such as defined in section 130.011, shall not be deemed anonymous contributions, provided the following conditions are met:

(1) There are twenty-five or more contributing participants in the activity or event;

(2) The candidate, committee treasurer, deputy treasurer or the person responsible for conducting the activity or event makes an announcement that it is illegal for anyone to make or receive a contribution in excess of one hundred dollars unless the contribution is accompanied by the name and address of the contributor;

(3) The person responsible for conducting the activity or event does not knowingly accept payment from any single person of more than one hundred dollars unless the name and address of the person making such payment is obtained and recorded pursuant to the record-keeping requirements of section 130.036;

(4) A statement describing the event shall be prepared by the candidate or the treasurer of the committee for whom the funds were raised or by the person responsible for conducting the activity or event and attached to the disclosure report of contributions and expenditures required by section 130.041. The following information to be listed in the statement is in addition to, not in lieu of, the requirements elsewhere in this chapter relating to the recording and reporting of contributions and expenditures:

(a) The name and mailing address of the person or persons responsible for conducting the event or activity and the name and address of the candidate or committee for whom the funds were raised;

(b) The date on which the event occurred;

(c) The name and address of the location where the event occurred and the approximate number of participants in the event;

(d) A brief description of the type of event and the fund-raising methods used;

(e) The gross receipts from the event and a listing of the expenditures incident to the event;

(f) The total dollar amount of contributions received from the event from participants whose names and addresses were not obtained with such contributions and an explanation of why it was not possible to obtain the names and addresses of such participants;

(g) The total dollar amount of contributions received from contributing participants in the event who are identified by name and address in the records required to be maintained pursuant to section 130.036.

7. No candidate or committee in this state shall accept contributions from any out-of-state committee unless the out-of-state committee from whom the contributions are received has filed a statement of organization pursuant to section 130.021 or has filed the reports required by **[**sections 130.049 and 130.050, whichever is applicable to that committee**]** **section 130.049.**

8. Any person publishing, circulating, or distributing any printed matter relative to any candidate for public office or any ballot measure shall on the face of the printed matter identify in a clear and conspicuous manner the person who paid for the printed matter with the words "Paid for by" followed by the proper identification of the sponsor pursuant to this section. For the purposes of this section, "printed matter" shall be defined to include any pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, sign, including signs for display on motor vehicles, or other imprinted or lettered material; but "printed matter" is defined to exclude materials printed and purchased prior to May 20, 1982, if the candidate or committee can document that delivery took place prior to May 20, 1982; any sign personally printed and constructed by an individual without compensation from any other person and displayed at that individual's place of residence or on that individual's personal motor vehicle; any items of personal use given away or sold, such as campaign buttons, pins, pens, pencils, book matches, campaign jewelry, or clothing, which is paid for by a candidate or committee which supports a candidate or supports or opposes a ballot measure and which is obvious in its identification with a specific candidate or committee and is reported as required by this chapter; and any news story, commentary, or editorial printed by a regularly published newspaper or other periodical without charge to a candidate, committee or any other person.

(1) In regard to any printed matter paid for by a

candidate from the candidate's personal funds, it shall be sufficient identification to print the first and last name by which the candidate is known.

(2) In regard to any printed matter paid for by a committee, it shall be sufficient identification to print the name of the committee as required to be registered by subsection 5 of section 130.021 and the name and title of the committee treasurer who was serving when the printed matter was paid for.

(3) In regard to any printed matter paid for by a corporation or other business entity, labor organization, or any other organization not defined to be a committee by subdivision (7) of section 130.011 and not organized especially for influencing one or more elections, it shall be sufficient identification to print the name of the entity, the name of the principal officer of the entity, by whatever title known, and the mailing address of the entity, or if the entity has no mailing address, the mailing address of the principal officer.

(4) In regard to any printed matter paid for by an individual or individuals, it shall be sufficient identification to print the name of the individual or individuals and the respective mailing address or addresses, except that if more than five individuals join in paying for printed matter it shall be sufficient identification to print the words "For a list of other sponsors contact:" followed by the name and address of one such individual responsible for causing the matter to be printed, and the individual identified shall maintain a record of the names and amounts paid by other individuals and shall make such record available for review upon the request of any person. No person shall accept for publication or printing nor shall such work be completed until the printed matter is properly identified as required by this subsection.

9. Any broadcast station transmitting any matter relative to any candidate for public office or ballot measure as defined by this chapter shall identify the sponsor of such matter as required by federal law.

10. The provisions of subsection 8 or 9 of this section shall not apply to candidates for elective federal office, provided that persons causing matter to be printed or broadcast concerning such candidacies shall comply with the requirements of federal law for identification of the sponsor or sponsors.

11. It shall be a violation of this chapter for any person required to be identified as paying for printed matter pursuant to subsection 8 of this section or paying for broadcast matter pursuant to subsection 9 of this section to refuse to provide the information required or to purposely provide false, misleading, or incomplete information.

12. It shall be a violation of this chapter for any committee to offer chances to win prizes or money to persons to encourage such persons to endorse, send election material by mail, deliver election material in person or contact persons at their homes; except that, the provisions of this subsection shall not be construed to prohibit hiring and paying a campaign staff.

130.041. 1. Except as provided in subsection 5 of section 130.016, the candidate, if applicable, treasurer or deputy treasurer of every committee which is required to file a statement of organization, shall file a legibly printed or typed disclosure report of receipts and expenditures. The reports shall be filed with the appropriate officer designated in section 130.026 at the times and for the periods prescribed in section 130.046. Except as provided in **[**sections 130.049 and 130.050**]** **section 130.049**, each report shall set forth:

(1) The full name, as required in the statement of organization pursuant to subsection 5 of section 130.021, and mailing address of the committee filing the report and the full name, mailing address and telephone number of the committee's treasurer and deputy treasurer if the committee has named a deputy treasurer;

(2) The amount of money, including cash on hand at the beginning of the reporting period;

(3) Receipts for the period, including:

(a) Total amount of all monetary contributions received which can be identified in the committee's records by name and address of each contributor. In addition, the candidate committee shall make a reasonable effort to obtain and report the employer, or occupation if self-employed or notation of retirement, of each person from whom the

committee received one or more contributions which in the aggregate total in excess of one hundred dollars and shall make a reasonable effort to obtain and report a description of any contractual relationship over five hundred dollars between the contributor and the state if the candidate is seeking election to a state office or between the contributor and any political subdivision of the state if the candidate is seeking election to another political subdivision of the state;

(b) Total amount of all anonymous contributions accepted;

(c) Total amount of all monetary contributions received through fund-raising events or activities from participants whose names and addresses were not obtained with such contributions, with an attached statement or copy of the statement describing each fund-raising event as required in subsection 6 of section 130.031;

(d) Total dollar value of all in-kind contributions received;

(e) A separate listing by name and address and employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received contributions, in money or any other thing of value, aggregating more than one hundred dollars, together with the date and amount of each such contribution;

(f) A listing of each loan received by name and address of the lender and date and amount of the loan. For each loan of more than one hundred dollars, a separate statement shall be attached setting forth the name and address of the lender and each person liable directly, indirectly or contingently, and the date, amount and terms of the loan;

(4) Expenditures for the period, including:

(a) The total dollar amount of expenditures made by check drawn on the committee's depository;

(b) The total dollar amount of expenditures made in cash;

(c) The total dollar value of all in-kind expenditures made;

(d) The full name and mailing address of each person to whom an expenditure of money or any other thing of value in the amount of more than one hundred dollars has been made, contracted for or incurred, together with the date, amount and purpose of each expenditure. Expenditures of one hundred dollars or less may be grouped and listed by categories of expenditure showing the total dollar amount of expenditures in each category, except that the report shall contain an itemized listing of each payment made to campaign workers by name, address, date, amount and purpose of each payment and the aggregate amount paid to each such worker;

(e) A list of each loan made, by name and mailing address of the person receiving the loan, together with the amount, terms and date;

(5) The total amount of cash on hand as of the closing date of the reporting period covered, including amounts in depository accounts and in petty cash fund;

(6) The total amount of outstanding indebtedness as of the closing date of the reporting period covered;

(7) The amount of expenditures for or against a candidate or ballot measure during the period covered and the cumulative amount of expenditures for or against that candidate or ballot measure, with each candidate being listed by name, mailing address and office sought. For the purpose of disclosure reports, expenditures made in support of more than one candidate or ballot measure or both shall be apportioned reasonably among the candidates or ballot measure or both. In apportioning expenditures to each candidate or ballot measure, political party committees and continuing committees need not include expenditures for maintaining a permanent office, such as expenditures for salaries of regular staff, office facilities and equipment or other expenditures not designed to support or oppose any particular candidates or ballot measures; however, all such expenditures shall be listed pursuant to subdivision (4) of this subsection;

(8) A separate listing by full name and address of any committee including a candidate committee controlled by the same candidate for which a transfer of funds or a contribution in any amount

has been made during the reporting period, together with the date and amount of each such transfer or contribution;

(9) A separate listing by full name and address of any committee, including a candidate committee controlled by the same candidate from which a transfer of funds or a contribution in any amount has been received during the reporting period, together with the date and amount of each such transfer or contribution;

(10) Each committee that receives a contribution which is restricted or designated in whole or in part by the contributor for transfer to a particular candidate, committee or other person shall include a statement of the name and address of that contributor in the next disclosure report required to be filed after receipt of such contribution, together with the date and amount of any such contribution which was so restricted or designated by that contributor, together with the name of the particular candidate or committee to whom such contribution was so designated or restricted by that contributor and the date and amount of such contribution.

2. For the purpose of this section and any other section in this chapter except **[**sections 130.049 and 130.050**]** **section 130.049** which requires a listing of each contributor who has contributed a specified amount, the aggregate amount shall be computed by adding all contributions received from any one person during the following periods:

(1) In the case of a candidate committee, the period shall begin on the date on which the candidate became a candidate according to the definition of the term "candidate" in section 130.011 and end at 11:59 p.m. on the day of the primary election, if the candidate has such an election or at 11:59 p.m. on the day of the general election. If the candidate has a general election held after a primary election, the next aggregating period shall begin at 12:00 midnight on the day after the primary election day and shall close at 11:59 p.m. on the day of the general election. Except that for contributions received during the thirty-day period immediately following a primary election, the candidate shall designate whether such contribution is received as a primary election contribution or a general election contribution;

(2) In the case of a campaign committee, the period shall begin on the date the committee received its first contribution and end on the closing date for the period for which the report or statement is required;

(3) In the case of a political party committee or a continuing committee, the period shall begin on the first day of January of the year in which the report or statement is being filed and end on the closing date for the period for which the report or statement is required; except, if the report or statement is required to be filed prior to the first day of July in any given year, the period shall begin on the first day of July of the preceding year.

3. The disclosure report shall be signed and attested by the committee treasurer or deputy treasurer and by the candidate in case of a candidate committee.

4. The words "consulting or consulting services, fees, or expenses", or similar words, shall not be used to describe the purpose of a payment as required in this section. The reporting of any payment to such an independent contractor shall be on a form supplied by the appropriate officer, established by the ethics commission and shall include identification of the specific service or services provided including, but not limited to, public opinion polling, research on issues or opposition background, print or broadcast media production, print or broadcast media purchase, computer programming or data entry, direct mail production, postage, rent, utilities, phone solicitation, or fund raising, and the dollar amount prorated for each service.

130.046. 1. The disclosure reports required by section 130.041 for all committees shall be filed at the following times and for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;

(2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or

opposition to any candidate or ballot measure; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

(3) Not later than the fifteenth day following the close of each calendar quarter.

Notwithstanding the provisions of this subsection, if any committee accepts contributions or makes expenditures in support of or in opposition to a ballot measure or a candidate, and the report required by this subsection for the most recent calendar quarter is filed prior to the fortieth day before the election on the measure or candidate, the committee shall file an additional disclosure report not later than the fortieth day before the election for the period closing on the forty-fifth day before the election.

2. In the case of a ballot measure to be qualified to be on the ballot by initiative petition or referendum petition, or a recall petition seeking to remove an incumbent from office, disclosure reports relating to the time for filing such petitions shall be made as follows:

(1) In addition to the disclosure reports required to be filed pursuant to subsection 1 of this section the treasurer of a committee, other than a continuing committee, supporting or opposing a petition effort to qualify a measure to appear on the ballot or to remove an incumbent from office shall file an initial disclosure report fifteen days after the committee begins the process of raising or spending money. After such initial report, the committee shall file quarterly disclosure reports as required by subdivision (3) of subsection 1 of this section until such time as the reports required by subdivisions (1) and (2) of subsection 1 of this section are to be filed. In addition the committee shall file a second disclosure report no later than the fifteenth day after the deadline date for submitting such petition. The period covered in the initial report shall begin on the day the committee first accepted contributions or made expenditures to support or oppose the petition effort for qualification of the measure and shall close on the fifth day prior to the date of the report;

(2) If the measure has qualified to be on the ballot in an election and if a committee subject to the requirements of subdivision (1) of this subsection is also required to file a preelection disclosure report for such election any time within thirty days after the date on which disclosure reports are required to be filed in accordance with subdivision (1) of this subsection, the treasurer of such committee shall not be required to file the report required by subdivision (1) of this subsection, but shall include in the committee's preelection report all information which would otherwise have been required by subdivision (1) of this subsection.

3. The candidate, if applicable, treasurer or deputy treasurer of a committee shall file disclosure reports pursuant to this section, except for any calendar quarter in which the contributions received by the committee or the expenditures or contributions made by the committee do not exceed five hundred dollars. The reporting dates and periods covered for such quarterly reports shall not be later than the fifteenth day of January, April, July and October for periods closing on the thirty-first day of December, the thirty-first day of March, the thirtieth day of June and the thirtieth day of September. No candidate, treasurer or deputy treasurer shall be required to file the quarterly disclosure report required not later than the fifteenth day of any January immediately following a November election, provided that such candidate, treasurer or deputy treasurer shall file the information required on such quarterly report on the quarterly report to be filed not later than the fifteenth day of April immediately following such November election. Each report by such committee shall be cumulative from the date of the last report. In the case of the continuing committee's first report, the report shall be cumulative from the date of the continuing committee's organization. Every candidate, treasurer or deputy treasurer shall file, at a minimum, the campaign disclosure reports covering the quarter immediately preceding the date of the election and those required by subdivisions (1) and (2) of subsection 1 of this section. A continuing committee shall submit

additional reports if it makes aggregate expenditures, other than contributions to a committee, of five hundred dollars or more, within the reporting period at the following times for the following periods:

(1) Not later than the **[**seventh**]** **eighth** day before an election for the period closing on the twelfth day before the election;

(2) Not later than forty-eight hours after aggregate expenditures of five hundred dollars or more are made after the twelfth day before the election; and

(3) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election.

4. The reports required to be filed no later than the thirtieth day after an election and any subsequently required report shall be cumulative so as to reflect the total receipts and disbursements of the reporting committee for the entire election campaign in question. The period covered by each disclosure report shall begin on the day after the closing date of the most recent disclosure report filed and end on the closing date for the period covered. If the committee has not previously filed a disclosure report, the period covered begins on the date the committee was formed; except that in the case of a candidate committee, the period covered begins on the date the candidate became a candidate according to the definition of the term candidate in section 130.011.

5. Notwithstanding any other provisions of this chapter to the contrary:

(1) Certain disclosure reports pertaining to any candidate who receives nomination in a primary election and thereby seeks election in the immediately succeeding general election shall not be required in the following cases:

(a) If there are less than fifty days between a primary election and the immediately succeeding general election, the disclosure report required to be filed quarterly; provided that, any other report required to be filed prior to the primary election and all other reports required to be filed not later than the **[**seventh**]** eighth day before the general election are filed no later than the final dates for filing such reports;

(b) If there are less than eighty-five days between a primary election and the immediately succeeding general election, the disclosure report required to be filed not later than the thirtieth day after the primary election need not be filed; provided that any report required to be filed prior to the primary election and any other report required to be filed prior to the general election are filed no later than the final dates for filing such reports; and

(2) No disclosure report needs to be filed for any reporting period if during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure aggregating more than five hundred dollars and has not received contributions aggregating more than two hundred **[**fifty**]** **seventy-five** dollars from any single contributor **and if the committee's treasurer files a statement with the appropriate officer that the committee has not exceeded the identified thresholds in the reporting period**. Any contributions received or expenditures made which are not reported because **[**of**]** this statement is filed in lieu of a disclosure report shall be included in the next disclosure report filed by the committee. **[**A**]** **This** report shall **not** be filed **[**for**]** **in lieu** of two or more consecutive disclosure **[**quarters**]** **periods** if either the contributions received or expenditures made in the aggregate during those reporting periods exceed five hundred dollars **[**and a report**]**. **This statement** shall **not** be filed **in lieu of the report** not later than the thirtieth day after an election if that report would show a deficit of more than one thousand dollars.

6. (1) If the disclosure report required to be filed by a committee not later than the thirtieth day after an election shows a deficit of unpaid loans and other outstanding obligations in excess of five thousand dollars, semiannual supplemental disclosure reports shall be filed with the appropriate officer for each succeeding semiannual period until the deficit is reported in a disclosure report as being reduced to five thousand dollars or less; except that, a supplemental semiannual report shall not be required for any semiannual period which includes the closing date for the reporting period covered in any regular disclosure report which the committee is required to file in connection with an election.

The reporting dates and periods covered for semiannual reports shall be not later than the fifteenth day of January and July for periods closing on the thirty-first day of December and the thirtieth day of June;

(2) Committees required to file reports pursuant to subsection 2 or 3 of this section which are not otherwise required to file disclosure reports for an election shall file semiannual reports as required by this subsection if their last required disclosure report shows a total of unpaid loans and other outstanding obligations in excess of five thousand dollars.

7. In the case of a committee which disbands and is required to file a termination statement pursuant to the provisions of section 130.021 with the appropriate officer not later than the tenth day after the committee was dissolved, the candidate, committee treasurer or deputy treasurer shall attach to the termination statement a complete disclosure report for the period closing on the date of dissolution. A committee shall not utilize the provisions of subsection 8 of section 130.021 or the provisions of this subsection to circumvent or otherwise avoid the reporting requirements of subsection 6 or 7 of this section.

8. Disclosure reports shall be filed with the appropriate officer not later than 5:00 p.m. prevailing local time of the day designated for the filing of the report and a report postmarked not later than midnight of the day previous to the day designated for filing the report shall be deemed to have been filed in a timely manner. The appropriate officer may establish a policy whereby disclosure reports may be filed by facsimile transmission.

130.049. **1.** An out-of-state committee which according to the provisions of subsection 10 of section 130.021 is not required to file a statement of organization and is not required to file the full disclosure reports required by section 130.041 shall file reports with the Missouri ethics commission according to the provisions of **[**such sections**] this subsection** if the committee makes contributions or expenditures in support of or in opposition to candidates or ballot measures in this state in any election covered by this chapter or makes contributions to any committee domiciled in this state. An initial report shall be filed no later than fourteen days prior to the date such out-of-state committee first makes a contribution or expenditure in this state**[**. Such initial report shall state the name and address of the committee receiving such contributions or expenditures.**], and thereafter reports shall be filed at the times and for the reporting periods prescribed in subsection 1 of section 130.046.** The contributions or expenditures shall be made no later than thirty days prior to the election. **[**The out-of-state committee thereafter shall file copies of the campaign disclosure report required to be filed in the domicile of the committee with the Missouri ethics commission as required by subsections 1 to 3 of section 130.046.**]** No candidate or committee may accept any contribution made by a committee domiciled outside this state unless the provisions of this section are met.

2. Each out-of-state committee report shall contain:

(1) The full name, address and domicile of the committee making the report and the name, residential and business addresses, domicile and telephone numbers of the committee's treasurer;

(2) The name and address of any entity such as a labor union, trade or business or professional association, club or other organization or any business entity with which the committee is affiliated;

(3) A statement of the total dollar amount of all funds received by the committee in the current calendar year and a statement of the total contributions in the same period from persons domiciled in this state and a list by name, address, date and amount of each Missouri resident who contributed an aggregate of more than two hundred dollars in the current calendar year;

(4) A list by name, address, date and amount regarding any contributor to the out-of-state committee, regardless of state of residency, who made a contribution during the reporting period which was restricted or designated in whole or in part for use in supporting or opposing a candidate, ballot measure or committee in this

state or was restricted for use in this state at the committee's discretion or a statement that no such contributions were received;

(5) A statement as to whether the committee is required to file reports with the Federal Election Commission and a listing of agencies in other states with which the committee files reports, if any;

(6) A separate listing showing contributions made in support of or opposition to each candidate or ballot measure in this state, together with the date and amount of each contribution;

(7) A separate listing showing contributions made to any committee domiciled in the state with the date and amount of each contribution.

[130.050. 1. An out-of-state committee which, according to the provisions of subsection 10 of section 130.021, is not required to file a statement of organization and is not required to file the full disclosure reports required by section 130.041 shall file reports with the Missouri ethics commission according to the provisions of this subsection if the committee makes contributions or expenditures in support of or in opposition to candidates or ballot measures in this state in any election covered by this chapter or makes contributions to any committee domiciled in this state. An initial report shall be filed on or within fourteen days prior to the date such out-of-state committee first makes a contribution or expenditure in this state, and thereafter reports shall be filed at the times and for the reporting periods prescribed in subsection 1 of section 130.046. Each report shall contain:

(1) The full name, address and domicile of the committee making the report and the name, residential and business addresses, domicile and telephone numbers of the committee's treasurer;

(2) The name and address of any entity such as a labor union, trade or business or professional association, club or other organization or any business entity with which the committee is affiliated;

(3) A statement of the total dollar amount of all funds received by the committee in the current calendar year and a statement of the total contributions in the same period from persons domiciled in this state and a list by name, address, date and amount of each Missouri resident who contributed an aggregate of more than two hundred dollars in the current calendar year;

(4) A list by name, address, date and amount regarding any contributor to the out-of-state committee, regardless of state of residency, who made a contribution during the reporting period which was restricted or designated in whole or in part for use in supporting or opposing a candidate, ballot measure or committee in this state or was restricted for use in this state at the committee's discretion, or a statement that no such contributions were received;

(5) A statement as to whether the committee is required to file reports with the Federal Election Commission, and a listing of agencies in other states with which the committee files reports, if any;

(6) A separate listing showing contributions made in support of or opposition to each candidate or ballot measure in this state, together with the date and amount of each contribution;

(7) A separate listing showing contributions made to any committee domiciled in this state with the date and amount of each contribution.

2. In the case of a political party committee's selection of an individual to be the party's nominee for public office in an election covered by this chapter, any individual who seeks such nomination and who is a candidate according to the definition of the term candidate in section 130.011 shall be required to comply with all requirements of this chapter; except that, for the purposes of this subsection, the reporting dates and reporting periods in section 130.046 shall not apply, and the first reporting date shall be no later than the fifteenth day after the date on which a nomination covered by this subsection was made and for the period beginning on the date the individual became a candidate, as the term candidate is defined in section 130.011, and closing on the tenth day after the date the nomination was made, with subsequent reports being made as closely as practicable to the times required in section 130.046.

3. The receipt of any late contribution or loan of more than two hundred fifty dollars by a candidate committee supporting a candidate for statewide office or by any other committee shall be reported to the appropriate officer no later than forty-eight hours after receipt. For purposes of this subsection the term "late contribution or loan" means a contribution or loan received after the closing date of the last disclosure report required to be filed before an election but received prior to the date of the election itself. The disclosure report of a late contribution may be made by any written means of communication, setting forth the name and address of the contributor or lender and the amount of the contribution or loan and need not contain the signatures and certification required for a full disclosure report described in section 130.041. A late contribution or loan shall be included in subsequent disclosure reports without regard to any special reports filed pursuant to this subsection.**]**

130.056. 1. The executive director of the Missouri ethics commission shall:

(1) Take such steps as are necessary to disseminate among the general public such information as may serve to guide all persons who are or may become subject to the provisions of this chapter for the purpose of facilitating voluntary compliance with the purposes and provisions of this chapter;

(2) Be responsible for expediting the filing of all reports, statements and other information required to be filed pursuant to the provisions of this chapter and, in connection therewith, be responsible for developing procedures whereby all candidates shall be informed of the provisions of section 130.016 so as to assure the timely filing of statements which some candidates are eligible to file as provided in section 130.016;

(3) Develop and publish forms and printed instructional material and furnish such forms and instructions to persons required to file reports and statements pursuant to the provisions of this chapter, together with a summary of the provisions of chapter 115, RSMo, which apply to candidates and committees covered by this chapter, provided, however, such forms shall not seek information which is not specifically required by this chapter. All forms furnished pursuant to this chapter shall clearly state in readable type on the face of the form the date on which the form became effective. The forms published by the executive director shall provide for compliance with reporting and other provisions of this chapter. Any report form published by the executive director for purposes of compliance with section 130.041 shall provide for reporting contributions from individuals, corporations, labor organizations and fictitious entities and contributions from committees on the same form. Contributions from committees shall be listed first on each report form. All expenditures shall also be reported on a single report form;

(4) Develop a filing, coding and cross-indexing system for reports and statements required to be filed with the Missouri ethics commission, and preserve such reports and statements for a period of not less than five years from date of receipt;

(5) Make the reports and statements filed with the Missouri ethics commission available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day after which a report was received, and permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person, but no information obtained from such reports and statements shall be sold or utilized by any person for any commercial purpose;

(6) Examine each report and statement filed with the Missouri ethics commission pursuant to the requirements of this chapter to determine if the statements are properly completed and filed within the time required by this chapter;

(7) Notify a person required to file a report or statement pursuant to this chapter with the Missouri ethics commission immediately if, upon examination of the official ballot or other circumstances surrounding any election, it appears that the person has failed to file a report or statement as required by law;

(8) From reports filed with the Missouri ethics commission, prepare and publish an annual report including compilations of amounts contributed and expended for the influencing of nominations and elections;

(9) Prepare and publish such other reports as the Missouri ethics commission deems appropriate;

(10) Disseminate statistics, summaries, and reports prepared under this chapter;

(11) Employ staff and retain such contract services, including legal services to represent the commission before any state agency or before the courts as the executive director deems necessary within the limits authorized by appropriation by the general assembly.

2. Each appropriate officer other than the executive director of the Missouri ethics commission shall:

(1) Assist the executive director in furnishing forms and printed instructional material to persons required to file reports and statements pursuant to the provisions of this chapter;

(2) Accept reports and statements required to be filed with the person's office;

(3) Develop for the officer's constituency a filing, coding, and cross-indexing system consonant with the purposes of this chapter;

(4) Make the reports and statements filed with the officer available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day after which a report was received, and permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person, but no information obtained from such reports and statements shall be sold or utilized by any person for any commercial purpose;

(5) Preserve such reports and statements for a period of not less than five years from the date of receipt;

(6) Examine each report and statement filed with the person's office pursuant to the requirements of this chapter to determine if the reports and statements appear to be complete and filed within the required time;

(7) Notify a person required to file a report or statement pursuant to this chapter immediately if, upon examination of the circumstances surrounding any election, it appears that the person has failed to file a report or statement as required by law;

(8) Notify the Missouri ethics commission if the person has reasonable cause to believe that a violation of this chapter has occurred;

(9) Assess every candidate for state or local office failing to file with a local election authority pursuant to section 130.026, a campaign disclosure report as required by this chapter other than the report required pursuant to subdivision (1) of subsection 1 of section 130.046, a late filing fee of ten dollars for each day such report is due to the election authority. The local election authority shall mail a notice, by registered mail, to any candidate and candidate committee treasurer and deputy treasurer who fails to file such report informing such person of such failure and the fees provided by this subdivision. If the candidate persists in such failure for a period in excess of thirty days beyond the receipt of such notice, the amount of the late filing fee shall increase to one hundred dollars for each day that the report is not filed, provided that the total amount of such fees assessed pursuant to this subsection per report shall not exceed three hundred dollars. **Any fee collected pursuant to this subdivision shall be deposited to the credit of such county's county school fund pursuant to section 166.131, RSMo.**

3. Any person receiving from an appropriate officer a copy of, or who is permitted to inspect or make a copy of, any report or statement filed pursuant to the requirements of this chapter shall sign a statement that the person will not utilize the reports or statements or any information thereon for any commercial use, except for public news reporting, whatsoever and will not transfer the information obtained to any other persons for such purposes. It shall be the responsibility of each appropriate officer to instruct any person making a request to inspect, copy or receive a copy of any report or statement or any portion of a report or statement filed pursuant to this chapter that the utilization of any information obtained from such reports for any commercial purpose is a violation of this chapter.

130.062. In the case of a political party committee's selection of an individual to be the party's nominee for public office in an election, any individual who seeks such nomination and

who is a candidate as that term is defined in section 130.011 shall be required to comply with all requirements of this chapter; except that, for the purposes of this section, the reporting dates and reporting periods in section 130.046 shall not apply, and the first reporting date shall be no later than the fifteenth day after the date on which a nomination covered by this subsection was made and for the period beginning on the date the individual became a candidate, as that term is defined in section 130.011, and closing on the tenth day after the nomination was made, with subsequent reports being made as closely as practicable to the times required in section 130.046.

130.063. The receipt of any late contribution or loan of more than two hundred seventy-five dollars by a candidate committee supporting a candidate for statewide office or by any other committee shall be reported to the appropriate officer no later than forty-eight hours after receipt. For purposes of this subsection the term "late contribution or loan" means a contribution or loan received after the closing date of the last disclosure report required to be filed before an election but received prior to the date of the election itself. The disclosure report of a late contribution may be made by any written means of communication, setting forth the name and address of the contributor or lender and the amount of the contribution or loan and need not contain the signatures and certification required for a full disclosure report described in section 130.041. A late contribution or loan shall be included in subsequent disclosure reports without regard to any special reports filed pursuant to this section.

130.081. 1. Any person who **[**purposely**]** **knowingly** violates the provisions of this chapter is guilty of a class A misdemeanor.

2. Any person who fails to file any report or statement required by this chapter within the time periods specified in sections 130.011 to **[**130.051**]** **130.049** is guilty of an infraction.

3. Notwithstanding any other provision of law which bars prosecutions for any offenses other than a felony unless commenced within one year after the commission of the offense, any offense under the provisions of this chapter may be prosecuted if the indictment be found or prosecution be instituted within three years after the commission of the alleged offense.

4. Any prohibition to the contrary notwithstanding, no person shall be deprived of the rights, guarantees, protections or privileges accorded by sections 130.011 to 130.026, 130.031 to 130.068, 130.072, and 130.081 by any person, corporation, entity or political subdivision."; and,

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 15, Section 610.010, Line 2 of said page, by inserting after the word "**Missouri**" the following:

"System established in section 172.020, RSMo, as "The Curators of the University of Missouri".

HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 4, Section 109.120, Line 14, by inserting immediately following said line the following:

"**4. When video tapes are recorded by a law enforcement agency of this state, said video tapes, shall be retained by the law enforcement agency for a period of three hundred sixty-five (365) days. After three hundred sixty-five (365) days, said video tapes may be destroyed or reused by the law enforcement agency at their discretion.**".

HOUSE AMENDMENT NO. 6

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 26, Section 610.027, Line 15, by inserting immediately after said line the following:

"**610.333 In addition to the requirements established pursuant to the federal Family Educational Rights and Privacy Act, an institution of higher education shall not disclose any information contained in the student's**

education records to a parent or guardian of a student who is eighteen years of age or older. The provisions of this section shall not apply if such student is financially dependent, as defined in Section 152 of the federal Internal Revenue Code of 1954, or if the records are requested through subpoena or judicial order. Any student may waive the right granted in this section by signing a consent form for such disclosures with the institution at which he or she is enrolled at the beginning of each academic year."; and

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

HOUSE AMENDMENT NO. 7

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 26, Section 610.027, Line 15 of said page, by inserting after said line the following:

"**Section 1. The provisions of section 191.940, RSMo, shall not prohibit the disclosure of information regarding an individual regarding an individual to a person if such person has an obligation to arrange for or provide medical care or treatment to that individual, including release of information to a parent or legal guardian regarding an unemancipated minor child.**"; and

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

HOUSE AMENDMENT NO. 8

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 1, Section A, Line 13 of said page, by inserting immediately after said line the following:

"28.681. 1. Any statement, document or notice required or permitted to be filed with or transmitted by the secretary of state, or any judicial decree requiring the filing of such document, except any document or judicial decree relating to his or her statutory or constitutional duties relating to elections, may be filed, transmitted, stored and maintained in an electronic format prescribed by the secretary of state. No statement, document or notice submitted or filed in an electronic format need be submitted or filed in duplicate. Nothing in this section shall require the secretary of state to accept or transmit any statement, document or notice in an electronic format.

2. Any statutory requirement that a statement, document or notice **filed with the secretary of state** be signed by any person shall be satisfied by an electronically transmitted **identification in a format prescribed by the secretary of state.** [signature that is:

(1) Unique to the person using it;

(2) Capable of verification;

(3) Under the sole control of the person using it;

(4) Linked to the document in such a manner that if the data is changed, the signature is invalidated; and

(5) Intended by the party using it to have the same force and effect as the use of a manual signature.]

3. Any requirement that a statement, document or notice filed with the secretary of state be notarized may be satisfied by a properly authenticated [digital signature] **identification in a format prescribed by the secretary of state.** The execution of any statement, document or notice [with a digital signature] pursuant to this subsection constitutes an affirmation under penalty of perjury that the facts stated therein are true and that such person or persons are duly authorized to execute such statement, document or notice, or are otherwise required to file such statement, document or notice.

4. The secretary of state may promulgate rules to effectuate the provisions of this section.

[28.681. 1. Any statement, document or notice required or permitted to be filed with or transmitted by the secretary of state, or any judicial decree requiring the filing of such document, except any document or judicial decree relating to his or her statutory or constitutional duties relating to elections, may be filed, transmitted, stored and maintained in an electronic format prescribed by the secretary of state. No statement, document or notice submitted or filed in an electronic format

need be submitted or filed in duplicate. Nothing in this section shall require the secretary of state to accept or transmit any statement, document or notice in an electronic format.

2. Any statutory requirement that a statement, document or notice be signed by any person shall be satisfied by an electronically transmitted signature that is:

(1) Unique to the person using it;

(2) Capable of verification;

(3) Under the sole control of the person using it;

(4) Linked to the document in such a manner that if the data are changed, the signature is invalidated; and

(5) Intended by the party using it to have the same force and effect as the use of a manual signature.

3. Any requirement that a statement, document or notice filed with the secretary of state be notarized shall be satisfied by a properly authenticated digital signature. The execution of any statement, document or notice with a digital signature pursuant to this subsection constitutes an affirmation under penalties of perjury that the facts stated therein are true and that such person or persons are duly authorized to execute such statement, document or notice or are otherwise required to file such statement, document or notice.]; and

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

HOUSE AMENDMENT NO. 9

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 18, Section 610.010, Line 22, by adding a comma after the word "closed" and on Line 23, by adding after the word "meeting" the following: "when the vote on an issue is not unanimous,".

HOUSE AMENDMENT NO. 10

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 17, Section 610.010, Line 7, by inserting the following:

"**(g) Any bi-state development agency established pursuant to section 70.370. RSMo;**".

HOUSE AMENDMENT NO. 11

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 4, Section 109.241, Page 4, by inserting the number 1 before "The head of each local agency shall" and by inserting after said Section 109.241 on Page 6 the following:

"**2. The Secretary of State may adopt rules to authorize the electronic facsimile filing of any document filed with the Secretary under any provision administered by the Secretary. The rules may set forth standards for the acceptance of a form of signature other than the proper handwriting of a person. A signature or document filed by electronic facsimile in accordance with rules promulgated pursuant to this section shall be prima facie evidence for all purposes that the document actually was signed by the person whose signature appears on the facsimile.**"; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 12

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Section 610.010, Page 24, Line 6 of said page, by inserting immediately after the word "**restructuring**" the following:

"**; and**

(19) Records relating to individually identifiable residential utility customers".

HOUSE AMENDMENT NO. 13

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 14, Section 197.l60, Line 5 of said page, by inserting after all of said line the following:

"**197.370. Sections 197.370 to 197.398 shall be known as the "Missouri Health Facilities Review Law".**

197.372. The "Office of Health Facilities Review", whose purpose is to achieve the highest level of health for Missourians through

cost containment, reasonable access, appropriate level of competitive choice, public accountability and preventing unnecessary duplication, is hereby established within the department of health.

197.374. As used in sections 197.370 to 197.398 the following terms mean:

(1) "Committee", as defined in section 197.376;

(2) "Develop", to undertake those activities which on their completion will result in the offering of a new institutional health service or the incurring of a financial obligation in relation to the offering of such a service;

(3) "Filed" or "filing", delivery to the staff of the committee an application and the appropriate application fee;

(4) "First-time service", includes the following that are new units of service in a specific location or for a mobile unit:

(a) Magnetic resonance imaging (MRI), positron emission tomography (PET) and linear acceleration;

(b) Open heart surgery;

(c) Cardiac catheterization;

(d) Lithotripsy;

(e) Gamma knife; or

(f) Other emerging technology that exceeds two million dollars.

(5) "Health care facilities", hospitals, intermediate care facilities, residential care facility I or II, skilled nursing facilities, diagnostic imaging centers, radiation therapy centers, ambulatory surgical facilities and licensed speciality units but excludes the private offices of physicians, dentists and other practitioners of the healing arts, including Christian Science sanatoriums;

(6) "New institutional health service":

(a) The development of a new health care facility;

(b) The acquisition, including acquisition by lease, of any health care facility, except for intermediate care facilities, residential care facilities I and II, or skilled cared facilities, or facility to house a first-time service;

(c) Any change in the licensed bed capacity of a hospital that increases the total number of beds by more than ten beds or more than ten percent of total bed capacity, whichever is less, over a two-year period;

(d) Health services, excluding home health services, which are offered in a health care facility and which were not offered on a regular basis in such health care facility within the twelve-month period prior to the time such services would be offered;

(e) A reallocation by an existing health care facility of licensed beds from one physical facility or site to another by more than ten beds or more than ten percent of total licensed bed capacity, whichever is less, over a two-year period;

(7) "Nonreviewable projects", those renovation or replacement projects in a current location whose cost is below seven million five hundred thousand dollars or new ambulatory surgical facilities costing one million five hundred thousand dollars or below, including capital and operating lease costs if applicable, which provides services to patients receiving Medicaid or Medicare. This subsection shall not apply to intermediate care facilities, residential care facilities I and II, and skilled nursing facilities;

(8) "Nonsubstantive projects", projects which do not involve the addition, replacement, modernization or conversion of beds or the provision of a new institutional health service, but which include an expenditure over seven million five hundred thousand dollars and are due to an act of God or a normal consequence of maintaining health care services, facility or equipment;

(9) "Person", any individual, trust, estate, partnership, corporation, including associations and joint stock companies, state or political subdivision or instrumentality of thereof,

including a municipal corporation;

(10) "Review certification", a written certificate issued by the committee setting forth the committee's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by sections 197.370 to 197.398;

(11) "Total project cost", an expenditure by or on behalf of a health care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and includes but is not limited to land, buildings, capital improvements and all other costs necessary to establish a first-time service or a new institutional health service.

197.376. 1. The "Missouri Health Facilities Review Committee" is hereby established under the department of health. The office of health facilities review shall provide clerical and administrative support to the committee and shall be subject to all policies and procedures of the department of health, including employment policies.

2. Those members serving in 2001 shall complete their terms and upon the expiration of such terms, the committee shall be composed of:

(1) Five members appointed by the governor with the advice and consent of the senate, not more than three of whom shall be from the same political party. Three members shall be appointed in odd numbered years and two members shall be appointed in even numbered years for two year terms, each serving no more than six years; and

(2) The director of the division of health standards and licensure within the department of health or his or her designee;

(3) The director of the division of aging or his or her designee;

(4) Two members of the senate appointed by the president pro tem, who shall be from different political parties; and

(5) Two members of the house of representatives appointed by the speaker who shall be from different political parties.

3. No business of this committee shall be performed without a majority of the full body.

4. The committee shall elect a chairman at the first meeting of each odd numbered year. The committee shall meet at least twice a year or as determined by rule.

5. Members shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

6. The proceedings and records of the committee shall be subject to the provisions of chapter 610, RSMo.

197.378. The health facilities review committee shall:

(1) Review and approve or disapprove all applications for a review certification made under sections 197.370 to 197.398. It shall issue reasonable rules and regulations governing the submission, review, and disposition of applications;

(2) Notify the applicant within fifteen days of the date of filing of an application as to the completeness of such application as defined by rule;

(3) Provide written notification to persons located within this state at the beginning of a review. The notification may be given through publication of the review schedule in all newspapers of general circulation in the area to be served;

(4) Hold public hearings on all applications when a request in writing is filed by any person within thirty days from the date of publication of the notification of review;

(5) Within one hundred days of the filing of any application, issue in writing its approval or denial of the review certification; provided, that the committee may grant an extension of not more than thirty days on its own initiative or upon the written request of any person;

(6) Send to the applicant a copy of the aforesaid decisions with copies available to any

person upon request;

(7) Consider the needs and circumstances of institutions providing training programs for health personnel;

(8) Consider the predominant ethnic, cultural, or religious compositions of the residents to be served by a health care facility in considering whether to grant a review certification;

(9) Failure by the committee to issue a written decision on an application for review certification within the time required by this section shall constitute approval of the final administrative action on the application and is subject to appeal pursuant to section 197.382 only on the question of approval.

197.380. 1. Any person who proposes to develop or offer a new institutional health service or a first-time service shall submit a letter of intent to the committee at least thirty days prior to the filing of the application.

2. An application fee must accompany each application for a review certification. The time of filing commences with the receipt of the application and the fee. The fee is one thousand dollars, or one-tenth of one percent of the total project cost, whichever is greater. All application fees shall be deposited in the state treasury. The general assembly will appropriate funds to the Missouri health facilities review committee.

197.382. Within thirty days of the decision of the committee, only the applicant may file an appeal pursuant to chapter 621, RSMo. Any subsequent appeal shall be to the circuit court of the county in which such health care service or facility is proposed to be developed.

197.384. 1. Prior to May 31, 2004, any person who proposes to develop or offer a new institutional health service must obtain a review certification from the committee prior to the time such services are offered.

2. Prior to May 31, 2004, any person who proposes a first-time service must obtain a review certification from the committee prior to the time such services are offered.

3. Any person who proposes to add new, not previously licensed, beds to an existing hospital, intermediate care facility, residential care facility I or II or skilled nursing facility must obtain a review certification. This shall not preclude the transfer of already licensed beds as defined in section 197.374.

4. Prior to May 31, 2004, any person who proposes to renovate or replace a project in a current location whose cost is over seven million five hundred thousand dollars must obtain a review certification.

5. Any person who proposes renovation, replacement or expansion in excess of ten million dollars shall demonstrate a level of uncompensated care equal to five percent of net operating revenue for the three fiscal years preceding the year in which the application for review certification is filed.

6. Those new institutional health services, first-time services, or addition of beds, that are found by the committee to meet the health needs of the community served pursuant to section 197.390, shall be granted a review certification.

7. A review certification shall be issued only for the premises and persons named in the application and is not transferable except by the consent of the committee.

8. Project cost increases, exceeding the initial estimate by more than ten percent shall not be incurred without consent of the committee.

9. Periodic reports to the committee shall be required of any applicant who has been granted a review certification until the project has been completed. The committee may order the forfeiture of the review certification upon failure of the applicant to file any such report.

10. A review certification shall be subject to forfeiture for failure to incur expenditures equal to twenty percent of the total approved cost of the project within twelve months after the date of the order. The applicant may request an extension from the committee of not more than

six additional months to avoid forfeiture.

11. No state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed and is required to have a review certification, without first obtaining a review certification.

12. No state agency may appropriate or grant funds to or make payment of any funds to any person or health care facility that has not first obtained every review certification required pursuant to sections 197.370 to 197.398.

13. In no event shall a review certification be denied because the applicant refuses to provide abortion services or information.

14. A review certification shall not be required for the transfer of ownership of an existing and operational health care facility in its entirety.

15. A review certification may be granted for something less than that which was sought in the original application.

16. To assure the safe, appropriate, and cost-effective transfer of new medical technology throughout the state, a review certification shall not be required for the purchase and operation of research equipment that is to be used in a clinical trial that has received written approval from a duly constituted institutional review board of an accredited school of medicine or osteopathy located in Missouri to establish its safety and efficacy and does not increase the bed complement of the institution in which the equipment is to be located. After the clinical trial has been completed, a review certification must be obtained for continued use in such facility.

17. The provisions of subsections 1, 2 and 4 of this section shall expire on May 31, 2004.

197.386. Review certification is not required for:

(1) Facilities operated by the state. Appropriation of funds to such facilities by the general assembly shall be in compliance, and such facilities shall be deemed to have received an appropriate review certification without any fee or charge;

(2) Facilities which are licensed pursuant to the provisions of chapter 198, RSMo, which are designed and operated exclusively for the care and treatment of persons with acquired human immunodeficiency syndrome (AIDS). Only AIDS patients shall be residents of such a facility and no others. Any facility that violates this provision shall be liable for a fine of one hundred dollars per resident per day for each such violation;

(3) Nonreviewable projects as per subdivision (7) of section 197.374.

197.388. 1. After July 1, 1983, no review certification shall be issued for the following:

(1) Additional residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility beds above the number then licensed by this state;

(2) Beds in a licensed hospital to be reallocated on a temporary or permanent basis to nursing care or beds in a long-term care hospital meeting the requirements described in 42 CFR, Section 412.23(e), excepting those which are not subject to a review certification; nor

(3) The reallocation of intermediate care facility or skilled nursing facility beds of existing licensed beds by transfer or sale of licensed beds between a hospital licensed pursuant to this chapter or a nursing care facility licensed pursuant to chapter 198, RSMo; except for beds in counties in which there is no existing nursing care facility. No review certification shall be issued for the reallocation of existing residential care facility I or II, or intermediate care facilities operated exclusively for the mentally retarded to intermediate care or skilled nursing facilities or beds. However, after January 1, 2003, nothing in this section shall prohibit the Missouri health facilities review committee from issuing a review certification for additional beds in existing health care facilities or for new beds in new

health care facilities or for the reallocation of licensed beds, provided that no construction shall begin prior to January 1, 2004.

2. The health facilities review committee shall utilize demographic data from the office of social and economic data analysis, or its successor organization, at the University of Missouri as their source of information in considering applications for new institutional long-term care facilities.

197.390. 1. The provisions of section 197.388 shall not apply to a residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility only where the department of health has first determined that there presently exists a need for additional beds of that classification because the average occupancy of all licensed and available residential care facility I, residential care facility II, intermediate care facility and skilled nursing facility beds exceeds ninety percent for at least four consecutive calendar quarters, in a particular county, and within a fifteen-mile radius of the proposed facility, and the facility otherwise appears to qualify for a review certification. The department's certification that there is no need for additional beds shall serve as the final determination and decision of the committee. In determining ninety percent occupancy, residential care facility I and II shall be one separate classification and intermediate care and skilled nursing facilities are another separate classification.

2. The Missouri health facilities review committee may, for any facility certified to it by the department, consider the predominant ethnic or religious composition of the residents to be served by that facility in considering whether to grant a review certification.

3. There shall be no expenditure minimum for facilities, beds, or services referred to in subdivisions (1), (2) and (3) of section 197.388. The provisions of this subsection shall expire January 1, 2003.

4. As used in this section, the term "licensed and available" means beds which are actually in place and for which a license has been issued.

5. The provisions of section 197.388 shall not apply to any facility where at least ninety-five percent of the patients require diets meeting the dietary standards defined by section 196.165, RSMo.

6. The committee shall review all letters of intent and applications for long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e) under its criteria and standards for long-term care beds.

7. Sections 197.370 to 197.398 shall not be construed to apply to litigation pending in state court on or before April 1, 1996, in which the Missouri health facilities review committee is a defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e).

8. Notwithstanding any other provision of this chapter to the contrary:

(1) A facility licensed pursuant to chapter 198, RSMo, may increase its licensed bed capacity by:

(a) Submitting a letter of intent to expand to the division of aging and the health facilities review committee;

(b) Certification from the division of aging that the facility:

a. Has no patient care class I deficiencies within the last eighteen months; and

b. Has maintained a ninety-percent average occupancy rate for the previous six quarters;

(c) Has made an effort to purchase beds for eighteen months following the date the letter of intent to expand is submitted pursuant to paragraph (a) of this subdivision. For purposes of this paragraph, an "effort to purchase" means a copy certified by the offeror as an offer to purchase beds from another licensed facility in the same licensure category; and

(d) If an agreement is reached by the selling and purchasing entities, the health facilities

review committee shall issue a review certification for the expansion of the purchaser facility upon surrender of the seller's license; or

(e) If no agreement is reached by the selling and purchasing entities, the health facilities review committee shall permit an expansion for:

a. A facility with more than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or thirty beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-three percent or greater over the previous six quarters;

b. A facility with fewer than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or ten beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-two percent or greater over the previous six quarters;

c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph shall not expand by more than fifty percent of its then licensed bed capacity in the qualifying licensure category;

(2) Any beds sold shall, for five years from the date of relicensure by the purchaser, remain unlicensed and unused for any long-term care service in the selling facility, whether they do or do not require a license;

(3) The beds purchased shall, for two years from the date of purchase, remain in the bed inventory attributed to the selling facility and be considered by the department of social services as licensed and available for purposes of this section;

(4) Any residential care facility licensed pursuant to chapter 198, RSMo, may relocate any portion of such facility's current licensed beds to any other facility to be licensed within the same licensure category if both facilities are under the same licensure ownership or control, and are located within six miles of each other;

(5) A facility licensed pursuant to chapter 198, RSMo, may transfer or sell individual long-term care licensed beds to facilities qualifying pursuant to paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which transfers or sells licensed beds shall not expand its licensed bed capacity in that licensure category for a period of five years from the date the licensure is relinquished.

9. Any existing licensed and operating health care facility offering long-term care services may replace one-half of its licensed beds at the same site or a site not more than thirty miles from its current location if, for at least the most recent four consecutive calendar quarters, the facility operates only fifty percent of its then licensed capacity with every resident residing in a private room. In such case:

(1) The facility shall report to the division of aging vacant beds as unavailable for occupancy for at least the most recent four consecutive calendar quarters;

(2) The replacement beds shall be built to private room specifications and only used for single occupancy; and

(3) The existing facility and proposed facility shall have the same owner or owners, regardless of corporate or business structure, and such owner or owners shall stipulate in writing that the existing facility beds to be replaced will not later be used to provide long-term care services. If the facility is being operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

10. Nothing in this section shall prohibit a health care facility licensed pursuant to chapter 198, RSMo, from being replaced in its entirety within fifteen miles of its existing site so long as the existing facility and proposed or replacement facility have the same owner or owners regardless of corporate or business structure and the health care facility being replaced remains unlicensed and unused for any long-term care services whether they do or do not require a license from the date of licensure of the replacement facility.

197.394. 1. Any person who is paid to support or oppose any project before the committee shall register with the staff of the committee for every project in which such person has an interest. The registration shall also include the names and addresses of any person, firm, corporation or association that the person registering represents in relation to the named project. Any person violating the provisions of this subsection shall be subject to the penalties specified in section 105.478, RSMo.

2. Any person regulated by chapter 197 or 198, RSMo, and any officer, attorney, agent and employee thereof, shall not offer to any committee member or to any member of the committee staff, any office, appointment or position, or any present, gift, entertainment or gratuity of any kind while such application is pending before the committee. Any person guilty of knowingly violating the provisions of this section shall be punished as follows: For the first offense, such person is guilty of a class B misdemeanor; and for the second and subsequent offenses, such person is guilty of a class D felony.

197.396. For the purposes of reimbursement under section 208.152, RSMo, project costs for new institutional health services in excess of ten percent of the initial project estimate shall not be eligible for reimbursement for the first three years that a facility receives payment for services provided under section 208.152, RSMo. The initial estimate shall be that amount for which the original review certification was obtained. Reimbursement for these excess costs after the first three years shall not be made until a review certification has been granted for the excess project costs. The provisions of this section shall apply only to facilities which file an application for a review certification or make application for cost-overrun review of their original application or waiver.

197.397. The health facilities review committee shall submit an annual report to the governor and members of the general assembly on all projects that have come before the committee and have been approved, are in process or have been disapproved.

197.398. The committee shall have the power to promulgate reasonable rules, regulations, criteria and standards in conformity with this section and chapter 536, RSMo, to meet the objectives of sections 197.370 to 197.398 including the power to establish criteria and standards to review new types of equipment or service. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 197.370 to 197.398 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, sections 536.028, RSMo. All rulemaking authority delegated prior to August 28, 2001, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 2001, if it fully complied with all applicable provisions of the law. 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, 2001, shall be invalid and void."; and

Further amend said bill, Page 26, Section 610.027, Line 15 of said page, by inserting after all of said line the following:

"[197.300. Sections 197.300 to 197.366 shall be known as the "Missouri Certificate of Need Law".]

[197.305. As used in sections 197.300 to 197.366, the following terms mean:

(1) "Affected persons", the person proposing the development of a new institutional health service, the public to be served, and health care facilities within the service area in which the proposed new health care service is to be developed;

(2) "Agency", the certificate of need program of the Missouri department of health;

(3) "Capital expenditure", an expenditure by or on behalf of a health care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance;

(4) "Certificate of need", a written certificate issued by the committee setting forth the committee's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by sections 197.300 to 197.366;

(5) "Develop", to undertake those activities which on their completion will result in the offering of a new institutional health service or the incurring of a financial obligation in relation to the offering of such a service;

(6) "Expenditure minimum" shall mean:

(a) For beds in existing or proposed health care facilities licensed pursuant to chapter 198, RSMo, and long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo, six hundred thousand dollars in the case of capital expenditures, or four hundred thousand dollars in the case of major medical equipment, provided, however, that prior to January 1, 2003, the expenditure minimum for beds in such a facility and long-term care beds in a hospital described in section 198.012, RSMo, shall be zero, subject to the provisions of subsection 7 of section 197.318;

(b) For beds or equipment in a long-term care hospital meeting the requirements described in 42 CFR, Section 412.23(e), the expenditure minimum shall be zero; and

(c) For health care facilities, new institutional health services or beds not described in paragraph (a) or (b) of this subdivision one million dollars in the case of capital expenditures, excluding major medical equipment, and one million dollars in the case of medical equipment;

(7) "Health care facilities", hospitals, health maintenance organizations, tuberculosis hospitals, psychiatric hospitals, intermediate care facilities, skilled nursing facilities, residential care facilities I and II, kidney disease treatment centers, including freestanding hemodialysis units, diagnostic imaging centers, radiation therapy centers and ambulatory surgical facilities, but excluding the private offices of physicians, dentists and other practitioners of the healing arts, and Christian Science sanatoriums, also known as Christian Science Nursing facilities listed and certified by the Commission for Accreditation of Christian Science Nursing Organization/Facilities, Inc., and facilities of not-for-profit corporations in existence on October 1, 1980, subject either to the provisions and regulations of Section 302 of the Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401-538, and any residential care facility I or residential care facility II operated by a religious organization qualified pursuant to Section 501(c)(3) of the federal Internal Revenue Code, as amended, which does not require the expenditure of public funds for purchase or operation, with a total licensed bed capacity of one hundred beds or fewer;

(8) "Health service area", a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources, consisting of a population of not less than five hundred thousand or more than three million;

(9) "Major medical equipment", medical equipment used for the provision of medical and other health services;

(10) "New institutional health service":

(a) The development of a new health care facility costing in excess of the applicable expenditure minimum;

(b) The acquisition, including acquisition by lease, of any health care facility, or major medical equipment costing in excess of the expenditure minimum;

(c) Any capital expenditure by or on behalf of a health care facility in excess of the expenditure minimum;

(d) Predevelopment activities as defined in subdivision (13) hereof costing in excess of one hundred fifty thousand dollars;

(e) Any change in licensed bed capacity of a health care facility which increases the total number of beds by more than ten or more than ten percent of total bed capacity, whichever is less, over a two-year period;

(f) Health services, excluding home health services, which are offered in a health care facility and which were not offered on a regular basis in such health care facility within the twelve-month period prior to the time such services would be offered;

(g) A reallocation by an existing health care facility of licensed beds among major types of service or reallocation of licensed beds from one physical facility or site to another by more than ten beds or more than ten percent of total licensed bed capacity, whichever is less, over a two-year period;

(11) "Nonsubstantive projects", projects which do not involve the addition, replacement, modernization or conversion of beds or the provision of a new health service but which include a capital expenditure which exceeds the expenditure minimum and are due to an act of God or a normal consequence of maintaining health care services, facility or equipment;

(12) "Person", any individual, trust, estate, partnership, corporation, including associations and joint stock companies, state or political subdivision or instrumentality thereof, including a municipal corporation;

(13) "Predevelopment activities", expenditures for architectural designs, plans, working drawings and specifications, and any arrangement or commitment made for financing; but excluding submission of an application for a certificate of need.]

[197.310. 1. The "Missouri Health Facilities Review Committee" is hereby established. The agency shall provide clerical and administrative support to the committee. The committee may employ additional staff as it deems necessary.

2. The committee shall be composed of:

(1) Two members of the senate appointed by the president pro tem, who shall be from different political parties; and

(2) Two members of the house of representatives appointed by the speaker, who shall be from different political parties; and

(3) Five members appointed by the governor with the advice and consent of the senate, not more than three of whom shall be from the same political party.

3. No business of this committee shall be performed without a majority of the full body.

4. The members shall be appointed as soon as possible after September 28, 1979. One of the senate members, one of

the house members and three of the members appointed by the governor shall serve until January 1, 1981, and the remaining members shall serve until January 1, 1982. All subsequent members shall be appointed in the manner provided in subsection 2 of this section and shall serve terms of two years.

5. The committee shall elect a chairman at its first meeting which shall be called by the governor. The committee shall meet upon the call of the chairman or the governor.

6. The committee shall review and approve or disapprove all applications for a certificate of need made under sections 197.300 to 197.366. It shall issue reasonable rules and regulations governing the submission, review and disposition of applications.

7. Members of the committee shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

8. Notwithstanding the provisions of subsection 4 of section 610.025, RSMo, the proceedings and records of the facilities review committee shall be subject to the provisions of chapter 610, RSMo.]

[197.312. A certificate of need shall not be required for any institution previously owned and operated for or in behalf of a city not within a county which chooses to be licensed as a facility defined under subdivision (15) or (16) of section 198.006, RSMo, for a facility of ninety beds or less that is owned or operated by a not-for-profit corporation which is exempt from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which has received approval by the division of aging of plans for construction of such facility by August 1, 1995, and is licensed by the division of aging by July 1, 1996, as a facility defined under subdivision (15) or (16) of section 198.006, RSMo, or for a facility, serving exclusively mentally ill, homeless persons, of sixteen beds or less that is owned or operated by a not-for-profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which has received approval by the division of aging of plans for construction of such facility by May 1, 1996, and is licensed by the division of aging by July 1, 1996, as a facility defined under subdivision (15) or (16) of section 198.006, RSMo, or a residential care facility II located in a city not within a county operated by a not for profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which is licensed for one hundred beds or less on or before August 28, 1997.]

[197.314. 1. The provisions of sections 197.300 to 197.366 shall not apply to any sixty-bed stand-alone facility designed and operated exclusively for the care of residents with Alzheimer's disease or dementia and located in a tax increment financing district established prior to 1990 within any county of the first classification with a charter form of government containing a city with a population of over three hundred fifty thousand and which district also has within its boundaries a skilled nursing facility.

2. The provisions of sections 197.300 to 197.366 shall not apply, as hereinafter stated, to a skilled nursing facility that is owned or operated by a not-for-profit corporation which was created by a special act of the Missouri general assembly, is exempt from federal income tax as an organization described

in Section 501(c)(3) of the Internal Revenue Code of 1986, is owned by a religious organization and is to be operated as part of a continuing care retirement community offering independent living, residential care and skilled care. This exemption shall authorize no more than twenty additional skilled nursing beds at each of two facilities which do not have any skilled nursing beds as of January 1, 1999.]

[197.315. 1. Any person who proposes to develop or offer a new institutional health service within the state must obtain a certificate of need from the committee prior to the time such services are offered.

2. Only those new institutional health services which are found by the committee to be needed shall be granted a certificate of need. Only those new institutional health services which are granted certificates of need shall be offered or developed within the state. No expenditures for new institutional health services in excess of the applicable expenditure minimum shall be made by any person unless a certificate of need has been granted.

3. After October 1, 1980, no state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed without obtaining a certificate of need.

4. If any person proposes to develop any new institutional health care service without a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the attorney general, and he shall apply for an injunction or other appropriate legal action in any court of this state against that person.

5. After October 1, 1980, no agency of state government may appropriate or grant funds to or make payment of any funds to any person or health care facility which has not first obtained every certificate of need required pursuant to sections 197.300 to 197.366.

6. A certificate of need shall be issued only for the premises and persons named in the application and is not transferable except by consent of the committee.

7. Project cost increases, due to changes in the project application as approved or due to project change orders, exceeding the initial estimate by more than ten percent shall not be incurred without consent of the committee.

8. Periodic reports to the committee shall be required of any applicant who has been granted a certificate of need until the project has been completed. The committee may order the forfeiture of the certificate of need upon failure of the applicant to file any such report.

9. A certificate of need shall be subject to forfeiture for failure to incur a capital expenditure on any approved project within six months after the date of the order. The applicant may request an extension from the committee of not more than six additional months based upon substantial expenditure made.

10. Each application for a certificate of need must be accompanied by an application fee. The time of filing commences with the receipt of the application and the application fee. The application fee is one thousand dollars, or one-tenth of one percent of the total cost of the proposed project, whichever is greater. All application fees shall be deposited in the state treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the Missouri health facilities review committee.

11. In determining whether a certificate of need should be granted, no

consideration shall be given to the facilities or equipment of any other health care facility located more than a fifteen-mile radius from the applying facility.

12. When a nursing facility shifts from a skilled to an intermediate level of nursing care, it may return to the higher level of care if it meets the licensure requirements, without obtaining a certificate of need.

13. In no event shall a certificate of need be denied because the applicant refuses to provide abortion services or information.

14. A certificate of need shall not be required for the transfer of ownership of an existing and operational health facility in its entirety.

15. A certificate of need may be granted to a facility for an expansion, an addition of services, a new institutional service, or for a new hospital facility which provides for something less than that which was sought in the application.

16. The provisions of this section shall not apply to facilities operated by the state, and appropriation of funds to such facilities by the general assembly shall be deemed in compliance with this section, and such facilities shall be deemed to have received an appropriate certificate of need without payment of any fee or charge.

17. Notwithstanding other provisions of this section, a certificate of need may be issued after July 1, 1983, for an intermediate care facility operated exclusively for the mentally retarded.

18. To assure the safe, appropriate, and cost-effective transfer of new medical technology throughout the state, a certificate of need shall not be required for the purchase and operation of research equipment that is to be used in a clinical trial that has received written approval from a duly constituted institutional review board of an accredited school of medicine or osteopathy located in Missouri to establish its safety and efficacy and does not increase the bed complement of the institution in which the equipment is to be located. After the clinical trial has been completed, a certificate of need must be obtained for continued use in such facility.]

[197.316. 1. The provisions of subsection 10 of section 197.315 and sections 197.317 and 197.318 shall not apply to facilities which are licensed pursuant to the provisions of chapter 198, RSMo, which are designed and operated exclusively for the care and treatment of persons with acquired human immunodeficiency syndrome, AIDS.

2. If a facility is granted a certificate of need and is found to be exempt from the provisions of subsection 10 of section 197.315 and sections 197.317 and 197.318 pursuant to the provisions of subsection 1 of this section, then only AIDS patients shall be residents of such facility and no others.

3. Any facility that violates the provisions of subsection 2 of this section shall be liable for a fine of one hundred dollars per resident per day for each such violation.

4. The attorney general shall, upon request of the department of health, bring an action in a circuit court of competent jurisdiction for violation of this section.]

[197.317. 1. After July 1, 1983, no certificate of need shall be issued for the following:

(1) Additional residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility beds above the number then licensed by this state;

(2) Beds in a licensed hospital to be reallocated on a temporary or permanent basis to nursing care or beds in a

long-term care hospital meeting the requirements described in 42 CFR, Section 412.23(e), excepting those which are not subject to a certificate of need pursuant to paragraphs (e) and (g) of subdivision (10) of section 197.305; nor

(3) The reallocation of intermediate care facility or skilled nursing facility beds of existing licensed beds by transfer or sale of licensed beds between a hospital licensed pursuant to this chapter or a nursing care facility licensed pursuant to chapter 198, RSMo; except for beds in counties in which there is no existing nursing care facility. No certificate of need shall be issued for the reallocation of existing residential care facility I or II, or intermediate care facilities operated exclusively for the mentally retarded to intermediate care or skilled nursing facilities or beds. However, after January 1, 2003, nothing in this section shall prohibit the Missouri health facilities review committee from issuing a certificate of need for additional beds in existing health care facilities or for new beds in new health care facilities or for the reallocation of licensed beds, provided that no construction shall begin prior to January 1, 2004. The provisions of subsections 16 and 17 of section 197.315 shall apply to the provisions of this section.

2. The health facilities review committee shall utilize demographic data from the office of social and economic data analysis, or its successor organization, at the University of Missouri as their source of information in considering applications for new institutional long-term care facilities.]

[197.318. 1. The provisions of section 197.317 shall not apply to a residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility only where the department of social services has first determined that there presently exists a need for additional beds of that classification because the average occupancy of all licensed and available residential care facility I, residential care facility II, intermediate care facility and skilled nursing facility beds exceeds ninety percent for at least four consecutive calendar quarters, in a particular county, and within a fifteen-mile radius of the proposed facility, and the facility otherwise appears to qualify for a certificate of need. The department's certification that there is no need for additional beds shall serve as the final determination and decision of the committee. In determining ninety percent occupancy, residential care facility I and II shall be one separate classification and intermediate care and skilled nursing facilities are another separate classification.

2. The Missouri health facilities review committee may, for any facility certified to it by the department, consider the predominant ethnic or religious composition of the residents to be served by that facility in considering whether to grant a certificate of need.

3. There shall be no expenditure minimum for facilities, beds, or services referred to in subdivisions (1), (2) and (3) of section 197.317. The provisions of this subsection shall expire January 1, 2003.

4. As used in this section, the term "licensed and available" means beds which are actually in place and for which a license has been issued.

5. The provisions of section 197.317 shall not apply to any facility where at least ninety-five percent of the patients require diets meeting the dietary standards defined by section 196.165, RSMo.

6. The committee shall review all letters of intent and applications for long-term care hospital beds meeting the requirements described in 42 CFR,

Section 412.23(e) under its criteria and standards for long-term care beds.

7. Sections 197.300 to 197.366 shall not be construed to apply to litigation pending in state court on or before April 1, 1996, in which the Missouri health facilities review committee is a defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e).

8. Notwithstanding any other provision of this chapter to the contrary:

(1) A facility licensed pursuant to chapter 198, RSMo, may increase its licensed bed capacity by:

(a) Submitting a letter of intent to expand to the division of aging and the health facilities review committee;

(b) Certification from the division of aging that the facility:

a. Has no patient care class I deficiencies within the last eighteen months; and

b. Has maintained a ninety-percent average occupancy rate for the previous six quarters;

(c) Has made an effort to purchase beds for eighteen months following the date the letter of intent to expand is submitted pursuant to paragraph (a) of this subdivision. For purposes of this paragraph, an "effort to purchase" means a copy certified by the offeror as an offer to purchase beds from another licensed facility in the same licensure category; and

(d) If an agreement is reached by the selling and purchasing entities, the health facilities review committee shall issue a certificate of need for the expansion of the purchaser facility upon surrender of the seller's license; or

(e) If no agreement is reached by the selling and purchasing entities, the health facilities review committee shall permit an expansion for:

a. A facility with more than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or thirty beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-three percent or greater over the previous six quarters;

b. A facility with fewer than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or ten beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-two percent or greater over the previous six quarters;

c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph shall not expand by more than fifty percent of its then licensed bed capacity in the qualifying licensure category;

(2) Any beds sold shall, for five years from the date of relicensure by the purchaser, remain unlicensed and unused for any long-term care service in the selling facility, whether they do or do not require a license;

(3) The beds purchased shall, for two years from the date of purchase, remain in the bed inventory attributed to the selling facility and be considered by the department of social services as licensed and available for purposes of this section;

(4) Any residential care facility licensed pursuant to chapter 198, RSMo, may relocate any portion of such facility's current licensed beds to any other facility to be licensed within the same licensure category if both facilities are under the same licensure ownership or control, and are located within six miles of each

other;

(5) A facility licensed pursuant to chapter 198, RSMo, may transfer or sell individual long-term care licensed beds to facilities qualifying pursuant to paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which transfers or sells licensed beds shall not expand its licensed bed capacity in that licensure category for a period of five years from the date the licensure is relinquished.

9. Any existing licensed and operating health care facility offering long-term care services may replace one-half of its licensed beds at the same site or a site not more than thirty miles from its current location if, for at least the most recent four consecutive calendar quarters, the facility operates only fifty percent of its then licensed capacity with every resident residing in a private room. In such case:

(1) The facility shall report to the division of aging vacant beds as unavailable for occupancy for at least the most recent four consecutive calendar quarters;

(2) The replacement beds shall be built to private room specifications and only used for single occupancy; and

(3) The existing facility and proposed facility shall have the same owner or owners, regardless of corporate or business structure, and such owner or owners shall stipulate in writing that the existing facility beds to be replaced will not later be used to provide long-term care services. If the facility is being operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

10. Nothing in this section shall prohibit a health care facility licensed pursuant to chapter 198, RSMo, from being replaced in its entirety within fifteen miles of its existing site so long as the existing facility and proposed or replacement facility have the same owner or owners regardless of corporate or business structure and the health care facility being replaced remains unlicensed and unused for any long-term care services whether they do or do not require a license from the date of licensure of the replacement facility.]

[197.320. The committee shall have the power to promulgate reasonable rules, regulations, criteria and standards in conformity with this section and chapter 536, RSMo, to meet the objectives of sections 197.300 to 197.366 including the power to establish criteria and standards to review new types of equipment or service. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 197.300 to 197.366 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. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, 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.]

[197.325. Any person who proposes to develop or offer a new institutional health service shall submit a letter of intent to the committee at least thirty days prior to the filing of the application.]

[197.326. 1. Any person who is paid either as part of his normal employment or as a lobbyist to support or oppose any project before the health facilities review committee shall register as a lobbyist pursuant to chapter 105, RSMo, and shall also register with the staff of the health facilities review committee for every project in which such person has an interest and indicate whether such person supports or opposes the named project. The registration shall also include the names and addresses of any person, firm, corporation or association that the person registering represents in relation to the named project. Any person violating the provisions of this subsection shall be subject to the penalties specified in section 105.478, RSMo.

2. A member of the general assembly who also serves as a member of the health facilities review committee is prohibited from soliciting or accepting campaign contributions from any applicant or person speaking for an applicant or any opponent to any application or persons speaking for any opponent while such application is pending before the health facilities review committee.

3. Any person regulated by chapter 197 or 198, RSMo, and any officer, attorney, agent and employee thereof, shall not offer to any committee member or to any person employed as staff to the committee, any office, appointment or position, or any present, gift, entertainment or gratuity of any kind or any campaign contribution while such application is pending before the health facilities review committee. Any person guilty of knowingly violating the provisions of this section shall be punished as follows: For the first offense, such person is guilty of a class B misdemeanor; and for the second and subsequent offenses, such person is guilty of a class D felony.]

[197.327. 1. If a facility is granted a certificate of need pursuant to sections 197.300 to 197.365 based on an application stating a need for additional Medicaid beds, such beds shall be used for Medicaid patients and no other.

2. Any person who violates the provisions of subsection 1 of this section shall be liable to the state for civil penalties of one hundred dollars for every day of such violation. Each nonMedicaid patient placed in a Medicaid bed shall constitute a separate violation.

3. The attorney general shall, upon the request of the department, bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The department may bring such an action itself. The civil action may be brought in the circuit court of Cole County or, at the option of the director, in another county which has venue of an action against the person under other provisions of law.]

[197.330. 1. The committee shall:

(1) Notify the applicant within fifteen days of the date of filing of an application as to the completeness of such application;

(2) Provide written notification to affected persons located within this state at the beginning of a review. This notification may be given through publication of the review schedule in all newspapers of general circulation in the area to be served;

(3) Hold public hearings on all applications when a request in writing is filed by any affected person within thirty days from the date of publication of the notification of review;

(4) Within one hundred days of the filing of any application for a certificate of need, issue in writing its findings of fact, conclusions of law, and its approval or denial of the certificate of need; provided, that the committee may grant an extension of not more than thirty days

on its own initiative or upon the written request of any affected person;

(5) Cause to be served upon the applicant, the respective health system agency, and any affected person who has filed his prior request in writing, a copy of the aforesaid findings, conclusions and decisions;

(6) Consider the needs and circumstances of institutions providing training programs for health personnel;

(7) Provide for the availability, based on demonstrated need, of both medical and osteopathic facilities and services to protect the freedom of patient choice; and

(8) Establish by regulation procedures to review, or grant a waiver from review, nonsubstantive projects.

The term "filed" or "filing" as used in this section shall mean delivery to the staff of the health facilities review committee the document or documents the applicant believes constitute an application.

2. Failure by the committee to issue a written decision on an application for a certificate of need within the time required by this section shall constitute approval of and final administrative action on the application, and is subject to appeal pursuant to section 197.335 only on the question of approval by operation of law.]

[197.335. Within thirty days of the decision of the committee, the applicant may file an appeal to be heard de novo by the administrative hearing commissioner, the circuit court of Cole County or the circuit court in the county within which such health care service or facility is proposed to be developed.]

[197.340. Any health facility providing a health service must notify the committee of any discontinuance of any previously provided health care service, a decrease in the number of licensed beds by ten percent or more, or the change in licensure category for any such facility.]

[197.345. Any health facility with a project for facilities or services for which a binding construction or purchase contract has been executed prior to October 1, 1980, or health care facility which has commenced operations prior to October 1, 1980, shall be deemed to have received a certificate of need, except that such certificate of need shall be subject to forfeiture under the provisions of subsections 8 and 9 of section 197.315.]

[197.355. The legislature may not appropriate any money for capital expenditures for health care facilities until a certificate of need has been issued for such expenditures.]

[197.357. For the purposes of reimbursement under section 208.152, RSMo, project costs for new institutional health services in excess of ten percent of the initial project estimate whether or not approval was obtained under subsection 7 of section 197.315 shall not be eligible for reimbursement for the first three years that a facility receives payment for services provided under section 208.152, RSMo. The initial estimate shall be that amount for which the original certificate of need was obtained or, in the case of facilities for which a binding construction or purchase contract was executed prior to October 1, 1980, the amount of that contract. Reimbursement for these excess costs after the first three years shall not be made until a certificate of need has been granted for the excess project costs. The provisions of this section shall apply only to facilities which file an application for a certificate of need or make application for cost-overrun review of their original application or waiver after August 13, 1982.]

[197.366. The provisions of subdivision (8) of section 197.305 to the

contrary notwithstanding, after December 31, 2001, the term "health care facilities" in sections 197.300 to 197.366 shall mean:

(1) Facilities licensed under chapter 198, RSMo;

(2) Long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo;

(3) Long-term care hospitals or beds in a long-term care hospital meeting the requirements described in 42 CFR, section 412.23(e); and

(4) Construction of a new hospital as defined in chapter 197.]"; and

[197.367. Upon application for renewal by any residential care facility I or II which on the effective date of this act has been licensed for more than five years, is licensed for more than fifty beds and fails to maintain for any calendar year its occupancy level above thirty percent of its then licensed beds, the division of aging shall license only fifty beds for such facility.]"; and

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

HOUSE AMENDMENT NO. 14

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Section 610.010, Page 15, Line 2, by inserting immediately after the word "**Missouri,**" the following:

"**Central Missouri State University, Missouri Southern State College, Missouri Western State College, Harris-Stowe State College, Truman State University, Southeast Missouri State University, Southwest Missouri State University, Northwest Missouri State University, Lincoln University, Linn State Technical College, and any junior college governed by chapter 178, Revised Statutes of Missouri.**"; and

Further amend said section, Page 16, Line 5, by inserting immediately after the word "**Missouri,**" the following:

"**Central Missouri State University, Missouri Southern State College, Missouri Western State College, Harris-Stowe State College, Truman State University, Southeast Missouri State University, Southwest Missouri State University, Northwest Missouri State University, Lincoln University, Linn State Technical College, and any junior college governed by chapter 178, Revised Statutes of Missouri,**".

HOUSE AMENDMENT NO. 15

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Section 610.010, Page 14, Line 5, by inserting immediately after said line:

"347.740. The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009**.

351.127. The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

355.023. The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

356.233. The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

359.653. The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's

technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**

400.9-118. The secretary of state may collect an additional fee of five dollars on each and every fee paid to the secretary of state as required in chapter 400.9. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, 2009.

417.018. The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. **The provisions of this section shall expire on December 31, 2009.**"; and

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

HOUSE AMENDMENT NO. 17

Amend House Substitute for House Committee Substitute for Senate Bill No. 72, Page 11, Section 191.940, Line 11 of said page, by inserting immediately after said line:

"193.185. 1. A report of each marriage performed in this state shall be filed with the department and shall be registered if it has been completed and filed in accordance with this section.

2. The official who issues the marriage license shall prepare the report on the form prescribed and furnished by the state registrar upon the basis of information obtained from one of the parties to be married.

3. Each person who performs a marriage shall certify the fact of marriage and return the license to the official who issued the license within [ten] **fifteen** days after the ceremony. This license shall be signed by the witnesses to the ceremony. A marriage certificate shall be given to the parties.

4. Every official issuing marriage licenses shall complete and forward to the department on or before the fifteenth day of each calendar month the reports of marriages returned to such official during the preceding calendar month."; and

Further amend said bill, Page 14, Section 197.160, Line 5 of said page, by inserting after said line the following:

"451.080. 1. The recorders of the several counties of this state, and the recorder of the city of St. Louis, shall, when applied to by any person legally entitled to a marriage license, issue the same which may be in the following form: State of Missouri)

) ss.

) County of .....)

This license authorizes any judge, associate circuit judge, licensed or ordained preacher of the gospel, or other person authorized under the laws of this state, to solemnize marriage between A B of ....., county of ..... and state of ....., who is ..... the age of eighteen years, and C D of ....., in the county of ....., state of ....., who is ..... the age of eighteen years.

2. If the man is under eighteen or the woman under eighteen, add the following:

The custodial parent or guardian, as the case may be, of the said A B or C D (A B or C D, as the case may require), has given his or her assent to the said marriage.

Witness my hand as recorder, with the seal of office hereto affixed, at my office, in ....., the ..... day of ....., [19] **20**.., recorder.

3. On which such license the person solemnizing the marriage shall, within [ninety] **fifteen** days after the issuing thereof, make as near as may be the following return, and return such license to the officer issuing the same: State of Missouri)

) ss.

) County of .....)

This is to certify that the undersigned ..... did at ....., in said county, on the ..... day of ..... A. D. [19] **20**.., unite in marriage the above-named persons.

451.040. 1. Previous to any marriage in this state, a license for that purpose shall be obtained from the officer authorized to issue the same, and no marriage contracted shall be recognized as valid unless the license has been previously obtained, and unless the marriage is solemnized by a person authorized by law to solemnize marriages.

2. Before applicants for a marriage license shall receive a license, and before the recorder of deeds shall be authorized to issue a license, the parties to the marriage shall present an application for the license, duly executed and signed in the presence of the recorder of deeds or their deputy. Each application for a license shall contain the Social Security number of the applicant**, provided that the applicant in fact has a Social Security number, or the applicant shall sign a statement provided by the recorder that the applicant does not have a Social Security number**. The Social Security number contained in an application for a marriage license shall be exempt from examination and copying pursuant to section 610.024, RSMo. Upon the expiration of three days after the receipt of the application the recorder of deeds shall issue the license, unless one of the parties withdraws the application. The license shall be void after thirty days from the date of issuance.

3. Provided, however, that such license may be issued on order of a circuit or associate circuit judge of the county in which the license is applied for, without waiting three days, such license being issued only for good cause shown and by reason of such unusual conditions as to make such marriage advisable.

4. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor.

5. Common-law marriages shall be null and void.

6. Provided, however, that no marriage shall be deemed or adjudged invalid, nor shall the validity be in any way affected for want of authority in any person so solemnizing the marriage pursuant to section 451.100, if consummated with the full belief on the part of the persons, so married, or either of them, that they were lawfully joined in marriage.

451.130. 1. If any recorder willfully neglect or refuse to issue a license to any person legally entitled thereto on application, on payment or tender of the fee provided for in section 451.150, or shall fail to refuse to record such license, with the return thereon, as herein provided, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than five nor more than one hundred dollars.

2. Every officer or person who shall fail to return a license within [ninety] **fifteen** days after the issuing of the same, or who shall make a false return thereon, or any recorder who shall willfully make a false record of any marriage license or return thereon, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished as provided in the preceding part of this section.

In which the concurrence of the Senate is respectfully requested.

HOUSE BILLS ON THIRD READING

HB 453, with **SCS**, introduced by Representative Ransdall, et al, entitled:

An Act to repeal sections 292.606, 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-508, 417.018, 444.765, 444.767, 444.770, 444.772, 444.773, 444.774, 444.775, 444.777, 444.778, 444.782, 444.784, 444.786, 444.787, 444.788 and 444.789, RSMo 2000, relating to environmental commissions and the collection of certain fees, and to enact in lieu thereof twenty-three new sections relating to the same subject.

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

SCS for **HB 453**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 453

An Act to repeal sections 292.606, 319.129, 319.131, 319.132, 319.133, 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-508, 417.018, 444.765, 444.767, 444.770, 444.772, 444.773, 444.774, 444.775, 444.777, 444.778, 444.782, 444.784, 444.786, 444.787, 444.788 and 444.789, RSMo 2000, relating to commerce, and to enact in

lieu thereof twenty-eight new sections relating to the same subject, with penalty provisions.

Was taken up.

Senator Steelman moved that **SCS** for **HB 453** be adopted.

Senator Steelman offered **SS** for **SCS** for **HB 452**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 453

An Act to repeal sections 109.120, 109.241, 292.606, 319.129, 319.131, 319.132, 319.133, 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-508, 417.018, 444.765, 444.767, 444.770, 444.772, 444.773, 444.774, 444.775, 444.777, 444.778, 444.782, 444.784, 444.786, 444.787, 444.788 and 444.789, RSMo 2000, relating to commerce, and to enact in lieu thereof thirty-four new sections relating to the same subject, with penalty provisions.

Senator Steelman moved that **SS** for **SCS** for **HB 452** be adopted.

Senator Steelman offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 55, Section 620.1580, Line 22, of said page, by striking "eleven" and inserting in lieu thereof "**twelve**"; and

Further amend said bill and section, Page 56, Line 9 of said page, by striking the word "and"; and further amend line 10 of said page, by inserting after "large" the following: "**; and**

(6) One member shall be the secretary of state".

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 55, Section 620.1580, Line 22, by removing the word "eleven" and inserting in lieu thereof the word "twelve"; and

Further amend said bill and section, Page 56, Line 9 by striking the word "and" and further amend line 10 by inserting after "large" the following: "**; and**

(6) One member shall be from the Office of Technology".

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

Senator Gross offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 20, Section 319.132, Line 8 of said page, by inserting after "surcharge" the following: "**; providing however, the board shall not increase the surcharge from its present amount by more than ten dollars in any year**".

Senator Gross moved that the above amendment be adopted.

Senator Mathewson offered **SSA 1** for **SA 3**:

SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 20, Section 319.132, Line 8 of said page, by inserting after "surcharge" the following: "**; providing however, the board shall not increase the surcharge from its present amount by more than fifteen dollars in any year**".

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

SA 3 was again taken up.

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

Senator Dougherty offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 23, Section 400.9-508, Line 12 of said page by inserting immediately after said line the following:

"**414.407. 1. As used in this section, the**

following terms mean:

(1) "B-20", a blend of twenty percent by volume biodiesel fuel and eighty percent by volume petroleum-based diesel fuel;

(2) "Biodiesel", fuel as defined in ASTM Standard PS121;

(3) "EPAct", the federal Energy Policy Act, 42 U.S.C. 13201, et seq.;

(4) "EPAct credit", a credit issued pursuant to EPAct;

(5) "Fund", the biodiesel fuel revolving fund;

(6) "Incremental cost", the difference in cost between biodiesel fuel and conventional petroleum-based diesel fuel at the time the biodiesel fuel is purchased.

2. The department, in cooperation with the department of agriculture, shall establish and administer an EPAct credit banking and selling program to allow state agencies to use moneys generated by the sale of EPAct credits to purchase biodiesel fuel for use in state vehicles. Each state agency shall provide the department with all vehicle fleet information necessary to determine the number of EPAct credits generated by the agency. The department may sell credits in any manner pursuant to the provisions of EPAct.

3. There is hereby created in the state treasury the "Biodiesel Fuel Revolving Fund", into which shall be deposited moneys received from the sale of EPAct credits banked by state agencies on the effective date of this section and in future reporting years, any moneys appropriated to the fund by the general assembly, and any other moneys obtained or accepted by the department for deposit into the fund. The fund shall be managed to maximize benefits to the state in the purchase of biodiesel fuel and, when possible, to accrue those benefits to state agencies in proportion to the number of EPAct credits generated by each respective agency.

4. Moneys deposited into the fund shall be used to pay for the incremental cost of biodiesel fuel with a minimum biodiesel concentration of B-20 for use in state vehicles and for administration of the fund. Not later than January 31 of each year, the department shall submit an annual report to the general assembly on the expenditures from the fund during the preceding fiscal year.

5. Notwithstanding the provisions of section 33.080, RSMo, no portion of the fund shall be transferred to the general revenue fund, and any appropriation made to the fund shall be transferred to the general revenue fund, and any appropriation made to the fund shall not lapse. 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.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

7. The department shall conduct a study of the use of alternative fuels in motor vehicles in the state and shall report its findings and recommendations to the general assembly no later than January 1, 2002. Such study shall include:

(1) An analysis of the current use of alternative fuels in public and private vehicle fleets in the state;

(2) An assessment of methods that the state may use to increase use of alternative fuels in vehicle fleets, including the sale of credits generated pursuant to the federal Energy Policy Act, 42 U.S.C. 13201, et seq., to pay for the difference in cost between alternative fuels and

conventional fuels;

(3) An assessment of the benefits or harm that increased use of alternative fuels may make to the state's economy and environment;

(4) Any other information that the department deems relevant."; and

Further amend the title and enacting clause accordingly.

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

Senator Klarich offered **SA 5**, which was read:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 15, Section 319.131, Lines 17-24, by striking the bold faced language from said lines.

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

Senator Mathewson offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 7, Section 319.129, Line 28, by inserting immediately after before said line the following:

"319.109. The department shall establish requirements for the reporting of any releases and corrective action taken in response to a release from an underground storage tank, including the specific quantity of a regulated substance, which if released, requires reporting and corrective action. In so doing, the department shall use risk-based corrective standards which take into account the level of risk to public health and the environment associated with site-specific conditions and future land usage **in accordance with the American Society for Testing and Materials E 1739-95**."; and

Further amend the title and enacting clause accordingly.

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

Senator Dougherty offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 7, Section 319.129, Line 27, by inserting before all of said line the following:

"319.125. 1. The department may deny or invalidate a certificate of registration issued under sections 319.120 and 319.123 if the department finds, after notice and a hearing pursuant to chapter 644, RSMo, that the owner has:

(1) Fraudulently or deceptively registered or attempted to register a tank; or

(2) Failed at any time to comply with any provision or requirement of sections 319.100 to 319.137 or any rules and regulations adopted by the department in accordance with the provisions of sections 319.100 to 319.137.

2. Upon the action of the department to invalidate or refuse to issue a certificate, the department shall advise the applicant of his right to have a hearing before the clean water commission. The hearing shall be conducted in accordance with the procedures established in chapter 644, RSMo.

3. When the department finds that a release from an underground storage tank presents, or is likely to present, an immediate threat to public health or safety or to the environment, it shall order correction of the problem, order cleanup or institute clean-up operations pursuant to the provisions of sections 260.500 to 260.550, RSMo.

4. If the owner or operator fails to perform or improperly performs any action required by the department to abate or eliminate an immediate threat to public health or safety or to the environment, the department or an authorized agent of the department may take any and all necessary action to abate or eliminate such threat. In addition to any other remedy or penalty provided by sections 319.100 to 319.137 or any other law, the owner or operator shall be held strictly liable for the reasonable costs incurred by the department in taking any such action.

5. The denial of reregistration or the revocation of registration of any person participating in the underground storage tank

insurance fund shall, upon completion of any appeal, terminate participation in the fund.

6. The department shall notify the petroleum storage tank insurance fund whenever any person participating in the fund is determined by the department to be out of compliance with any provision or requirement of sections 319.100 to 319.139 that poses a potential or actual threat of a release, and the person has failed to make reasonable efforts to correct the noncompliance. Within thirty days of the department's notification, the petroleum storage tank insurance fund shall notify such person in writing that failure to expeditiously correct the noncompliance may result in termination of participation in the fund."; and

Further amend the title and enacting clause accordingly.

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

Senator Mathewson offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 4, Section 292.606, Line 23, by inserting immediately after said line the following:

"**196.367. Effective July 1, 2005, any manufacturer or distributor shall be exempted from the provisions of sections 196.365 to 196.445 if the manufacturer satisfies all applicable Food and Drug Administration regulations.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Gross offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 58, Section 643.220, Line 40, of said page, by inserting after all of said line the following:

"644.037. Where applicable, under Section 404 of the federal Clean Water Act and where the U.S. Army Corps of Engineers has determined that a nationwide permit may be utilized, the department shall certify without conditions such nationwide permit as it applies to impacts on **[**wetlands in this**]** **waters of the** state."; and

Further amend the title and enacting clause accordingly.

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

Senator Rohrbach offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 11, Section 319.129, Line 2 of said page, by inserting at the end of said line the following: "**Invoices for such services shall be presented to the board in sufficient detail to allow a thorough review of the costs of such services. The board shall approve all payments for services under this subsection.**"; and

Further amend said bill and section, Page 12, Line 2 of said page, by inserting immediately after said line the following:

"**16. The board shall annually commission an independent financial audit of the petroleum storage tank insurance fund. The board shall biennially commission an actuarial analysis of the petroleum storage tank insurance fund. The results of the financial audit and the actuarial analysis shall be made available to the public. The board may contract with third parties to carry out the requirements of this subsection.**".

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

Senator Kenney offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 453, Page 4, Section 109.241, Line 22, by inserting immediately after said line the following:

"135.230. 1. The exemption or credit established and allowed by section 135.220 and the credits allowed and established by subdivisions (1),

(2), (3) and (4) of subsection 1 of section 135.225 shall be granted with respect to any new business facility located within an enterprise zone for a vested period not to exceed ten years following the date upon which the new business facility commences operation within the enterprise zone and such exemption shall be calculated, for each succeeding year of eligibility, in accordance with the formulas applied in the initial year in which the new business facility is certified as such, subject, however, to the limitation that all such credits allowed in sections 135.225 and 135.235 and the exemption allowed in section 135.220 shall be removed not later than fifteen years after the enterprise zone is designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of subsection 1 of section 135.225 or section 135.235 and no exemption shall be allowed pursuant to section 135.220 unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two or the new business facility is a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200. In order to qualify for either the exemption pursuant to section 135.220 or the credit pursuant to subdivision (4) of subsection 1 of section 135.225, or both, it shall be required that at least thirty percent of new business facility employees, as determined by subsection 4 of section 135.110, meet the criteria established in section 135.240 or are residents of an enterprise zone or some combination thereof, except taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 or any taxpayer that is an insurance company that established a new business facility satisfying the requirements of subdivision (8) of section 135.100 located within an enterprise zone after June 30, 1993, and before December 31, 1994, and that employs in excess of three hundred fifty new business facility employees at such facility each tax period for which the credits allowable pursuant to subdivisions (1) to (4) of subsection 1 of section 135.225 are claimed shall not be required to meet such requirement. A new business facility described as SIC 3751 shall be required to employ fifteen percent of such employees instead of the required thirty percent. For the purpose of satisfying the thirty-percent requirement, residents must have lived in the enterprise zone for a period of at least one full calendar month and must have been employed at the new business facility for at least one full calendar month, and persons qualifying because they meet the requirements of section 135.240 must have satisfied such requirement at the time they were employed by the new business facility and must have been employed at the new business facility for at least one full calendar month. The director may temporarily reduce or waive this requirement for any business in an enterprise zone with ten or less full-time employees, and for businesses with eleven to twenty full-time employees this requirement may be temporarily reduced. No reduction or waiver may be granted for more than one tax period and shall not be renewable. The exemptions allowed in sections 135.215 and 135.220 and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245 shall not be allowed to any "public utility", as such term is defined in section 386.020, RSMo. **For the purposes of achieving the fifteen percent employment requirement set forth in this subsection, a new business facility described as NAICS 336991 may count employees who were residents of the enterprise zone at the time they were employed by the new business facility and for at least ninety days thereafter, regardless of whether such employees continue to reside in the enterprise zone, so long as the employees remain employed by the new business facility and residents of the state of Missouri.**

2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge lines or railroads engaged in transporting property for hire or any interexchange telecommunications company that establish a new business facility shall be eligible to qualify for the exemptions allowed in sections 135.215 and 135.220, and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245, except that trucks, truck-trailers, truck

semitrailers, rail or barge vehicles or other rolling stock for hire, track, switches, bridges, barges, tunnels, rail yards and spurs shall not constitute new business facility investment nor shall truck drivers or rail or barge vehicle operators constitute new business facility employees.

3. Notwithstanding any other provision of sections 135.200 to 135.256 to the contrary, motor carriers establishing a new business facility on or after January 1, 1993, but before January 1, 1995, may qualify for the tax credits available pursuant to sections 135.225 and 135.235 and the exemption provided in section 135.220, even if such new business facility has not satisfied the employee criteria, provided that such taxpayer employs an average of at least two hundred persons at such facility, exclusive of truck drivers and provided that such taxpayer maintains an average investment of at least ten million **dollars** at such facility, exclusive of rolling stock, during the tax period for which such credits and exemption are being claimed.

4. Any governing authority having jurisdiction of an area that has been designated an enterprise zone may petition the department to expand the boundaries of such existing enterprise zone. The director may approve such expansion if the director finds that:

(1) The area to be expanded meets the requirements prescribed in section 135.207 or 135.210, whichever is applicable;

(2) The area to be expanded is contiguous to the existing enterprise zone; **and**

(3) The number of expansions do not exceed three after August 28, 1994.

5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this section, any governing authority having jurisdiction of an area that has been designated as an enterprise zone by the director, except one designated pursuant to this subsection, may file a petition, as prescribed by the director, for redesignation of such area for an additional period not to exceed seven years following the fifteenth anniversary of the enterprise zone's initial designation date; provided:

(1) The petition is filed with the director within three years prior to the date the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 are required to be removed pursuant to subsection 1 of this section;

(2) The governing authority identifies and conforms the boundaries of the area to be designated a new enterprise zone to the political boundaries established by the latest decennial census, unless otherwise approved by the director;

(3) The area satisfies the requirements prescribed in subdivisions (3), (4) and (5) of section 135.205 according to the latest decennial census or other appropriate source as approved by the director;

(4) The governing authority satisfies the requirements prescribed in sections 135.210, 135.215 and 135.255;

(5) The director finds that the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation; and

(6) The director's recommendation that the area be designated as an enterprise zone, is approved by the joint committee on economic development policy and planning, as otherwise required in subsection 3 of section 135.210.

6. Any taxpayer having established a new business facility in an enterprise zone except one designated pursuant to subsection 5 of this section, who did not earn the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 for the full ten-year period because of the fifteen-year limitation as prescribed in subsection 1 of this section, shall be granted such benefits for ten tax years, less the number of tax years the benefits were claimed or could have been claimed prior to the expiration of the original fifteen-year period, except that such tax benefits shall not be earned for more than seven tax periods during the ensuing seven-year period, provided the taxpayer continues to operate the new business facility in an area that is designated an enterprise zone pursuant to subsection 5 of this section. Any taxpayer who establishes a new business facility subsequent to the commencement

of the ensuing seven-year period, as authorized in subsection 5 of this section, may qualify for the tax credits authorized in sections 135.225 and 135.235, and the exemptions authorized in sections 135.215 and 135.220, pursuant to the same terms and conditions as prescribed in sections 135.100 to 135.256. The designation of any enterprise zone pursuant to subsection 5 of this section shall not be subject to the fifty enterprise zone limitation imposed in subsection 4 of section 135.210."; and

Further amend the title and enacting clause accordingly.

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

Senator Steelman moved that **SS** for **SCS** for **HB 453**, as amended, be adopted, which motion prevailed.

On motion of Senator Steelman, **SS** for **SCS** for **HB 453**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Caskey	Cauthorn	Childers
DePasco	Dougherty	Foster	Gibbons
Goode	Gross	House	Johnson
Kenney	Kinder	Klarich	Klindt
Loudon	Mathewson	Rohrbach	Russell
Sims	Steelman	Stoll	Westfall
Wiggins	Yeckel—26		

NAYS—Senators—None

Absent—Senators

Bland	Jacob	Quick	Schneider
Scott	Singleton	Staples—7	

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

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

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

At the request of Senator Mathewson, **HS** for **HCS** for **HBs 924**, **714**, **685**, **756**, **734** and **518**, with **SCS**, was placed on the Informal Calendar.

HS for **HCS** for **HB 327**, with **SCS**, was placed on the Informal Calendar.

At the request of Senator Kenney, **HCS** for **HB 780**, with **SCS**, was placed on the Informal Calendar.

HS for **HB 882**, with **SCS**, was placed on the Informal Calendar.

At the request of Senator Stoll, **HCS** for **HB 660**, with **SCS**, was placed on the Informal Calendar.

At the request of Senator Childers, **HS** for **HCS** for **HB 488**, with **SCS**, was placed on the Informal Calendar.

At the request of Senator Childers, **HB 436** was placed on the Informal Calendar.

HS for **HCS** for **HB 1000**, with **SCS**, was placed on the Informal Calendar.

REPORTS OF STANDING COMMITTEES

On behalf of Senator Yeckel, Chairman of the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, Senator Kenney submitted the following report:

Mr. President: Your Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, to which was referred **HS** for **HCS** for **HBs 237**, **270**, **403** and **442**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No. 1.

SENATE COMMITTEE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for House Bills Nos. 237, 270, 403 and 442, Page 1, In the Title, Line 2, by striking "the sunshine" and further amend line 3, by striking "law" and inserting in lieu thereof the following: "public records"; and further amend line 3, by striking "six" and inserting in lieu thereof the following: "seven"; and

Further amend said bill, Page 1, Section A, Line 2, by striking "six" and inserting in lieu thereof the following: "seven"; and further amend line 2, by inserting after "sections" the following:

"166.456,"; and further amend line 3, by inserting after all of said line the following:

"**166.456. All personally identifiable information concerning participants and beneficiaries of accounts established within the Missouri higher education savings program pursuant to sections 166.400 to 166.455 shall be confidential, and any disclosure of such information shall be restricted to purposes directly connected with the administration of the program.**".

On motion of Senator Kenney, the Senate recessed for 20 minutes.

RECESS

The time of recess having expired, the Senate was called to order by President Maxwell.

HOUSE BILLS ON THIRD READING

HCS for **HB 660**, with **SCS**, entitled:

An Act to repeal sections 160.420, 169.070, 169.075, 169.270, 169.280, 169.291, 169.301, 169.315, 169.324, 169.410, 169.420, 169.430, 169.440, 169.450, 169.460, 169.462, 169.466, 169.471, 169.475, 169.476, 169.480, 169.490, 169.500, 169.510, 169.520, 169.540 and 169.670, RSMo 2000, relating to the public school retirement system, and to enact in lieu thereof twenty-seven new sections relating to the same subject, with an emergency clause.

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

SCS for **HCS** for **HB 660**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 660

An Act to repeal sections 105.269, 160.420, 169.070, 169.075, 169.270, 169.280, 169.291, 169.301, 169.315, 169.324, 169.410, 169.420, 169.430, 169.440, 169.450, 169.460, 169.462, 169.466, 169.471, 169.475, 169.476, 169.480, 169.490, 169.500, 169.510, 169.520, 169.540, 169.650 and 169.670, RSMo 2000, relating to certain public school retirement systems, and to enact in lieu thereof twenty-nine new sections relating to the same subject, with an emergency clause for certain sections.

Was taken up.

Senator Stoll moved that **SCS** for **HCS** for **HB 660** be adopted.

Senator Kenney offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill NO. 660, Page 3, Section 160.420, Line 37, by inserting immediately after said line the following:

"162.481. 1. Except as otherwise provided in this section, all elections of school directors in urban districts shall be held biennially at the same times and places as municipal elections.

2. In any urban district which includes all or the major part of a city which first obtained a population of more than seventy-five thousand inhabitants by reason of the 1960 federal decennial census, elections of directors shall be held on municipal election days of even-numbered years. The directors of the prior district shall continue as directors of the urban district until their successors are elected as herein provided. On the first Tuesday in April, 1964, four directors shall be elected, two for terms of two years to succeed the two directors of the prior district who were elected in 1960 and two for terms of six years to succeed the two directors of the prior district who were elected in 1961. The successors of these directors shall be elected for terms of six years. On the first Tuesday in April, 1968, two directors shall be elected for terms to commence on November 5, 1968, and to terminate on the first Tuesday in April, 1974, when their successors shall be elected for terms of six years. No director shall serve more than two consecutive six-year terms after October 13, 1963.

3. **Except as otherwise provided in subsection 4 of this section,** hereafter when a seven-director district becomes an urban district, the directors of the prior seven-director district shall continue as directors of the urban district until the expiration of the terms for which they were elected and until their successors are elected as provided in this subsection. The first biennial

school election for directors shall be held in the urban district at the time provided in subsection 1 which is on the date of or subsequent to the expiration of the terms of the directors of the prior district which are first to expire, and directors shall be elected to succeed the directors of the prior district whose terms have expired. If the terms of two directors only have expired, the directors elected at the first biennial school election in the urban district shall be elected for terms of six years. If the terms of four directors have expired, two directors shall be elected for terms of six years and two shall be elected for terms of four years. At the next succeeding biennial election held in the urban district, successors for the remaining directors of the prior seven-director district shall be elected. If only two directors are to be elected they shall be elected for terms of six years each. If four directors are to be elected, two shall be elected for terms of six years and two shall be elected for terms of two years. After seven directors of the urban district have been elected under this subsection, their successors shall be elected for terms of six years.

4. In any school district in 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, **or any school district which becomes an urban school district by reason of the 2000 federal decennial census,** elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after August 28, 1998.”; and

Further amend the title and enacting clause accordingly.

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

Senator Westfall offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 660, Page 59, Section 169.569, Line 27, by inserting after all of said line the following:

“**169.596. 1. Any school district with a shortage of certified teachers, as determined by the school district, may allow retired certificated teachers from any Missouri public teacher retirement system to teach full-time for up to two years without losing his or her retirement benefits. The total number of such retired certificated teachers shall not exceed, at any one time, the greater of ten percent of the total teacher staff for that school district, or five certificated teachers.**

2. Any retired certificated teacher hired pursuant to this section shall be included in the State Directory of New Hires for purposes of income and eligibility verification pursuant to 42 U.S.C. Section 1320b-7.

3. Any school district with a shortage of noncertificated employees, as determined by the school district, may allow individuals retired pursuant to sections 169.600 to 169.715 to be employed full-time for up to two years without losing his or her retirement benefits. The total number of such retired noncertificated employees shall not exceed, at any one time, the greater of ten percent of the total noncertificated staff for that school district, or five employees.

4. No person shall be employed pursuant to this section until the affected retirement systems have implemented rules and regulations assuring that the provisions are cost-neutral and the systems remain actuarially sound.

5. All necessary costs shall be paid by the hiring school district and shall not exceed the school district’s statutory cost limitations.”; and

Further amend the title and enacting clause accordingly.

Senator Westfall moved that the above amendment be adopted.

Senator Caskey offered **SA 1** to **SA 2**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 2

Amend Senate Amendment No. 2 to Senate Committee Substitute for House Committee Substitute for House Bill No. 660, Page 2, Section 169.596, Line 8, by inserting after said line:

"**6. Any teacher participating in the above mentioned program must have been retired at least one year.**".

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

SA 2, as amended, was again taken up.

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

Senator Rohrbach offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Bill No. 660, Page 9, Section 169.070, Line 219, by striking the opening bracket "[" from said line; and further amend line 220, by striking the closing bracket "]" from said line; and further amend lines 221 to 224, by striking the bold language from said lines.

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

Senator Singleton offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 660, Page 4, Section 169.070, Lines 34-37, by striking all of said lines and inserting in lieu thereof the following:

"**(8) There shall be payable between July 1, 2001, and June 30, 2008, in addition to the benefit provided under subdivision (1) of this section an additional fifteen hundredths of one percent of the member's final average salary for each year of membership service beyond thirty years.**".

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

Senator Gross assumed the Chair.

Senator Stoll moved that **SCS** for **HCS** for **HB 660**, as amended, be adopted, which motion prevailed.

On motion of Senator Staples, **SCS** for **HCS** for **HB 660**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kenney	Kinder	Klarich
Klindt	Loudon	Mathewson	Quick
Russell	Scott	Sims	Singleton
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senator Rohrbach—1

Absent—Senators

DePasco	Schneider	Staples—3

Absent with leave—Senator Carter—1

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kenney	Kinder	Klarich
Klindt	Loudon	Mathewson	Quick
Russell	Scott	Sims	Singleton
Steelman	Stoll	Westfall	Wiggins
Yeckel—29			

NAYS—Senator Rohrbach—1

Absent—Senators

DePasco	Schneider	Staples—3

Absent with leave—Senator Carter—1

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

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

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

HCS for **HB 241**, with **SCS**, entitled:

An Act to repeal sections 456.012, 456.013, 456.700, 456.710, 456.720, 456.730, 456.740, 456.750, 456.760, 456.770, 456.780, 456.790, 456.800, 456.810 and 456.820, RSMo 2000, relating to trusts and estates, and to enact in lieu thereof thirty-five new sections relating to the same subject.

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

SCS for **HCS** for **HB 241**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 241

An Act to repeal sections 456.012, 456.013, 456.183, 456.700, 456.710, 456.720, 456.730, 456.740, 456.750, 456.760, 456.770, 456.780, 456.790, 456.800, 456.810 and 456.820, RSMo 2000, relating to trusts and estates, and to enact in lieu thereof thirty-six new sections relating to the same subject.

Was taken up.

Senator Caskey moved that **SCS** for **HCS** for **HB 241** be adopted.

Senator Cauthorn offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 241, Page 1, Section A, Line 8, by inserting immediately after said line the following:

"**145.1000. Other provisions of this chapter to the contrary notwithstanding, if the federal estate tax imposed pursuant to section 2011 of the Internal Revenue Code, as amended, is repealed, then no tax shall be imposed on the transfer of a decedent's estate in Missouri. The provisions of this section shall become effective on the same date as the effective date of the repeal of the federal estate tax.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Caskey moved that **SCS** for **HCS** for **HB 241**, as amended, which motion prevailed.

On motion of Senator Caskey, **SCS** for **HCS** for **HB 241**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons
Goode	Gross	House	Johnson
Kenney	Kinder	Klarich	Klindt
Loudon	Mathewson	Quick	Russell
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins

Yeckel—29

NAYS—Senator Jacob—1

Absent—Senators

DePasco	Rohrbach	Schneider—3

Absent with leave—Senator Carter—1

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 Kenney moved that motion lay on the table, which motion prevailed.

HB 262, with **SCAs 1** and **2**, introduced by Representatives Linton and Phillips, entitled:

An Act to amend chapter 160, RSMo, by adding thereto one new section, relating to certain public school records.

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

SCA 1 was taken up.

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

SCA 2 was taken up.

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

Senator Rohrbach assumed the Chair.

Senator House offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend House Bill No. 262, Page 1, In the Title, Lines 2-3, by striking "public school" and inserting in lieu thereof "private"; and further amend line 3, by inserting after the word "records" the following: ", with an effective date for a certain section"; and

Further amend said bill, Page 2, Section 160.067, Line 15, by inserting after all of said line the following:

"**191.940. 1. For the purposes of this section the following terms mean:**

(1) "Disclose", to release, transfer, provide access to, or divulge in any other manner information outside the entity holding the information, except that disclosure shall not include any information divulged directly to the individual to whom such information pertains;

(2) "Federal Privacy Rules", the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the United States Department of Health and Human Services, 45 CFR Parts 160 to 165;

(3) "Health information", any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or an individual that relates to:

(a) The past, present or future physical, mental or behavioral health or condition of an individual;

(b) The provision of health care to an individual; or

(c) Payment for the provision of health care to an individual;

(4) "Licensee", all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to chapter 375, RSMo, a health maintenance organization holding or required to hold, a certificate of authority pursuant to chapter 354, RSMo, or any other entity or person subject to the supervision and regulation of the department of insurance;

(5) "Nonpublic personal health information", health information:

(a) That identifies an individual who is the subject of the information; or

(b) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual;

(6) "Person", without limitation, an individual, a foreign or domestic corporation whether for profit or not-for-profit, a partnership a limited liability company, an unincorporated society or association, two or more persons having a joint or common interest, governmental agency or any other entity.

2. Any person who, in the ordinary course of business, practice of a profession or rendering of a service, creates, stores, receives or furnishes nonpublic personal health information shall not disclose by any means of communication such nonpublic personal health information except pursuant to a prior, written authorization of the person to whom such information pertains or such person's authorized representative, if:

(1) The nonpublic personal health information is disclosed in exchange for consideration to an affiliate or other third party; or

(2) The purpose of the disclosure is:

(a) For the marketing of services or goods for personal, family or household purposes;

(b) To facilitate an employer's employment-related decisions, including, but not limited to, hiring, termination, and the establishment of any other conditions of employment, except as necessary to provide health or other benefits to an existing employee;

(c) For use in connection with the evaluation of an existing or requested extension of credit for personal, family or household

purposes; or

(d) Unrelated to the business, practice or service offered by the disclosing person or entity.

3. Nothing in this section shall be deemed to prohibit any disclosure of nonpublic personal health information as is necessary to comply with any other state or federal law.

4. Any person other than a licensee who knowingly violates the provisions of this section shall be assessed an administrative penalty of not more than five hundred dollars for each violation of this section. An administrative penalty pursuant to this section may be assessed by a state agency responsible for regulating the person or by the attorney general.

5. In addition to the penalties provided in subsection 4 of this section, any person that violates this section shall be subject to civil action for damages or equitable relief.

6. To the extent a person other than a licensee is subject to and complies with all requirements of the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the United States Department of Health and Human Services, 45 CFR Parts 160 to 164 (the "federal privacy rules"), such person shall be deemed to be in compliance with this section. Until April 14, 2003, a person other than a licensee that is subject to the federal privacy rules shall be deemed to be in compliance with this section upon demonstration of a good faith effort to comply with the requirements of the federal privacy rules.

7. Irrespective of whether a licensee is subject to the federal privacy rules, if a licensee complies with all requirements of the federal privacy rules except for the effective date provision, the licensee shall be deemed in compliance with this section. Until April 14, 2003, a licensee shall deemed to be in compliance with this section upon demonstration of a good faith effort to comply with the requirements of the federal privacy rules.

8. If a licensee complies with the model regulation adopted on September 26, 2000, by the National Association of Insurance Commissioners entitled "Privacy of Consumer Financial and Health Information Regulation", the licensee shall be deemed in compliance with this section.

9. Notwithstanding the provisions of subsections 5, 6 and 7 of this section, no person or licensee may disclose nonpublic personal health information for marketing purposes contrary to paragraph (a) of subdivision (2) of subsection 2 of this section.

10. The provisions of this section do not apply to information from or to consumer reporting agencies as defined by the federal Fair Credit Reporting Act, 15 U.S.C. Sec. 1681, et seq., or debt collectors as defined by the federal Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692, et seq., to the extent these entities are engaged in activities regulated by these federal acts.

11. The provisions of this act do not apply to information disclosed in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit, including but not limited to the sale of a portfolio of loans, if the disclosure of nonpublic personal health information concerns solely consumers of the business or unit and the disclosure of the nonpublic personal health information concerns solely consumers of the business or unit and the disclosure of the nonpublic personal health information is not the primary reason for the sale, merger, transfer or exchange.

12. The director of the department of insurance shall have the sole authority to enforce this section with respect to licensees including, without limitation, treating violations of this section by licensees as unfair trade practices pursuant to sections 375.930 to 375.948, RSMo.

13. There shall be established a "Commission on Health Information Privacy" to study the issue of the protection of the

privacy of nonpublic personal health information. By January 1, 2003, the commission shall make a recommendation to the general assembly of what additional legislative measures should be enacted to protect the privacy of nonpublic health information, after which the commission shall expire.

(1) The members of the commission shall be named by the governor and shall be citizens and residents of the state. The commission shall consist of fifteen individuals: one representative from the health insurance industry; one representative from the life insurance industry; one representative from the property and casualty insurance industry; three representatives from consumer advocacy organizations; three representatives from health care provider organizations; one representative from the department of health; one representative from the department of insurance; and four at-large representatives with demonstrated interest or expertise in health information privacy issues.

(2) Members shall receive no remuneration for their services but shall be reimbursed for actual and reasonable expenses incurred by them in the performance of their duties.

Section B. The enactment of section 191.940 of this act shall become effective January 1, 2002."; and

Further amend the title and enacting clause accordingly.

Senator House moved that the above amendment be adopted.

President Maxwell assumed the Chair.

Senator Klarich raised the point of order that **SA 1** is out of order as it goes beyond the scope and purpose of the underlying bill.

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

Senators Jacob and Kenney offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend House Bill No. 262, Page 2, Section 168.067, Line 15, by inserting immediately after said line the following:

"162.481. 1. Except as otherwise provided in this section, all elections of school directors in urban districts shall be held biennially at the same times and places as municipal elections.

2. In any urban district which includes all or the major part of a city which first obtained a population of more than seventy-five thousand inhabitants by reason of the 1960 federal decennial census, elections of directors shall be held on municipal election days of even-numbered years. The directors of the prior district shall continue as directors of the urban district until their successors are elected as herein provided. On the first Tuesday in April, 1964, four directors shall be elected, two for terms of two years to succeed the two directors of the prior district who were elected in 1960 and two for terms of six years to succeed the two directors of the prior district who were elected in 1961. The successors of these directors shall be elected for terms of six years. On the first Tuesday in April, 1968, two directors shall be elected for terms to commence on November 5, 1968, and to terminate on the first Tuesday in April, 1974, when their successors shall be elected for terms of six years. No director shall serve more than two consecutive six-year terms after October 13, 1963.

3. **Except as otherwise provided in subsection 4 of this section,** hereafter when a seven-director district becomes an urban district, the directors of the prior seven-director district shall continue as directors of the urban district until the expiration of the terms for which they were elected and until their successors are elected as provided in this subsection. The first biennial school election for directors shall be held in the urban district at the time provided in subsection 1 which is on the date of or subsequent to the expiration of the terms of the directors of the prior district which are first to expire, and directors shall be elected to succeed the directors of the prior district whose terms have expired. If the terms of two directors only have expired, the directors elected at the first biennial school election in the urban district shall be elected for terms of six years. If the terms of four directors have expired, two directors shall be elected for terms of six years and

two shall be elected for terms of four years. At the next succeeding biennial election held in the urban district, successors for the remaining directors of the prior seven-director district shall be elected. If only two directors are to be elected they shall be elected for terms of six years each. If four directors are to be elected, two shall be elected for terms of six years and two shall be elected for terms of two years. After seven directors of the urban district have been elected under this subsection, their successors shall be elected for terms of six years.

4. In any school district in 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, **or any school district which becomes an urban school district by reason of the 2000 federal decennial census,** elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after August 28, 1998."; and

Further amend the title and enacting clause accordingly.

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

Senator Klarich offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend House Bill No. 262, Page 2, Section 160.067, Line 15, by inserting immediately after said line the following:

"**610.033. In addition to the restrictions on the release of education records provided by the federal Family Educational Rights and Privacy Act, an institution of higher education may, without a subpoena or court order, disclose to a parent or legal guardian of a student information regarding a student's violation of any federal, state or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, only if (a) the student is under the age of twenty-one at the time of disclosure; (b) the institution has determined that the student has committed a disciplinary violation with respect to such use or possession; and (c) either the student demonstrates that he or she is not financially dependent on his or her parent or legal guardian as defined in Section 152 of the federal Internal Revenue Code of 1954 or the student has signed and filed with the institution a consent form permitting such disclosure.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Klarich offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend House Bill No. 262, Page 1, In the Title, Lines 2 and 3, by striking both of said lines and inserting in lieu thereof the following:

"To repeal sections 451.022 and 451.040, RSMo 2000, relating to certain public records, and to enact in lieu thereof three new sections relating to the same subject."; and

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

"Section A. Sections 451.022 and 451.040, RSMo 2000, are repealed, and three new sections enacted in lieu thereof, to be known as sections 160.067, 451.022 and 451.040, to read as follows:"; and

Further amend said bill, page 2, section 160.067, line 15, by inserting after said line the following:

"[451.022. 1. It is the public policy of this state to recognize marriage only between a man and a woman.

2. Any purported marriage not between a man and a woman is invalid.

3. No recorder shall issue a marriage license, except to a man and a woman.]

451.022. 1. It is the public policy of this state to recognize marriage only between a man and a woman.

2. Any purported marriage not between a man and a woman is invalid.

3. No recorder shall issue a marriage license, except to a man and a woman.

4. A marriage between persons of the same sex will not be recognized for any purpose in this state even when valid where contracted.

451.040. 1. Previous to any marriage in this state, a license for that purpose shall be obtained from the officer authorized to issue the same, and no marriage shall present an application for the license, duly executed and signed in the presence of the recorder of deeds or their deputy. Each applicant for a license shall contain the Social Security number of the applicant**, provided that the applicant in fact has a Social Security number, or the applicant shall sign a statement provided by the recorder that the applicant does not have a Social Security number**. The Social Security number contained in an application for a marriage license shall be exempt from examination and copying pursuant to section 610.024, RSMo. Upon the expiration of three days after the receipt of the application the recorder of deeds shall issue the license, unless one of the parties withdraws the application. The license shall be void after thirty days from the date of issuance.

3. Provided, however, that such license may be issued on order of a circuit or associate circuit judge of the county in which the license is applied for, without waiting three days, such license being issued only for good cause shown and by reason of such unusual conditions as to make such marriage advisable.

4. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor.

5. Common-law marriages shall be null and void.

6. Provided, however, that no marriage shall be deemed or adjudged invalid, nor shall the validity be in any way affected for want of authority in any person so solemnizing the marriage pursuant to section 451.100, if consummated with the full belief on the part of the persons, so married, or either of them, that they were lawfully joined in marriage.".

Senator Klarich moved that the above amendment be adopted.

Senator Childers offered **SA 1** to **SA 4**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 4

Amend Senate Amendment No. 4 to House Bill No. 262, Page 2, Section 451.040, Subsection 2, Line 7, by deleting the words: "upon the expiration of three days after the receipt of the application"; and

Further amend said line, by capitalizing the word "**the**" after the word "application" on said line.

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

SA 4, as amended, was again taken up.

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

On motion of Senator Klarich, **HB 262**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	DePasco	Dougherty	Gibbons
Gross	Jacob	Johnson	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Quick	Rohrbach	Russell
Scott	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators—None

Absent—Senators

Foster	Goode	House	Schneider
Staples—5			

Absent with leave—Senator Carter—1

The President declared the bill passed.

On motion of Senator Klarich, title to the bill

was agreed to.

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

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

PRIVILEGED MOTIONS

Senator Klarich moved that the Senate refuse to concur in **HS** for **HCS** for **SB 460**, 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 Loudon moved that the Senate refuse to concur in **HS** for **HCS** for **SB 72**, 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 has taken up and passed **HS** for **HCS** for **SCS** for **SB 236**, entitled:

An Act to repeal sections 191.211, 191.411, 198.531, 208.028, 208.029, 208.040, 208.151, 376.1209, 376.1250, 451.072 and 453.121, RSMo 2000, and to enact in lieu thereof twenty new sections relating to public assistance programs and health, with penalty provisions and an emergency clause for certain sections.

With House Amendments Nos. 1, 2, 3, 4, 5, 6, House Substitute Amendment No. 1 for House Amendment No. 7, House Amendments Nos. 8, 11, 12, 13, House Substitute Amendment No. 1 for House Amendment No. 14.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 236, Page 35, Section 376.1209, Lines 16 and 17, by deleting all of said lines and inserting in lieu thereof the following:

"**insurer, then the new policy shall provide coverage for prosthetic devices or reconstructive surgery and such coverage for prosthetic devices and reconstructive surgery shall be subject to the same deductible and coinsurance conditions applied to a mastectomy and all other terms and conditions applicable to other benefits under the new policy.**"; and

Further amend said bill, Page 36, Section 376.1250, Subsection 1, Subdivision (2), Line 23, after the word "reoccurrence" by inserting"**;** (semicolon) **and**" and deleting the rest of said subdivision.

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 236, Page 30, Section 208.151, Lines 5 and 6 by deleting the phrase, "**the effective date of this act**" and inserting in lieu thereof the following: **"July 1, 2002**"; and

Further amend said bill, Page 30, Section 208.151, Line 7 by deleting the following: "**2002**" and inserting in lieu thereof the following: "**2003**"; and

Further amend said bill, Page 30, Section 208.151, Line 8 by deleting the following: "**2003**" and inserting in lieu thereof the following: "**2004**"; and

Further amend said 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. 236, Page 45, Section 453.121, Line 21 of said page, by inserting after all of said line the following:

"453.170. 1. When an adoption occurs pursuant to the laws of other states of the United States, Missouri shall, from the date of adoption hold the adopted person to be for every purpose the lawful child of its parent or parents by adoption as fully as though born to them in lawful wedlock, and such adoption shall have the same force and effect as adoption pursuant to the provisions of this chapter, including all inheritance rights.

2. When an adoption occurs in a foreign country and [is recognized as a valid adoption by] **the adopted child has migrated to the United States with the permission of** the United States Department of Justice and the United States Department of Immigration and Naturalization Services, this state shall recognize the adoption. The department of health, upon receipt of proof of adoption as required in subsection 7 of section 193.125, RSMo, shall issue a birth certificate for the adopted child upon request on forms prescribed and furnished by the state registrar pursuant to section 193.125, RSMo.

3. The adoptive parent or parents may petition the court pursuant to this section to request a change of name. The petition shall include a certified copy of the decree of adoption issued by the foreign country and documentation from the United States Department of Justice and the United States Department of Immigration and Naturalization Services which shows the child lawfully entered the United States. The court shall recognize and give effect to the decree of the foreign country and grant a decree of recognition of the adoption and shall change the name of the adopted child to the name given by the adoptive parent, if such a request has been made."; and

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 236, Page 34, Section 208.819, Line 19 of said page, by inserting after all of said line the following:

"**376.1199. 1. Each health carrier or health benefit plan that offers or issues health benefit plans providing obstetrical/gynecological benefits and pharmaceutical coverage, which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall:**

(1) Notwithstanding the provisions of subsection 4 of section 354.618, RSMo, provide enrollees with direct access to the services of a participating obstetrician, participating gynecologist or participating obstetrician/gynecologist of her choice within the provider network for covered services. The services covered by this subdivision shall be limited to those services defined by the published recommendations of the accreditation council for graduate medical education for training an obstetrician, gynecologist or obstetrician/gynecologist, including but not limited to diagnosis, treatment and referral for such services. A health carrier shall not impose additional co-payments, coinsurance or deductibles upon any enrollee who seeks or receives health care services pursuant to this subdivision, unless similar additional co-payments, coinsurance or deductibles are imposed for other types of health care services received within the provider network. Nothing in this subsection shall be construed to require a health carrier to perform, induce, pay for, reimburse, guarantee, arrange, provide any resources for or refer a patient for an abortion, as defined in section 188.015, RSMo, other than a spontaneous abortion or to prevent the death of the female upon whom the abortion is performed, or to supersede or conflict with section 376.805; and

(2) Notify enrollees annually of cancer screenings covered by the enrollees' health benefit plan and the current American Cancer Society guidelines for all cancer screenings or notify enrollees at intervals consistent with current American Cancer Society guidelines of cancer screenings which are covered by the enrollees' health benefit plans. The notice shall be delivered by mail unless the enrollee and health carrier have agreed on another method of notification; and

(3) Include coverage for services related to diagnosis, treatment and appropriate management of osteoporosis when such services are provided by a person licensed to practice medicine and surgery in this state, for individuals with a condition or medical history for which bone mass measurement is medically indicated for such individual. In determining whether testing or treatment is medically appropriate, due consideration shall be given to

peer reviewed medical literature. A policy, provision, contract, plan or agreement may apply to such services the same deductibles, coinsurance and other limitations as apply to other covered services; and

(4) If the health benefit plan also provides coverage for pharmaceutical benefits, provide coverage for contraceptives either at no charge or at the same level of deductible, coinsurance or co-payment as any other covered drug. No such deductible, coinsurance or co-payment shall be greater than any drug on the health benefit plan's formulary. As used in this section, "contraceptive" shall include all prescription drugs and devices approved by the federal Food and Drug Administration for use as a contraceptive, but shall exclude all drugs and devices that are intended to induce an abortion, as defined in section 188.015, RSMo, which shall be subject to section 376.805. Nothing in this subdivision shall be construed to exclude coverage for prescription contraceptive drugs or devices ordered by a health care provider with prescriptive authority for reasons other than contraceptive or abortion purposes.

2. For the purposes of this section, "health carrier" and "health benefit plan" shall have the same meaning as defined in section 376.1350.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

4. Notwithstanding the provisions of subdivision (4) of subsection 1 of this section to the contrary:

(1) Any health carrier may issue to any person or entity purchasing a health benefit plan, a health benefit plan that excludes coverage for contraceptives if the use or provision of such contraceptives is contrary to the moral, ethical or religious beliefs or tenets of such person or entity;

(2) Upon request of an enrollee who is a member of a group health benefit plan and who states that the use or provision of contraceptives is contrary to his or her moral, ethical or religious beliefs, any health carrier shall issue to or on behalf of such enrollee a policy form that excludes coverage for contraceptives. Any administrative costs to a group health benefit plan associated with such exclusion of coverage not offset by the decreased costs of providing coverage shall be borne by the group policyholder or group plan holder;

(3) Any health carrier which is owned, operated or controlled in substantial part by an entity that is operated pursuant to moral, ethical or religious tenets that are contrary to the use or provision of contraceptives shall be exempt from the provisions of subdivision (4) of subsection 1 of this section.

For purposes of this subsection, if new premiums are charged for a contract, plan or policy, it shall be determined to be a new contract, plan or policy.

5. Except for a health carrier that is exempted from providing coverage for contraceptives pursuant to this section, a health carrier shall allow enrollees in a health benefit plan that excludes coverage for contraceptives pursuant to subsection 4 of this section to purchase a health benefit plan that includes coverage for contraceptives.

6. Any health benefit plan issued pursuant to subsection 1 of this section shall provide clear and conspicuous written notice on the enrollment form or any accompanying materials to the enrollment form and the group health benefit plan contract:

(1) Whether coverage for contraceptives is or is not included;

(2) That an enrollee who is a member of a group health benefit plan with coverage for contraceptives has the right to exclude coverage for contraceptives if such coverage is contrary to his or her moral, ethical or religious beliefs; and

(3) That an enrollee who is a member of a group health benefit plan without coverage for contraceptives has the right to purchase coverage for contraceptives.

7. Health carriers shall not disclose to the person or entity who purchased the health benefit plan the names of enrollees who exclude coverage for contraceptives in the health benefit plan or who purchase a health benefit plan that includes coverage for contraceptives. Health carriers and the person or entity who purchased the health benefit plan shall not discriminate against an enrollee because the enrollee excluded coverage for contraceptives in the health benefit plan or purchased a health benefit plan that includes coverage for contraceptives.

8. The departments of health and insurance may promulgate rules necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 536, 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 Committee Substitute for Senate Bill No. 236, Page 49, Section 453.325, Line 22 of said page, by inserting after all of said line the following:

"660.600. As used in sections 660.600 to 660.608, the following terms mean:

(1) ["Division", the division of aging of the department of social services;

(2)] "Long-term care facility", any facility licensed pursuant to chapter 198, RSMo, and long-term care facilities connected with hospitals licensed pursuant to chapter 197, RSMo;

[(3)] **(2)** "Office", the office of the state ombudsman for long-term care facility residents;

[(4)] **(3)** "Ombudsman", the state ombudsman for long-term care facility residents;

[(5)] **(4)** "Regional ombudsman coordinators", designated individuals working for, or under contract with, the area agencies on aging, and who are so designated by the [area agency on aging] **office of lieutenant governor** and certified by the ombudsman as meeting the qualifications established by the [division] **office of lieutenant governor**;

[(6)] **(5)** "Resident", any person who is receiving care or treatment in a long-term care facility.

660.603. 1. There is hereby established within the [division of aging] **office of lieutenant governor** the "Office of State Ombudsman for Long-Term Care Facility Residents", for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and to improve the quality of life experienced by them, in accordance with the federal Older Americans Act, 42 U.S.C. 3001, et seq.

2. The office shall be administered by the state ombudsman, who shall devote his **or her** entire time to the duties of his **or her** position.

3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents.

4. The [division] **office of lieutenant governor** shall establish and implement procedures for resolution of complaints. The ombudsman or representatives of the office shall have the authority to:

(1) Enter any long-term care facility and have access to residents of the facility at a reasonable time and in a reasonable manner. The ombudsman shall have access to review resident records, if given permission by the resident or the resident's legal guardian. Residents of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

(2) Make the necessary inquiries and review

such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying [these] complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. **Where written consent or written documentation from a representative of the office to support oral consent of the complainant, resident or the legal representative of such resident exists, the office or regional ombudsman coordinator may make a report of the suspected abuse or neglect of the resident to the central registry pursuant to section 660.263.**

7. The ombudsman may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to long-term care facilities and services in the state and shall recommend to the [division] **office of lieutenant governor** changes in such laws, regulations and policies deemed by the office to be appropriate.

[7.] **8.** The office shall promote community contact and involvement with residents of facilities through the use of volunteers and volunteer programs directed by the regional ombudsman coordinators.

[8.] **9.** The office shall develop and establish [by regulation of the division] statewide policies and standards for implementing the activities of the ombudsman program, including the qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

[9.] **10.** The office shall develop and propose programs for use, training and coordination of volunteers in conjunction with the regional ombudsman coordinators and may:

(1) Establish and conduct recruitment programs for volunteers;

(2) Establish and conduct training seminars, meetings and other programs for volunteers; and

(3) Supply personnel, written materials and such other reasonable assistance, including publicizing their activities, as may be deemed necessary.

[10.] **11.** The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint and other pertinent information.

[11.] **12.** The administrator of each facility shall ensure that such written notice is given to every resident or [his] **every resident's** guardian upon admission to the facility and to every person already in residence, or to his **or her** guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth [in the regulations adopted by the division] **by the office of lieutenant governor**.

[12.] **13.** The office shall inform residents, their guardians or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

14. All funding and full-time employees designated for the office of the state ombudsman for long-term care facility residents shall be transferred from the division of aging within the department of social services to the office of the lieutenant governor.

15. The office of lieutenant governor may establish additional ombudsman programs relating to elder care if the office of lieutenant governor obtains the necessary funding for such a program. The office of lieutenant governor shall actively seek any state or federal funding sources available to implement the provisions of this subsection.

660.604. There is hereby established a five-member "Long-term Care Facility Ombudsman Advisory Commission". The lieutenant governor shall serve as a permanent member of the commission with the remaining four

members to be appointed by the lieutenant governor to oversee the transfer of the state ombudsman from the division of aging to the office of the lieutenant governor. The commission shall also assist the state ombudsman with policy issues and the development of the state ombudsman program to ensure statewide consistency in the implementation of the program. Ombudsman commissioners shall be appointed for four-year terms, except the first commission shall be appointed as follows: two members to a four-year term, one member to a three-year term and one member to a two-year term. Each commissioner shall hold office until his or her successor has been appointed and qualified."; 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. 236, Page 39, Section 376.1250, Line 5, by inserting after all of said line the following:

"453.005. 1. The provisions of sections 453.005 to 453.400 shall be construed so as to promote the best interests and welfare of the child in recognition of the entitlement of the child to a permanent and stable home.

2. The division of family services and all persons involved in the adoptive placement of children as provided in subdivisions (1), (2) and (4) of section 453.014, shall provide for the diligent recruitment of potential adoptive homes that reflect the ethnic and racial diversity of children in the state for whom adoptive homes are needed.

3. [In the selection of an adoptive home, consideration shall be given to both a child's cultural, racial and ethnic background and the capacity of the adoptive parents to meet the needs of a child of a specific background, as one of a number of factors used in determining whether a placement is in the child's best interests. This factor must, however, be applied on an individualized basis, not by general rules.

4.] Placement of a child in an adoptive home may not be delayed or denied on the basis of race, color or national origin.".

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

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 236, Page 34, Section 208.819, Line 10, by inserting after said line the following:

"Said representatives of disability-related community organizations shall be registered with the family care registry and shall comply with the provisions of section 660.317.".

HOUSE AMENDMENT NO. 8

Amend House Substitute for House Committee Substitute for Senate Committee Substitute Senate Bill No. 236, Page 1, Section 191.211, Line 19, by inserting before said line the following:

"135.095. For all tax years beginning on or after January 1, 1999, but before January 1, 2005, a [resident individual] **claimant** who has attained sixty-five years of age on or before the last day of the tax year shall be allowed, for the purpose of offsetting the cost of legend drugs, a maximum credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, of two hundred dollars. **For the purpose of this section, a "claimant" is defined as a person or persons claiming a credit under sections 135.005. If two claimants are eligible to file a joint federal income tax return and reside at the same address at any time during the taxable year, then the credit may only be allowed if claimed on a combined Missouri income tax return or a combined claim return reporting their combined incomes and property taxes. A claimant shall not be allowed a credit unless the claimant or spouse has attained the age of sixty-five on or before the last day of the calendar year and the claimant or spouse was a resident of Missouri for the entire year during which the credit is claimed. A claimant must apply for his or her own credit**. [An individual] **A claimant** shall be entitled to the maximum credit

allowed by this section if the [individual] **claimant** has [a Missouri adjusted gross income] **an income as defined in section 135.010** of fifteen thousand dollars or less; provided that, no [individual who receives full reimbursement for the cost of legend drugs from Medicare or Medicaid, or] **claimant who meets the income criteria for Medicaid eligibility, or has coverage for pharmaceutical benefits through a health benefit plan as defined in section 376.1350, RSMo, including a Medicare supplement or Medicare + Choice plan, or thorugh a self-funded employee benefit plan shall qualify for the credit allowed pursuant to this section unless a claimant's pharmaceutical expenses exceed the claimant's coverage, in which case, a claimant may qualify for a credit for the additional expenses, up to two hundred dollars. No claimant** who is a resident of a local, state or federally funded facility shall qualify for the credit allowed pursuant to this section. If [an individual's Missouri adjusted gross income] **a claimant's income as defined in section 135.010** is greater than fifteen thousand dollars, such [individual] **claimant** shall be entitled to a credit equal to the greater of zero or the maximum credit allowed by this section reduced by two dollars for every hundred dollars such [individual's] **claimant's** income exceeds fifteen thousand dollars. The credit shall be claimed as prescribed by the director of the department of revenue. Such credit shall be considered an overpayment of tax and shall be refundable even if the amount of the credit exceeds [an individual's] **a claimant's** tax liability. **A credit may not be claimed purusant to this section for any tax year ending after December 31, 2001, or any tax year during which the Missouri pharmaceutical assistance program is in full operation, whichever is later.**

208.550. 1. As used in this section, the following terms mean:

(1) "Department", the department of social services;

(2) "Household income", the amount of income as defined in section 135.010, RSMo. For purposes of this section, household income shall be the household income of the applicant for the previous calendar year;

(3) "Medicaid", the program for medical assistance established pursuant to Title XIX of the federal Social Security Act and administered by the department;

(4) "Missouri resident", an individual who establishes residence for a period of twelve months in a settled or permanent home or domicile within the state of Missouri with the intention of remaining in this state. An individual is a resident of this state until the individual establishes a permanent residence outside this state;

(5) "Prescription drug", a prescription drug as defined in 13 CSR 70-20. The current limitations or restrictions placed on certain pharmaceuticals by the department shall remain and the department may define additional restrictions by rule;

(6) "Program", the pharmaceutical investment program for seniors (PIPS) established pursuant to this section.

2. The department of social services shall establish a "Pharmaceutical Investment Program for Seniors" to help defray the costs of prescription drugs for elderly Missouri residents. The following Missouri residents shall be eligible to participate in the program:

(1) Any person sixty-five years of age or older, with a household income at or below fifteen thousand dollars who is not currently ineligible pursuant to subsection 3 of this section. Such person shall demonstrate that his or her estimated annual prescription drug costs will exceed the total deductible for twelve months outlined in subsections 5 and 6 of this section;

(2) For a married couple in which at least one spouse is sixty-five years of age or older, with an annual household income at or below twenty-five thousand dollars:

(a) If only one spouse is sixty-five years of age or older, such spouse shall be eligible if his or her household income is at or below fifteen thousand dollars, he or she is not ineligible

pursuant to subsection 3 of this section, and his or her estimated annual prescription drug costs will exceed the total deductible for twelve months outlined in subsections 5 and 6 of this section;

(b) If both spouses are sixty-five years of age or older, both spouses shall be eligible if their estimated annual prescription drug costs will exceed the total deductible for twelve months outlined in subsections 5 and 6 of this section. One or both spouses may be currently ineligible pursuant to subsection 3 of this section;

(3) Any person sixty-five years of age or older who does not qualify pursuant to subdivision (1) of this subsection and who is not currently ineligible pursuant to subsection 3 of this section, if such person's estimated annual pharmaceutical costs will exceed ten percent of such person's household income. Such person shall be eligible to participate in the program and receive benefits not to exceed six thousand dollars per year after such person has expended ten percent of his or her household income; or

(4) A married couple in which at least one spouse is sixty-five years of age or older who does not qualify pursuant to subdivision (2) of this subsection and who are not currently ineligible pursuant to subsection 3 of this section, if such couple's estimated annual pharmaceutical costs will exceed ten percent of such couple's family household income. Such couple shall be eligible to participate in the program and receive benefits not to exceed twelve thousand dollars per year after such couple has expended ten percent of their family household income on their annual pharmaceutical costs.

3. Any person who is receiving Medicaid benefits shall not be eligible to participate in the program, except those Medicaid recipients whose Medicaid coverage does not include pharmacy benefits. The pharmaceutical investment program for seniors is a payer of last resort. If a senior has coverage for pharmaceutical benefits through a health benefit plan, as defined in section 376.1350, RSMo, including a Medicare supplement or Medicare+Choice plan, or through a self-funded employee benefit plan, the pharmaceutical investment program for seniors shall pay only for eligible costs not provided by such coverage and only after the senior has met the deductible required by subsections 5 and 6 of this section.

4. Applicants for the program shall submit an annual application to the department, or the department's designee, that attests to the age, residence, annual household income and estimated annual prescription drug costs for an individual or couple, if married. The department shall prescribe by rule the form of the application for enrollment in the program.

5. Upon notification of eligibility, an enrollee may access the program by meeting the cost-sharing obligation through a monthly deductible calculated and based on one of the following:

(1) If the enrollee's household income is at or below twelve thousand dollars for an individual or twenty thousand dollars for a couple, the monthly deductible is one-twelfth of eight hundred dollars for an individual or one-twelfth of sixteen hundred dollars for a couple; or

(2) If the enrollee's household income is between twelve thousand one dollars and fifteen thousand dollars for an individual or twenty thousand one dollars and twenty-five thousand dollars for a couple, the monthly deductible is one-twelfth of one thousand two hundred dollars for an individual or one-twelfth of twenty-four hundred dollars for a couple.

6. For any month in which the enrollee does not meet the deductible, the difference between the monthly deductible and the actual expenditure on prescription drugs shall be added to the next month's deductible.

7. Nothing in this section shall be construed as requiring an applicant to accept Medicaid benefits in lieu of participation in this program.

8. For prescription drugs, enrollees shall pay a five dollar co-payment for a generic prescription drug or a brand name prescription drug when a recognized generic drug is not

available or is more expensive and a fifteen dollar co-payment for a brand name prescription drug when a recognized generic prescription drug is available. The department may implement higher co-payments. Such co-payment may be modified annually by the general assembly through the appropriation process. Such co-payment shall be used to reduce the state's cost for the program. In addition, each enrollee shall pay an annual twenty-five dollar co-payment to offset the administrative costs of the program. Nothing in this subsection shall be construed as permitting therapeutic substitutions.

9. In providing program benefits, the department may enter into a contract with a private individual, corporation or agency to manage the program.

10. The department shall collaborate with the division of aging in the department of health and utilize area agencies on aging, senior citizens centers and other senior focused entities to provide outreach, enrollment referral assistance and education services to potentially eligible seniors for the pharmaceutical investment program for seniors.

11. The department shall submit quarterly reports to the governor, the senate appropriations committee, and the house of representatives budget committee, the speaker of the house of representatives and the president pro tem of the senate, that include:

(1) Quantified data as to the number of program applicants and enrollees subsequently found eligible for Medicaid;

(2) An estimate of whether the current rate of expenditures will exceed the existing appropriation for the program in the current fiscal year; and

(3) Recommendations for changes to the deductibles and co-payments for enrollees in the program.

12. The program established in this section is not an entitlement. Benefits shall be limited to the level supported by the moneys explicitly appropriated pursuant to this section. If in any fiscal year the department projects that the total cost of the program will exceed the amount currently appropriated for the program, the department shall implement cost control measures to reduce the projected cost. Such cost control measures may include, but are not limited to, increasing the co-payments outlined in subsection 8 of this section or increasing the deductible requirements outlined in subsection 5 of this section. The department may request a supplemental appropriation to meet the projected costs, but must implement cost containment measures to reduce the projected cost to the current appropriated amount. The pharmaceutical investment program for seniors is a payer of last resort. If the federal government establishes a pharmaceutical assistance program that covers program eligible seniors under Medicare or another program, the pharmaceutical insurance program for seniors shall cover only eligible costs not covered by the federal program.

13. The department may promulgate rules to implement the provisions 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 chapter 536, RSMo.

14. Any person who knowingly makes any false statements, falsifies or permits to be falsified any records, or engages in conduct in an attempt to defraud the program is guilty of a misdemeanor and shall forfeit all rights to which he or she may be entitled hereunder.

Section B. Section 208.550 of section A of this act shall become effective July 1, 2002."; and

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

HOUSE AMENDMENT NO. 11

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 236, Page 55, Section 3, Line 2, by inserting after all of said line the following:

"**Section 4. 1. The state of Missouri hereby grants limited consent to be sued under the**

Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., in the state courts of Missouri. The state of Missouri does not consent to be sued under the Americans with Disabilities Act in federal courts.

2. The consent granted in subsection 1 of this section is for a maximum monetary award in the amounts described in section 537.610. No state court shall enter a judgement for an amount in excess of the monetary limits in section 537.610. Such monetary limit shall apply regardless of whether the state has insurance for defense of the claim. The amount may include attorneys' fees, but shall not include punitive or exemplary damages.

3. The provisions of this section shall apply to all actions pending or initiated on or after the effective date of this section.

4. The provisions of this section shall, without limitation, apply to the Missouri State Capitol Building."; and

Further amend said bill, Page 55, Section B, Line 6, by inserting after the letter "A" the following: "and the enactment of section 4 of section A".

HOUSE AMENDMENT NO. 12

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 236, Page 34, Section 208.819, Line 19 of said page, by inserting after all of said line the following:

"354.400. As used in sections 354.400 to 354.535, the following terms shall mean:

(1) "Basic health care services", health care services which an enrolled population might reasonably require in order to be maintained in good health, including, as a minimum, emergency care, inpatient hospital and physician care **and chiropractic care, as defined in chapter 331, RSMo**, and outpatient medical **and chiropractic** services;

(2) "Community-based health maintenance organization", a health maintenance organization which:

(a) Is wholly owned and operated by hospitals, hospital systems, physicians, or other health care providers or a combination thereof who provide health care treatment services in the service area described in the application for a certificate of authority from the department of insurance;

(b) Is operated to provide a means for such health care providers to market their services directly to consumers in the service area of the health maintenance organization;

(c) Is governed by a board of directors that exercises fiduciary responsibility over the operations of the health maintenance organization and of which a majority of the directors consist of equal numbers of the following:

a. Physicians licensed pursuant to chapter 334, RSMo;

b. Purchasers of health care services who live in the health maintenance organization's service area;

c. Enrollees of the health maintenance organization elected by the enrollees of such organization; and

d. Hospital executives, if a hospital is involved in the corporate ownership of the health maintenance organization;

(d) Provides for utilization review, as defined in section 374.500, RSMo, under the auspices of a physician medical director who practices medicine in the service area of the health maintenance organization, using review standards developed in consultation with physicians who treat the health maintenance organization's enrollees;

(e) Is actively involved in attempting to improve performance on indicators of health status in the community or communities in which the health maintenance organization is operating, including the health status of those not enrolled in the health maintenance organization;

(f) Is accountable to the public for the cost, quality and access of health care treatment services and for the effect such services have on the health of the community or communities in which the health maintenance organization is operating on a whole;

(g) Establishes an advisory group or groups comprised of enrollees and representatives of community interests in the service area to make recommendations to the health maintenance organization regarding the policies and procedures of the health maintenance organization;

(h) Enrolls fewer than fifty thousand covered lives;

(3) "Covered benefit" or "benefit", a health care service to which an enrollee is entitled under the terms of a health benefit plan;

(4) "Director", the director of the department of insurance;

(5) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent lay person, possessing an average knowledge of health and medicine, to believe that immediate medical care is required, which may include, but shall not be limited to:

(a) Placing the person's health in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(6) "Emergency services", health care items and services furnished or required to screen and stabilize an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(7) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(8) "Evidence of coverage", any certificate, agreement, or contract issued to an enrollee setting out the coverage to which the enrollee is entitled;

(9) "Health care services", any services included in the furnishing to any individual of medical**, chiropractic** or dental care or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

(10) "Health maintenance organization", any person which undertakes to provide or arrange for basic and supplemental health care services to enrollees on a prepaid basis, or which meets the requirements of section 1301 of the United States Public Health Service Act;

(11) "Health maintenance organization plan", any arrangement whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services and at least part of such arrangement consists of providing and assuring the availability of basic health care services to enrollees, as distinguished from mere indemnification against the cost of such services, on a prepaid basis through insurance or otherwise, and as distinguished from the mere provision of service benefits under health service corporation programs;

(12) "Individual practice association", a partnership, corporation, association, or other legal entity which delivers or arranges for the delivery of health care services and which has entered into a services arrangement with persons who are licensed to practice medicine, osteopathy, dentistry, chiropractic, pharmacy, podiatry, optometry, or any other health profession and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide:

(a) That such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(b) To the extent feasible for the sharing by such persons of medical and other records, equipment, and professional, technical, and

administrative staff;

(13) "Medical group/staff model", a partnership, association, or other group:

(a) Which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, chiropractors, pharmacists, optometrists, and podiatrists) as are necessary for the provisions of health services for which the group is responsible;

(b) A majority of the members of which are licensed to practice medicine or osteopathy; and

(c) The members of which (i) as their principal professional activity over fifty percent individually and as a group responsibility engaged in the coordinated practice of their profession for a health maintenance organization; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan, or are salaried employees of the health maintenance organization; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) establish an arrangement whereby an enrollee's enrollment status is not known to the member of the group who provides health services to the enrollee;

(14) "Person", any partnership, association, or corporation;

(15) "Provider", any physician, hospital, or other person which is licensed or otherwise authorized in this state to furnish health care services;

(16) "Uncovered expenditures", the costs of health care services that are covered by a health maintenance organization, but that are not guaranteed, insured, or assumed by a person or organization other than the health maintenance organization, or those costs which a provider has not agreed to forgive enrollees if the provider is not paid by the health maintenance organization.

354.640. 1. All managed care organizations subject to the provisions of sections 354.400 to 354.636 shall provide chiropractic benefits to covered enrollees. A covered enrollee may utilize the services of a chiropractic physician as defined in chapter 331, RSMo, without discrimination relative to access, fees, deductibles, co-payments, benefit limits and practice parameters subject to the terms and conditions of the policy. The covered enrollee shall retain the right to choose chiropractic care on an elective, self-pay, fee-for-service basis. No entity regulated pursuant to this chapter shall prohibit a doctor of chiropractic from continuing care on such basis.

2. Nothing in this section shall be construed to limit the health plan's ability to credential providers or be deemed as an any willing provider provision."; and

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

HOUSE AMENDMENT NO. 13

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 236, Page 4, Section 191.411, Line 16 of said page, by inserting after all of said line the following:

"**196.367. Effective July 1, 2005, any manufacturer or distributor shall be exempted from the provisions of sections 196.365 to 196.445 if the manufacturer satisfies all applicable Food and Drug Administration regulations.**"; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 14

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 236, Page 5, Section 198.071, Line 21 of said page, by inserting after all of said line the following:

"198.530. 1. If an enrollee in a managed care organization is also a resident in a long-term care facility licensed pursuant to chapter 198, or a continuing care retirement community, as defined in section 197.305, RSMo, such enrollee's managed care organization shall provide the enrollee with

the option of receiving the covered service in the long-term care facility which serves as the enrollee's primary residence. For purposes of this section, "managed care organization" means any [organization that offers any health plan certified] **entity licensed** by the department of [health] **insurance that offers any health plans** designed to provide incentives to medical care providers to manage the cost and use of care associated with claims, including, but not limited to, a health maintenance organization [and preferred provider organization]**, insurance company and health services corporation**. The resident enrollee's managed care organization shall reimburse the resident facility for those services which would otherwise be covered by the managed care organization if the following conditions apply:

(1) The facility is willing and able to provide the services to the resident; and

(2) The facility and those health care professionals delivering services to residents pursuant to this section meet the licensing and training standards as prescribed by law; and

(3) The facility is certified through Medicare; and

(4) The facility and those health care professionals delivering services to residents pursuant to this section agree to abide by the terms and conditions of the health carrier's contracts with similar providers, abide by patient protection standards and requirements imposed by state or federal law for plan enrollees and meet the quality standards established by the health carrier for similar providers.

2. The managed care organization shall reimburse the resident facility at a rate of reimbursement not less than the Medicare allowable rate pursuant to Medicare rules and regulations.

3. The services in subsection 1 of this section shall include, but are not limited to, skilled nursing care, rehabilitative and other therapy services, and postacute care, as needed. Nothing in this section shall limit the managed care organization from utilizing contracted providers to deliver the services in the enrollee's resident facility.

4. A resident facility shall not prohibit a health carrier's participating providers from providing covered benefits to an enrollee in the resident facility. A resident facility or health care professional shall not impose any charges on an enrollee for any service that is ancillary to, a component of, or in support of the services provided under this section when the services are provided by a health carrier's participating provider, or otherwise create a disincentive for the use of the health carrier's participating providers. Any violation of the requirements of this subsection by the resident facility shall be considered abuse or neglect of the resident enrollee."; and

Further amend said bill, Page 34, Section 208.819, Line 19 of said page, by inserting after all of said line the following:

"354.603. 1. A health carrier shall maintain a network that is sufficient in number and types of [providers] **health care professionals** to assure that all services to enrollees shall be accessible without unreasonable delay. In the case of emergency services, enrollees shall have access twenty-four hours per day, seven days per week. The health carrier's medical director shall be responsible for the sufficiency and supervision of the health carrier's network. Sufficiency shall be determined by the director in accordance with the requirements of this section and by reference to any reasonable criteria, including but not limited to, provider-enrollee ratios by specialty, primary care provider-enrollee ratios, geographic accessibility, reasonable distance accessibility criteria for pharmacy and other services, waiting times for appointments with participating [providers] **health care professionals**, hours of operation, and the volume of technological and specialty services available to serve the needs of enrollees requiring technologically advanced or specialty care.

(1) In any case where the health carrier has an insufficient number or type of participating [providers] **health care professionals** to provide a covered benefit, the health carrier shall ensure that the enrollee obtains the covered benefit at no greater cost than if the benefit was obtained from a participating [provider] **health care professional**, or shall make other arrangements acceptable to the

director.

(2) The health carrier shall establish and maintain adequate arrangements to ensure reasonable proximity of participating [providers] **health care professional**, including local pharmacists, to the business or personal residence of enrollees. In determining whether a health carrier has complied with this provision, the director shall give due consideration to the relative availability of health care [providers] **professionals** in the service area under, especially rural areas, consideration.

(3) A health carrier shall monitor, on an ongoing basis, the ability, clinical capacity[, financial capability] and legal authority of its [providers] **health care professionals** to furnish all contracted benefits to enrollees. **The provisions of this subdivision shall not be construed to require any health care professional to submit copies of such health care professional's income tax returns to a health carrier. A health carrier may require a health care professional to obtain audited financial statements if such health care professional received ten percent or more of the total medical expenditures made by the health carrier.**

(4) A health carrier shall make its entire network available to all enrollees unless a contract holder has agreed in writing to a different or reduced network.

2. [Beginning July 1, 1998,] A health carrier shall file with the director, in a manner and form defined by rule of the department of insurance, an access plan meeting the requirements of sections 354.600 to 354.636 for each of the managed care plans that the **health** carrier offers in this state. The health carrier may request the director to deem sections of the access plan as proprietary or competitive information that shall not be made public. For the purposes of this section, information is proprietary or competitive if revealing the information will cause the health carrier's competitors to obtain valuable business information. The health carrier shall provide such plans, absent any information deemed by the director to be proprietary, to any interested party upon request. The **health** carrier shall prepare an access plan prior to offering a new managed care plan, and shall update an existing access plan whenever it makes any change as defined by the director to an existing managed care plan. The director shall approve or disapprove the access plan, or any subsequent alterations to the access plan, within sixty days of filing. The access plan shall describe or contain at a minimum the following:

(1) The health carrier's network;

(2) The health carrier's procedures for making referrals within and outside its network;

(3) The health carrier's process for monitoring and assuring on an ongoing basis the sufficiency of the network to meet the health care needs of enrollees of the managed care plan;

(4) The health carrier's methods for assessing the health care needs of enrollees and their satisfaction with services;

(5) The health carrier's method of informing enrollees of the plan's services and features, including but not limited to, the plan's grievance procedures, its process for choosing and changing [providers] **health care professionals**, and its procedures for providing and approving emergency and specialty care;

(6) The health carrier's system for ensuring the coordination and continuity of care for enrollees referred to specialty physicians, for enrollees using ancillary services, including social services and other community resources, and for ensuring appropriate discharge planning;

(7) The health carrier's process for enabling enrollees to change primary care professionals;

(8) The health carrier's proposed plan for providing continuity of care in the event of contract termination between the health carrier and any of its participating [providers] **health care professionals**, in the event of a reduction in service area or in the event of the health carrier's insolvency or other inability to continue operations. The description shall explain how enrollees shall be notified of the contract termination, reduction in service area or the health carrier's insolvency or other modification or cessation of operations, and

transferred to other [providers] **health care professionals** in a timely manner; and

(9) Any other information required by the director to determine compliance with the provisions of sections 354.600 to 354.636.

354.606. 1. A health carrier shall establish a mechanism by which the participating provider shall be notified on an ongoing basis of the specific covered health services for which the provider shall be responsible, including any limitations or conditions on services.

2. Every contract between a health carrier and a participating provider shall set forth a hold harmless provision specifying protection for enrollees. This requirement shall be met by including a provision substantially similar to the following:

"Provider agrees that in no event, including but not limited to nonpayment by the health carrier or intermediary, insolvency of the health carrier or intermediary, or breach of this agreement, shall the provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against an enrollee or a person, other than the health carrier or intermediary, acting on behalf of the enrollee for services provided pursuant to this agreement. This agreement shall not prohibit the provider from collecting coinsurance, deductibles or co-payments, as specifically provided in the evidence of coverage, or fees for uncovered services delivered on a fee-for-service basis to enrollees. This agreement shall not prohibit a provider, except for a health care professional who is employed full time on the staff of a health carrier and has agreed to provide service exclusively to that health carrier's enrollees and no others, and an enrollee from agreeing to continue services solely at the expense of the enrollee, as long as the provider has clearly informed the enrollee that the health carrier may not cover or continue to cover a specific service or services. Except as provided herein, this agreement does not prohibit the provider from pursuing any available legal remedy; including, but not limited to, collecting from any insurance carrier providing coverage to a covered person."

3. Every contract between a health carrier and a participating provider shall set forth that in the event of a health carrier's or intermediary's insolvency or other cessation of operations, covered services to enrollees shall continue through the period for which a premium has been paid to the health carrier on behalf of the enrollee or until the enrollee's discharge from an inpatient facility, whichever time is greater.

4. The contract provisions satisfying the requirements of subsections 2 and 3 of this section shall:

(1) Be construed in favor of the enrollee;

(2) Survive the termination of the contract regardless of the reason for termination, including the insolvency of the health carrier; and

(3) Supersede any oral or written contrary agreement between a provider and an enrollee or the representative of an enrollee if the contrary agreement is inconsistent with the hold harmless and continuation of covered services provisions required by subsections 2 and 3 of this section.

5. In no event shall a participating provider collect or attempt to collect from an enrollee any money owed to the provider by the health carrier nor shall a participating provider collect or attempt to collect from an enrollee any money in excess of the coinsurance, co-payments or deductibles. Failure of a health carrier to make timely payment of an amount owed to a provider in accordance with the provider's contract shall constitute an unfair claims settlement practice subject to sections 375.1000 to 375.1018, RSMo.

6. (1) A health carrier shall develop selection standards for participating primary care professionals and each participating health care professional specialty. Such standards shall be in writing and used in determining the selection of health care professionals by the health carrier, its intermediaries and any provider networks with which it contracts. Selection criteria shall not be established in a manner that will:

(a) Allow a health carrier to avoid a high-risk population by excluding a provider because such provider is located in a geographic area that contains a population presenting a risk of higher

than average claims, losses or health services utilization; or

(b) Exclude a provider because such provider treats or specializes in treating a population presenting a risk of higher than average claims, losses or health services utilization.

(2) Paragraphs (a) and (b) of subdivision (1) of this subsection shall not be construed to prohibit a health carrier from declining to select a provider who fails to meet the other legitimate selection criteria of the health carrier developed in compliance with sections 354.600 to 354.636.

(3) The provisions of sections 354.600 to 354.636 shall not require a health carrier, its intermediaries or the provider networks with which it contracts, to employ specific providers or types of providers, or to contract with or retain more providers or types of providers than are necessary to maintain an adequate network.

7. A health carrier shall file its selection standards for participating providers with the director. A health carrier shall also file any subsequent changes to its selection standards with the director. The selection standards shall be made available to licensed health care providers.

8. A health carrier shall notify a participating provider of the provider's responsibilities with respect to the health carrier's applicable administrative policies and programs, including but not limited to payment terms, utilization review, quality assessment and improvement programs, credentialing, grievance procedures, data reporting requirements, confidentiality requirements and any applicable federal or state programs.

9. No contract between a health carrier and a provider for the delivery of health care service, entered into or renewed after August 28, 2001, shall require the mandatory use of a hospitalist. For purposes of this subsection, "hospitalist" means a physician who becomes a physician of record at a hospital for a patient of a participating provider and who may return the care of the patient to that participating provider at the end of hospitalization.

[9.] **10.** A health carrier shall not offer an inducement under the managed care plan to a provider to provide less than medically necessary services to an enrollee.

[10.] **11.** A health carrier shall not prohibit a participating provider from advocating in good faith on behalf of enrollees within the utilization review or grievance processes established by the health carrier or a person contracting with the health carrier.

[11.] **12.** A health carrier shall require a provider to make health records available to appropriate state and federal authorities involved in assessing the quality of care but shall not disclose individual identities, or investigating the grievances or complaints of enrollees, and to comply with the applicable state and federal laws related to the confidentiality of medical or health records.

[12.] **13.** The rights and responsibilities of a provider under a contract between a health carrier and a participating provider shall not be assigned or delegated by the provider without the prior written consent of the health carrier.

[13.] **14.** A health carrier shall be responsible for ensuring that a participating provider furnishes covered benefits to all enrollees without regard to the enrollee's enrollment in the plan as a private purchaser of the plan or as a participant in a publicly financed program of health care service.

[14.] **15.** A health carrier shall notify the participating providers of their obligations, if any, to collect applicable coinsurance, co-payments or deductibles from enrollees pursuant to the evidence of coverage, or of the providers' obligations, if any, to notify enrollees of their personal financial obligations for noncovered services.

[15.] **16.** A health carrier shall not penalize a provider because the provider, in good faith, reports to state or federal authorities any act or practice by the health carrier that may jeopardize patient health or welfare.

[16.] **17.** A health carrier shall establish a mechanism by which a participating provider may determine in a timely manner whether a person is covered by the carrier.

[17.] **18.** A health carrier shall not discriminate between health care professionals

when selecting such professionals for enrollment in the network or when referring enrollees for health care services to be provided by such health care professional who is acting within the scope of his professional license.

[18.] **19.** A health carrier shall establish procedures for resolution of administrative, payment or other disputes between providers and the health carrier.

[19.] **20.** A contract between a health carrier and a provider shall not contain definitions or other provisions that conflict with the definitions or provisions contained in the managed care plan or sections 354.600 to 354.636.

354.618. 1. A health carrier shall be required to offer as an additional health plan, an open referral health plan whenever it markets a gatekeeper group plan as an exclusive or full replacement health plan offering to a group contract holder:

(1) In the case of group health plans offered to employers of fifty or fewer employees, the decision to accept or reject the additional open referral plan offering shall be made by the group contract holder. For health plans marketed to employers of over fifty employees, the decision to accept or reject shall be made by the employee;

(2) Contracts currently in existence shall offer the additional open referral health plan at the next annual renewal after August 28, 1997; however, multiyear group contracts need not comply until the expiration of their current multiyear term unless the group contract holder elects to comply before that time;

(3) If an employer provides more than one health plan to its employees and at least one is an open referral plan, then all health benefit plans offered by such employer shall be exempt from the requirements of this section.

2. For the purposes of this [act] **section**, the following terms shall mean:

(1) "Open referral plan", a plan in which the enrollee is allowed to obtain treatment for covered benefits without a referral from a primary care physician from any person licensed to provide such treatment;

(2) "Gatekeeper group plan", a plan in which the enrollee is required to obtain a referral from a primary care professional in order to access specialty care.

3. Any health benefit plan provided pursuant to the Medicaid program shall be exempt from the requirements of this section.

4. [A health carrier shall have a procedure by which a female enrollee may seek the health care services of an obstetrician/gynecologist at least once a year without first obtaining prior approval from the enrollee's primary care provider if the benefits are covered under the enrollee's health benefit plan, and the obstetrician/gynecologist is a member of the health carrier's network.] **Each health carrier or health benefit plan that offers or issues health benefit plans providing obstetrical/gynecological benefits which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall provide enrollees with direct access to the services of a participating obstetrician, participating gynecologist or participating obstetrician/gynecologist of her choice within the provider network for covered services. The services covered by this subsection shall be limited to those services defined by the published recommendations of the accreditation council for graduate medical education for training an obstetrician, gynecologist or obstetrician/gynecologist, including but not limited to diagnosis, treatment and referral for such services. A health carrier shall not impose additional co-payments, coinsurance, or deductibles upon any enrollee who seeks or receives health care services pursuant to this subsection, unless similar additional co-payments, coinsurance, or deductibles are imposed for other types of health care services received within the provider network. Nothing in this subsection shall be construed to conflict with section 376.805, RSMo.** In no event shall a health carrier be required to permit an enrollee to have health care services delivered by a nonparticipating obstetrician/gynecologist. An obstetrician/gynecologist who delivers health care services directly to an enrollee shall report such visit and health care services provided to the

enrollee's primary care provider. [A health carrier may require an enrollee to obtain a referral from the primary care physician, if such enrollee requires more than one annual visit with an obstetrician/gynecologist.]

5. Except for good cause, a health carrier shall be prohibited either directly, or indirectly through intermediaries, from discriminating between eye care providers when selecting among providers of health services for enrollment in the network and when referring enrollees for health services provided within the scope of those professional licenses and when reimbursing amounts for covered services among persons duly licensed to provide such services. For the purposes of this section, an eye care provider may be either an optometrist licensed pursuant to chapter 336, RSMo, or a physician who specializes in [opthamologic] **ophthalmologic** medicine, licensed pursuant to chapter 334, RSMo.

6. Nothing contained in this section shall be construed as to require a health carrier to pay for health care services not provided for in the terms of a health benefit plan.

7. Any health carrier, which is sponsored by a federally qualified health center and is presently in existence and which has been in existence for less than three years shall be exempt from this section for a period not to exceed two years from August 28, 1997.

8. A health carrier shall not be required to offer the direct access rider for a group contract holder's health benefit plan if the health benefit plan is being provided pursuant to the terms of a collective bargaining agreement with a labor union, in accordance with federal law and the labor union has declined such option on behalf of its members.

9. Nothing in this [act] **section** shall be construed to preempt the employer's right to select the health care provider pursuant to section 287.140, RSMo, in a case where an employee incurs a work-related injury covered by the provisions of chapter 287, RSMo.

10. Nothing contained in this [act] **section** shall apply to certified managed care organizations while providing medical treatment to injured employees entitled to receive health benefits [under] **pursuant to the provisions of** chapter 287, RSMo, pursuant to contractual arrangements with employers, or their insurers, [under] **pursuant to** section 287.135, RSMo.

376.383. 1. To the extent consistent with the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001, et seq., this section shall apply to any health [insurer] **carrier** as defined in section [376.806, any nonprofit health service plan and any health maintenance organization] **376.1350**.

2. Within [forty-five] **thirty** days after receipt of a claim **by a health carrier or a third party contracted with said health carrier to receive or process the claim** for reimbursement [from a person entitled to reimbursement] **for a health care service provided in this state as defined in section 376.1350**, a health [insurer, nonprofit health service plan or health maintenance organization] **carrier** shall pay the claim in accordance with this section or send a notice of receipt and status of the claim that states:

(1) That the [insurer, nonprofit health service plan or health maintenance organization] **health carrier** refuses to reimburse all or part of the claim and the reason for the refusal; or

(2) That **a request for** additional information is necessary to determine if all or part of the claim will be reimbursed and what specific additional information is necessary[.] **to process the entire claim for payment. The health carrier must acknowledge receipt to the health care professional or entity that submitted the claim of all the requested additional information or pay the claim. Acknowledgment may be through electronic means.**

3. Within forty-five days after receipt of a claim by a health carrier or a third party contracted with said health carrier to receive or process the claim for reimbursement for a health care service provided in this state as defined in section 376.1350, a health carrier shall pay the claim in accordance with this section or send a notice of receipt and status of the claim that states:

(1) That the health carrier refuses to reimburse all or part of the claim and the reason for refusal; or

(2) That a final request for additional information is necessary to determine if all or part of the claim will be reimbursed and what specific additional information is necessary to process the entire claim for payment. The health carrier must acknowledge receipt to the health care professional or entity that submitted the claim of the requested additional information within five working days.

[3.] **4.** If [an insurer, nonprofit health service plan or health maintenance organization] **a health carrier** fails to comply with subsection 2 **or 3** of this section, the [insurer, nonprofit health service plan or health maintenance organization] **health carrier** shall pay interest on the amount of the claim that remains unpaid forty-five days after the claim is [filed] **received by the health carrier or a third party contracted with said health carrier to receive or process the claim** at the monthly rate of one percent. The interest paid pursuant to this subsection shall be included in any late reimbursement without the necessity for the person that filed the original claim to make an additional claim for that interest. **A carrier may combine interest payments and make payment once the aggregated amount reaches five dollars.**

5. All claims shall be deemed complete claims upon receipt until such time as it is determined that additional information is required in order to pay the claim. If additional information is requested pursuant to subsection 2 or 3 of this section, the claim shall again be deemed complete upon receipt of all additional information requested. For the purpose of calculating the number of days pursuant to this section, the counting of days shall begin on the day the claim is received by the health carrier or a third party contracted with said health carrier to receive or process the claim. The counting of days shall be suspended the day following the day the health care professional receives a request for additional information pursuant to this section and the counting of days shall resume again once all the additional information requested is received by the health carrier or a third party contracted with said health carrier to receive or process the claim. All requests for additional information may be made electronically.

[4.] **6.** Within [ten] **sixty** days after the day on which [all additional information is received] **a claim is received** by [an insurer, nonprofit health service plan or health maintenance organization] **a health carrier or a third party contracted with said health carrier to receive or process the claim**, [it] **said health carrier** shall pay the claim in accordance with this section or send a written notice that:

(1) States refusal to reimburse the claim or any part of the claim; and

(2) Specifies each reason for denial.

[An insurer, nonprofit health service plan or health maintenance organization that fails to comply with this subsection shall pay interest on any amount of the claim that remains unpaid at the monthly rate of one percent.]

7. The failure of the health care professional to provide and the health carrier to receive all requested information pursuant to subsection 2 or 3 of this section by the one hundred twentieth day after the initial receipt of the original claim may be a proper ground for denying all or part of the claim.

8. A health carrier that fails to pay or deny a claim pursuant to the requirements of this section shall pay, in addition to interest, a penalty prescribed by this subsection. Beginning January 1, 2002, for a claim received by a health carrier or a third party contracted with said health carrier to receive or process the claim which is not paid or denied as required by this section, a penalty shall accrue in the amount of forty dollars per day for each day all or part of the claim, interest in excess of five dollars, or penalty remains unpaid. If such claim and interest are paid in their entirety prior to day sixty, then no penalty shall accrue.

9. The penalties prescribed by this section shall cease to accrue if, within thirty days after penalties begin to accrue, the health care

professional fails to notify the health carrier that all or part of the claim, interest or penalty remains unpaid. Such notification shall reference the claim or claims in question.

[5. A provider who is paid interest under this section shall pay the proportionate amount of said interest to the enrollee or insured to the extent and for the time period that the enrollee or insured had paid for the services and for which reimbursement was due to the insured or enrollee.

6.] **10.** This section shall become effective [April 1, 1999] **January 1, 2002**.

11. Nothing in this section shall apply to workers' compensation claims filed pursuant to chapter 287, RSMo.

376.384. 1. For purposes of this section, "health care professional" means the same as such term is defined in section 376.1350 and "health carrier" means the same as such term is defined in section 376.1350. Any health carrier shall:

(1) Permit health care professionals to file a claim for reimbursement for a health care service provided in this state as defined in section 376.1350 for a period of up to one hundred eighty days from the date of service;

(2) Not request a refund or offset against a claim more than one hundred eighty days after a carrier has paid a claim except in cases of fraud or material misrepresentation by the health care professional;

(3) The health carrier shall, upon request, provide any contracted health care professional with a fee schedule with the carrier's reimbursement rates for no less than thirty procedure codes for the most commonly performed services for which the health care professional is contracted to provide;

(4) Issue within one working day a confirmation of receipt of an electronically filed claim by a health care professional or entity that submitted the claim, unless the claim is paid during such time.

2. On or after January 1, 2003, all claims submitted electronically for reimbursement for a health care service provided in this state shall be submitted in a uniform format utilizing standard medical code sets. The uniform format and the standard medical code sets shall be promulgated by the department of insurance through rules consistent with but no more stringent than the federal administrative simplification standards adopted pursuant to the Health Insurance Portability and Accountability Act of 1996. Any claim submitted in a nonelectronic format after January 1, 2002, shall not be subject to the provisions of subsection 8 of section 376.383; however, interest shall accrue on claims filed in a nonelectronic format that are not paid or denied in accordance with section 376.383. A health carrier shall provide electronic filing after January 1, 2002.

3. Nothing in this section shall apply to workers' compensation claims filed pursuant to chapter 287, RSMo.

376.406. 1. All [individual and group health insurance policies providing coverage on an expense incurred basis, individual and group service or indemnity type contracts issued by a nonprofit corporation, and all self-insured group health benefit plans, of any type or description,] **health benefit plans, as defined in section 376.1350,** which provide coverage for a family member of [the insured or subscriber] **an enrollee** shall, as to such family member's coverage, also provide that the health [insurance] benefits applicable for children shall be payable with respect to a newly born child of the [insured or subscriber] **enrollee** from the moment of birth.

2. The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

3. If payment of a specific premium or subscription fee is required to provide coverage for a child, the [policy or contract] **health benefit plan** may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the [insurer or nonprofit service or indemnity corporation] **health carrier**

within thirty-one days after the date of birth in order to have the coverage continue beyond such thirty-one day period. **If an application or other form of enrollment is required in order to continue coverage beyond the thirty-one-day period after the date of birth and the enrollee has notified the health carrier of the birth, either orally or in writing, the health carrier shall, upon notification, provide the enrollee with all forms and instructions necessary to enroll the newly born child and shall allow the enrollee an additional ten days from the date the forms and instructions are provided in which to enroll the newly born child.**

4. The requirements of this section shall apply to all [insurance policies and subscriber contracts] **health benefit plans** delivered or issued for delivery in this state [more than one hundred twenty days after August 13, 1974] **on or after August 28, 2001**.

5. For the purposes of this section, any review, renewal, extension, or continuation of any [plan, policy, or contract] **health benefit plan** or of any of the terms, premiums, or subscriptions of the [plan, policy, or contract] **health benefit plan** shall constitute a new delivery or issuance for delivery of the [plan, policy or contract] **health benefit plan**.

6. As used in this section, the terms "health benefit plan", "health carrier" and "enrollee" shall have the same meaning as defined in section 376.1350.

376.419. 1. As used in this section, the term "hold harmless clause" means a contractual arrangement whereby a health care provider assumes the sole liability inherent in the provision of health care services, thereby relieving an insurer from such liability; except that, nothing in this section shall be construed to apply to any clause in the contract prohibiting providers from balance billing the enrollee or his or her family for any amount in excess of the amount provided for in the contract between the provider and the carrier. For purposes of this section, "health care provider" or "provider" means a health care professional or facility.

2. Except to the extent preempted by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001, et seq., this section shall apply to any health carrier, as defined in section 376.1350.

3. Any contract between a health care provider and a health carrier entered into after the effective date of this section shall include a clause that states that each party shall be responsible for any and all claims, liabilities, damages or judgments which may arise as a result of its own negligence or intentional wrongdoing. Each party signatory to the contract shall hold harmless and indemnify the other party against any claims, liabilities, damages or judgments which may be asserted against, imposed upon or incurred by the other party as a result of the first party's negligence or intentional wrongdoing.

376.893. 1. Within sixty days of legal separation or the entry of a decree of dissolution of marriage or prior to the expiration of a thirty- six month federal Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation period covering a legally separated or divorced spouse, if such spouse has elected and maintained such COBRA coverage, a legally separated or divorced spouse eligible for continued coverage [under] **pursuant to** section 376.892 who seeks such coverage shall give the plan administrator written notice of the legal separation or dissolution. The notice shall include the mailing address of the legally separated or divorced spouse.

2. Within thirty days of the death of a certificate holder whose surviving spouse is eligible for continued coverage [under] **pursuant to** section 376.892 or prior to the expiration of a thirty-six month federal Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation period covering such surviving spouse, if such spouse has elected and maintained such COBRA coverage, the group policyholder shall give the plan administrator written notice of the death and of the mailing address of the surviving spouse.

3. Within fourteen days of receipt of notice [under] **pursuant to** subsection 1 or 2 of this section, the plan administrator shall notify the legally separated, divorced or surviving spouse that

the policy may be continued. The notice shall be mailed to the mailing address provided to the plan administrator and shall include:

(1) A form for election to continue the coverage;

(2) A statement of the amount of periodic premiums to be charged for the continuation of coverage and of the method and place of payment; [and]

(3) Instructions for returning the election form by mail within sixty days after the date of mailing of the notice by the plan administrator**; and**

(4) Notice that if insurance is continued the insurer is required to provide both parents of a covered child with coverage information upon request regardless of whether the parent is the primary policyholder pursuant to section 376.895.

4. Failure of the legally separated, divorced or surviving spouse to exercise the election in accordance with subsection 3 of this section shall terminate the right to continuation of benefits.

5. If a plan administrator was properly notified pursuant to the provisions of subsection 1 or 2 of this section and fails to notify the legally separated, divorced or surviving spouse as required by subsection 3 of this section, such spouse's coverage shall continue in effect, and such spouse's obligation to make any premium payment for continuation coverage [under] **pursuant to** sections 376.891 to 376.894 shall be postponed for the period of time beginning on the date the spouse's coverage would otherwise terminate and ending thirty-one days after the date the plan administrator provides the required notice. Failure or delay by a plan administrator in providing the notice required by this section shall not reduce, eliminate or postpone the plan sponsor's obligation to pay premiums on behalf of such legally separated, divorced or surviving spouse to the plan administrator during such period.

6. The provisions of sections 376.891 to 376.894 apply only to employers with twenty or more employees and any policy, contract or plan with twenty or more certificate holders.

376.895. Any health carrier, as defined in section 376.1350, providing coverage for a child with parents who are legally separated or divorced shall provide upon request coverage information regarding such child to both parents regardless of whether the inquiring parent is the primary policyholder."; and

Further amend said bill, Page 38, Section 376.1250, Line 22 of said page, by inserting after all of said line the following:

"376.1350. For purposes of sections 376.1350 to 376.1390, the following terms mean:

(1) "Adverse determination", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the payment for the requested service is therefore denied, reduced or terminated;

(2) "Ambulatory review", utilization review of health care services performed or provided in an outpatient setting;

(3) "Case management", a coordinated set of activities conducted for individual patient management of serious, complicated, protracted or other health conditions;

(4) "Certification" **or "certifies"**, a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care and effectiveness**, and that the service is a covered benefit under the plan**;

(5) "Clinical peer", a physician or other health care professional who holds a nonrestricted license in a state of the United States and in the same or similar specialty as typically manages the medical condition, procedure or treatment under review;

(6) "Clinical review criteria", the written

screening procedures, decision abstracts, clinical protocols and practice guidelines used by the health carrier to determine the necessity and appropriateness of health care services;

(7) "Concurrent review", utilization review conducted during a patient's hospital stay or course of treatment;

(8) "Covered benefit" or "benefit", a health care service that an enrollee is entitled under the terms of a health benefit plan;

(9) "Director", the director of the department of insurance;

(10) "Discharge planning", the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives following discharge from a facility;

(11) "Drug", any substance prescribed by a licensed health care provider acting within the scope of the provider's license and that is intended for use in the diagnosis, mitigation, treatment or prevention of disease. The term includes only those substances that are approved by the FDA for at least one indication;

(12) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that immediate medical care is required, which may include, but shall not be limited to:

(a) Placing the person's health in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(13) "Emergency service", a health care item or service furnished or required to evaluate and treat an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(14) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(15) "FDA", the federal Food and Drug Administration;

(16) "Facility", an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings;

(17) "Grievance", a written complaint submitted by or on behalf of an enrollee regarding the:

(a) Availability, delivery or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) Claims payment, handling or reimbursement for health care services; or

(c) Matters pertaining to the contractual relationship between an enrollee and a health carrier;

(18) "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services;

(19) "Health care professional", a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law;

(20) "Health care provider" or "provider", a health care professional or a facility;

(21) "Health care service", a service **or prescription medication** for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

(22) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services;

(23) "Health indemnity plan", a health benefit plan that is not a managed care plan;

(24) "Managed care plan", a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use, health care providers managed, owned, under contract with or employed by the health carrier;

(25) "Participating provider", a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the health carrier;

(26) "Peer-reviewed medical literature", a published scientific study in a journal or other publication in which original manuscripts have been published only after having been critically reviewed for scientific accuracy, validity and reliability by unbiased independent experts, and that has been determined by the International Committee of Medical Journal Editors to have met the uniform requirements for manuscripts submitted to biomedical journals or is published in a journal specified by the United States Department of Health and Human Services pursuant to section 1861(t)(2)(B) of the Social Security Act, as amended, as acceptable peer-reviewed medical literature. Peer-reviewed medical literature shall not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier;

(27) "Person", an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing;

(28) "Prospective review", utilization review conducted prior to an admission or a course of treatment;

(29) "Retrospective review", utilization review of medical necessity that is conducted after services have been provided to a patient, but does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding or adjudication for payment;

(30) "Second opinion", an opportunity or requirement to obtain a clinical evaluation by a provider other than the one originally making a recommendation for a proposed health service to assess the clinical necessity and appropriateness of the initial proposed health service;

(31) "Stabilize", with respect to an emergency medical condition, that no material deterioration of the condition is likely to result or occur before an individual may be transferred;

(32) "Standard reference compendia":

(a) The American Hospital Formulary Service-Drug Information; or

(b) The United States Pharmacopoeia-Drug Information;

(33) "Utilization review", a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review. Utilization review shall not include elective requests for clarification of coverage;

(34) "Utilization review organization", a utilization review agent as defined in section

374.500, RSMo.

376.1361. 1. A utilization review program shall use documented clinical review criteria that are based on sound clinical evidence and are evaluated periodically to assure ongoing efficacy. A health carrier may develop its own clinical review criteria, or it may purchase or license clinical review criteria from qualified vendors. A health carrier shall make available its clinical review criteria upon request by either the director of the department of health or the director of the department of insurance.

2. Any medical director who administers the utilization review program or oversees the review decisions shall be a qualified health care professional licensed in the state of Missouri. A licensed clinical peer shall evaluate the clinical appropriateness of adverse determinations.

3. A health carrier shall issue utilization review decisions in a timely manner pursuant to the requirements of sections 376.1363, 376.1365 and 376.1367. A health carrier shall obtain all information required to make a utilization review decision, including pertinent clinical information. A health carrier shall have a process to ensure that utilization reviewers apply clinical review criteria consistently.

4. A health carrier's data systems shall be sufficient to support utilization review program activities and to generate management reports to enable the health carrier to monitor and manage health care services effectively.

5. If a health carrier delegates any utilization review activities to a utilization review organization, the health carrier shall maintain adequate oversight, which shall include:

(1) A written description of the utilization review organization's activities and responsibilities, including reporting requirements;

(2) Evidence of formal approval of the utilization review organization program by the health carrier; and

(3) A process by which the health carrier evaluates the performance of the utilization review organization.

6. The health carrier shall coordinate the utilization review program with other medical management activities conducted by the carrier, such as quality assurance, credentialing, provider contracting, data reporting, grievance procedures, processes for accessing member satisfaction and risk management.

7. A health carrier shall provide enrollees and participating providers with timely access to its review staff by a toll-free number.

8. When conducting utilization review, the health carrier shall collect only the information necessary to certify the admission, procedure or treatment, length of stay, frequency and duration of services.

9. Compensation to persons providing utilization review services for a health carrier shall not contain direct or indirect incentives for such persons to make medically inappropriate review decisions. Compensation to any such persons may not be directly or indirectly based on the quantity or type of adverse determinations rendered.

10. A health carrier shall permit enrollees or a provider on behalf of an enrollee to appeal for the coverage of medically necessary pharmaceutical prescriptions and durable medical equipment as part of the health carriers' utilization review process.

11. (1) This subsection shall apply to:

(a) Any health benefit plan that is issued, amended, delivered or renewed on or after January 1, 1998, and provides coverage for drugs; or

(b) Any person making a determination regarding payment or reimbursement for a prescription drug pursuant to such plan.

(2) A health benefit plan that provides coverage for drugs shall provide coverage for any drug prescribed to treat an indication so long as the drug has been approved by the FDA for at least one indication, if the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature and deemed medically appropriate.

(3) This section shall not be construed to require coverage for a drug when the FDA has

determined its use to be contraindicated for treatment of the current indication.

(4) A drug use that is covered pursuant to subsection 1 of this section shall not be denied coverage based on a "medical necessity" requirement except for a reason that is unrelated to the legal status of the drug use.

(5) Any drug or service furnished in a research trial, if the sponsor of the research trial furnishes such drug or service without charge to any participant in the research trial, shall not be subject to coverage pursuant to subsection 1 of this section.

(6) Nothing in this section shall require payment for nonformulary drugs, except that the state may exclude or otherwise restrict coverage of a covered outpatient drug from Medicaid programs as specified in the Social Security Act, Section 1927(d)(1)(B).

(7) Every health carrier shall notify the dispensing pharmacy, prescribing physician and enrollee when a nonformulary drug is authorized with conditions, such as an authorization for a limited period of time.

12. A carrier shall issue a confirmation number to an enrollee when the health carrier, acting through a participating provider or other authorized representative, [authorizes] **certifies** the provision of health care services.

13. If an authorized representative of a health carrier [authorizes] **certifies** the provision of health care services, the health carrier shall not subsequently retract its [authorization] **certification** after the health care services have been provided, or reduce payment for an item or service furnished in reliance on [approval] **such certification**, unless**:**

(1) Such [authorization] **certification** is based on a material misrepresentation or omission about the treated person's health condition or the cause of the health condition; or

(2) The health benefit plan terminates before the health care services are provided; [or]

(3) The covered person's coverage under the health benefit plan terminates before the health care services are provided**; or**

(4) The covered person's coverage under the health benefit plan has exceeded such person's annual or lifetime benefits limit.

376.1367. When conducting utilization review or making a benefit determination for emergency services:

(1) A health carrier shall cover emergency services necessary to screen and stabilize an enrollee and shall not require prior authorization of such services;

(2) Coverage of emergency services shall be subject to applicable co-payments, coinsurance and deductibles;

(3) When an enrollee receives an emergency service that requires immediate post evaluation or post stabilization services, a health carrier shall provide [an authorization] **a certification** decision within [sixty] **forty-five** minutes of receiving a request; if the [authorization] **certification** decision is not made within [thirty] **forty-five** minutes, such services shall be deemed approved."; and

Further amend said bill, Page 55, Section 3, Line 2 of said page, by inserting after all of said line the following:

"**Section 4. 1. All managed care organizations, as defined in section 198.530, RSMo, shall allow the enrollee the right to select a long-term care facility licensed pursuant to chapter 198, RSMo, with the same religious orientation as demonstrated by the enrollee. If a religiously appropriate facility is not included in the managed care organization's provider network and one is available, the managed care organization shall provide the enrollee the option to receive care from an out-of-network long-term care facility licensed pursuant to chapter 198, RSMo, if the following conditions apply:**

(1) The facility is willing and able to provide the services to the resident; and

(2) The facility and those health care professionals delivering services to residents pursuant to this section meet the licensing and training standards as prescribed by law; and

(3) The facility is certified through

Medicare; and

(4) The facility and those health care professionals delivering services to residents pursuant to this section agree to abide by the terms and conditions of the managed care organization's contracts with similar providers, abide by patient protection standards and requirements imposed by state or federal law for plan enrollees and meet the quality standards established by the managed care organization for similar providers.

2. The managed care organization shall reimburse the facility at a rate of reimbursement consistent with the carrier's contract with the Health Care Financing Administration for long-term care services.";

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 **SB 274** and grants the Senate a conference thereon. Further, that the conferees are allowed to exceed the differences on county employees.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following Conference Committee to act with a like committee from the Senate on **HCS** for **SB 274**. Representatives: Harlan, Harding, Lowe, Froelker and Portwood.

PRIVILEGED MOTIONS

Senator Sims moved that the Senate refuse to concur in **HS** for **HCS** for **SCS** for **SB 236**, 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.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **HCS** for **SB 274**: Senators Caskey, Kenney, Foster, Jacob and Gross.

RESOLUTIONS

Senator Westfall offered Senate Resolution No. 812, regarding the Halfway High School Academic Team, which was adopted.

Senator Yeckel offered Senate Resolution No. 813, regarding Rebecca Holian, Carrollton, Texas, which was adopted.

On motion of Senator Kenney, the Senate adjourned until 9:30 a.m., Tuesday, May 15, 2001.

SENATE CALENDAR

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SEVENTY-THIRD DAY–TUESDAY, MAY 15, 2001

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FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SCS for SB 505-Loudon
(In Budget Control)

SS for SB 242-Kenney
(In Budget Control)

SCS for SB 225-Mathewson
(In Budget Control)

SS for SCS for SBs 334 & 228-Kinder
(In Budget Control)

SENATE BILLS FOR PERFECTION

SB 565-Staples
SB 596-Loudon
SB 597-Singleton
SB 268-Schneider, with SCS

SBs 249 & 523-Wiggins, with SCS
SBs 508 & 468-Cauthorn and Klindt, with SCS

HOUSE BILLS ON THIRD READING

1. HCS for HB 50, with SCS (Stoll)
(In Budget Control)
2. HCS for HBs 754, 29, 300 & 505 (Bentley)
(In Budget Control)
3. HB 501-Bowman, et al, with SCS (Steelman)
(In Budget Control)
4. HS for HCS for HB 824-Abel (Mathewson)
(In Budget Control)
5. HS for HB 612-Ladd Baker, with SCS (Sims)
(In Budget Control)
6. HS for HB 736-Liese, with SCS (Yeckel)
(In Budget Control)
7. HCS for HJR 7, with SCS (Staples) (In Budget Control)
8. HB 249-Treadway, with SCS (Kinder)
(In Budget Control)
9. HS for HCS for HBs 835, 90, 707, 373, 641, 510, 516 & 572-Britt, with SCS (Caskey)
(In Budget Control)
10. HS for HB 555-Foley, with SCS (Scott)
(In Budget Control)
11. HS for HB 349-Hosmer, with SCS (Sims)
(In Budget Control)
12. HS for HCS for HBs 237, 270, 403 & 442-Smith, with SCA 1 (Yeckel)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 65-Gibbons, with SCS
SBs 67 & 40-Gross, with SCS
SB 68-Gross and House
SB 99-Sims, with SCS

SB 114-Loudon, with SCS, SS for SCS & SA 1 (pending)
SB 184-Johnson, et al, with SS#2 (pending)

SB 222-Caskey, with SA 3 & SSA 1 for SA 3 (pending)
SBs 238 & 250-Staples, et al, with SCS (pending)
SB 239-Stoll, with SCS & SA 11 (pending)
SB 251-Kinder
SBs 253 & 260-Gross, with SCS (pending)
SB 331-DePasco, et al, with SCS & SS for SCS (pending)
SB 373-Gibbons and Yeckel, with SCS
SBs 391 & 395-Rohrbach, with SCS & SS for SCS (pending)
SB 438-Bentley and Stoll, with SS, SS for SS & SA 1 (pending)
SB 445-Singleton, with SCS & SS for SCS (pending)
SB 454-Kinder, with SCS
SB 455-Kinder, et al, with SCS
SBs 459, 305, 396 & 450-Westfall, with SCS & SS for SCS (pending)
SB 469-Gross, et al
SB 488-Klindt, et al, with SCS
SB 535-Rohrbach, with SCS, SS for SCS & point of order (pending)
SB 546-Kenney, et al, with SCS
SB 583-Yeckel
SB 586-Klindt, with SCS & SA 2 (pending)
SB 593-Klindt, with SCS
SJR 11-Yeckel

HOUSE BILLS ON THIRD READING

HB 70-Koller, with SCA 1 (Staples)
HB 80-Ross, with SCS & SA 9 (pending) (Kenney)
SCS for HB 120-O'Connor (Caskey) (In Budget Control)
HB 133-Gambaro, with SCS (Yeckel)
HB 185-Legan, et al, with SCS (Gross)
HB 219-Townley, et al, with SCS (Cauthorn)
HB 285-Riback Wilson, et al, with SS, SS for SS, SA 8 & point of order (pending) (Jacob)
HS for HCS for HB 327-Rizzo, with SCS (Quick)
HS for HCS for HBs 328 & 88-Harlan, with SCS (Sims)
HB 385-Franklin, with SCS, SS for SCS & SA 8 (pending) (Foster)
HB 436-Merideth, et al (Childers)
HB 444-Kreider, et al, with SCA 1 (Wiggins)
HB 471-Jolly, et al, with SCS (Wiggins)
HS for HCS for HB 488-Koller, with SCS (Childers)
HB 544-Holand and Treadway, with SA 1 (pending) (Bentley)

HCS for HB 581, with SCS (Klindt)
HB 662-Green (73) and St. Onge, with SCS & SA 2 (pending) (Foster)
HB 678-Seigfreid, with SCS (pending) (Mathewson)
HS for HCS for HB 762-Barry, with SCS, SS for SCS, SA 8 & SSA 1 for SA 8 (pending) (Sims and Stoll)
HCS for HB 780, with SCS (Kenney)
HS for HB 882-Crump, with SCS (Singleton)
HS for HCS for HBs 924, 714, 685, 756, 734 & 518-Wiggins, with SCS (Mathewson)
HB 949-Barry, with SCS, SS for SCS & SA 7 (pending) (Sims)
HB 954-Hosmer (Westfall)
HS for HCS for HB 1000-Hosmer, with SCS (Klindt)
HJR 5-Barry, et al, with SS, SA 1 & point of order (pending) (Yeckel)

CONSENT CALENDAR

Senate Bills

Reported 2/5

SB 143-Childers

Reported 2/19

SB 315-Childers, with SCS

Reported 3/5

SB 354-Johnson and Scott, with SCS

Reported 3/12

SB 526-Dougherty, with SCS

House Bills

Reported 4/12

HB 111-Ladd Baker (Gross)
HB 309-McKenna, et al (Stoll)

SENATE BILLS WITH HOUSE AMENDMENTS

SB 307-Jacob, with HCS

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SCS for SB 151-Childers, with HCS (Further conference granted)
SS for SB 193-Rohrbach, with HCS, as amended (Senate offered CCR)
SB 274-Caskey, with HCS
SB 304-Klarich, with HCS
SB 319-Carter, with HCS, as amended
SS for SCS for SBs 323 & 230-Childers, with HS, as amended (Senate adopted CCR and passed CCS)
SB 462-Westfall, with HCS, as amended
SB 610-Westfall, with HCS
HCS for HBs 205, 323 & 549, with SCS (Childers)
HCS for HBs 302 & 38, with SCS, as amended (Westfall)
HS for HB 421-Hoppe, with SS for SCS, as amended (Kinder)

Requests to Recede or Grant Conference

SB 72-Loudon, with HS for HCS, as amended (Senate requests House recede or grant conference)
SCS for SB 236-Sims, with HS for HCS, as amended (Senate requests House recede or grant conference)
SB 460-Klarich, with HS for HCS, as amended (Senate requests House recede or grant conference)

RESOLUTIONS

SR 345-Quick, et al
SR 346-Kinder, with SA 3 & SSA 1 for SA 3 (pending)

Reported from Committee

SCR 8-Caskey, with SA 2 (pending)
SCR 17-Steelman, et al
HCR 16-Green and Holt (House)
SR 495-Klarich, with SCS
SCR 33-Westfall
HCR 22-Barnitz (Cauthorn)
HCR 23-Holand (Bentley)
HS for HCR 25-Graham (Jacob)

Requests to Recede or Grant Conference

SS for SCR 2-Singleton, with HCS (Senate requests House recede or grant conference)

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