Journal of the Senate

FIRST REGULAR SESSION

SEVENTY-FIFTH DAY—THURSDAY, MAY 17, 2001

The Senate met pursuant to adjournment.

Senator Klarich in the Chair.

Reverend Carl Gauck offered the following prayer:

Gracious and Heavenly Father, we thank You for bringing us to the beginning of this new day and pray You will be with us as we face the challenges that will come to us. We see the finish line, Lord; yet in this final stretch is when we encounter the greatest stresses that strain the body and mind. So we pray that You will provide us the strength we need to finish what we must do. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

Photographers from the Jefferson City News Tribune, KOMU-TV and KMIZ-TV were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Bentley	Bland	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 Rohrbach offered Senate Resolution No. 831, regarding Christina Porter, which was adopted.

Senator Quick offered Senate Resolution No. 832, regarding Jeff Willmuth, Kearney, which was adopted.

Senator Quick offered Senate Resolution No. 833, regarding Jared Shane Babbitt, Kearney, which was adopted.

Senator Quick offered Senate Resolution No. 834, regarding Daniel Seth Stotts, Kearney, which was adopted.

PRIVILEGED MOTIONS

Senator Steelman, on behalf of the conference committee appointed to act with a like committee from the House on **HS** for **HCS** for **SS** for **SCS** for **SB 369**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 369

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House on House Substitute for House Committee

Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 369 with House Amendment No. 1, House Amendment No. 2, House Amendment No. 5, House Substitute Amendment No. 1 for House Amendment No. 7 and House Amendment No. 8, begs leave to report that we, after free and fair discussion of the differences between the House and the Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 369, as amended;

2. That the Senate recede from its position on Senate Substitute for Senate Committee Substitute for Senate Bill No. 369;

3. That the attached Conference Committee Substitute for House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 369, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Sarah H. Steelman	/s/ Patrick O'Connor
/s/ Stephen Stoll	/s/ Carol Jean Mays
/s/ John E. Scott	/s/ James P. O'Toole
/s/ David J. Klarich	/s/ Gary Burton
/s/ David G. Klindt	/s/ Shannon Cooper

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

YEAS—Senators

Bland	Cauthorn	Dougherty	Foster
Gibbons	Gross	House	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Quick	Scott	Sims
Staples	Steelman	Stoll	Yeckel—20

NAYS—Senators

Bentley	Caskey	Childers	DePasco
Goode	Jacob	Johnson	Russell
Schneider	Singleton	Westfall	Wiggins—12

Absent—Senator Rohrbach—1

Absent with leave—Senator Carter—1

On motion of Senator Steelman, **CCS** for **HS** for **HCS** for **SS** for **SCS** for **SB 369**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 369

An Act to amend chapter 67, RSMo, by adding thereto nine new sections relating to utility access to public rights-of-way.

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

YEAS—Senators

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

NAYS—Senators

Bentley	Caskey	Childers	DePasco
Goode	Johnson	Mathewson	Quick
Russell	Schneider	Singleton	Westfall
Wiggins—13			

Absent—Senators—None

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.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House

refuses to recede from its position on **HCS** for **SS** for **SB 244**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following Conference Committee to act with a like committee from the Senate on **HCS** for **SS** for **SB 244**, as amended. Representatives Koller, Crump, Green 15, Kelly 144 and Ross.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SS** for **SCS** for **SB 226**, entitled:

An Act to amend chapter 192, RSMo, by adding thereto nine new sections relating to a life sciences research program.

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

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 226, Page 3, Section 192.1010, Line 7, by inserting after the word "safety" the following "**and human**"; and

Further amend said bill, Page 3, Line 17, by deleting the words "this program" and insert in lieu thereof the words "**the grant**"; and

Further amend said bill, Page 3, Line 20 and 21, by deleting "The department of health shall not approve"; and

Further amend said bill, Line 21, by inserting after the word "award" the following "**shall not be approved**"; and

Further amend said bill, Page 4, Line 11, by inserting at the end of said line the following; "**At least eighty percent of the funds that are appropriated to the board in each fiscal year shall be distributed to the institutions or organizations whose programs and proposals have been recommended by a center for excellence. Collectively, the institutions or organizations within a single center for excellence shall receive in any one fiscal year no more than fifty percent of the funds appropriated to the board for that fiscal year. Collectively, the institutions or organizations within a single center for excellence shall receive in any one fiscal year no less than ten percent of the funds appropriated to the board for that fiscal year. No single institution or organization shall receive in any consecutive fiscal three-year period more than forty percent of the funds appropriated to the board during such three-year period. In a fiscal year no more than 10% of the funds may be used for physical facilities**."; and

Further amend said bill, Section 192.1012, Page 5, Line 7, by deleting the word "may" and inserting in lieu thereof the word "**shall**" and on same line by deleting the word "if" and inserting in lieu thereof the word "**when**"; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 226, Page 9, Section 192.1025, Line 17 of said page, by inserting after all of said lines and inserting in lieu thereof the following:

"**192.1035. 1. Notwithstanding the provisions of sections 192.1010 to 192.1025, no grant awards shall be paid, granted or used to subsidize in whole or in part:**

(1) Abortion services; or

(2) Development of drugs or chemicals intended to be used to induce an abortion; or

(3) Human cloning; or

(4) Prohibited human research.

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

(1) "Abortion services", performing or inducing, assisting in performing or inducing, or referring a woman for an abortion, except when necessary to save the life of the mother;

(2) "Child", if in vivo, the same as an unborn child as defined in section 188.015, RSMo, and if in vitro, a human being at any of the stages of biological development of an unborn child from conception or inception onward;

(3) "Conception", the same as defined in section 188.015, RSMo;

(4) "Facilities and administrative costs", those costs that are incurred for common or joint objectives and therefor cannot be identified readily and specifically with a particular research project or any other institutional activity;

(5) "Grant awards", awards of state funds pursuant to sections 192.1010 to 192.1035;

(6) "Human cloning", the replication of a human being genetically identical to another human being;

(7) "Prohibited human research", research in a proposed research project in which there is the taking or utilization of the organs, tissue or cellular material of a:

(a) Deceased child, unless consent is given in the manner provided in sections 194.210 to 194.290, RSMo, relating to anatomical gifts, and neither parent cause the death of such child or consented to another person causing the death of such child;

(b) Living child, when the intended or likely result of such taking or utilization is to kill or cause serious harm to the health, safety or welfare of such child, or when the purpose is to target such child for possible destruction in the future;

(8) "Research project", research specified in the grant award conducted under the auspices of the institution or institutions that applied for and received such grant award pursuant to sections 192.1010 to 192.1035, regardless of whether the research is funded in whole or part by such grant award. Such research shall include basic research, including the discovery of new knowledge; translational research, including translating knowledge into a usable form; and development research and clinical research, including but not limited to health research in human development and aging, cancer, endocrine, cardiovascular, neurological, pulmonary and infectious disease, and nutrition and food safety.

3. No grant awards shall be paid or granted pursuant to sections 192.1010 to 192.1035 to or on behalf of an existing or proposed research project that involves, as part of the project, abortion services, development of drugs or chemicals intended to be used to induce an abortion, human cloning or prohibited human research. A research project that receives a grant award shall not share costs with another research project, person or entity not qualified to receive a grant award pursuant to sections 192.1010 to 192.1035; provided, however, the research project that receives a grant award may pay facilities and administrative costs directly allocable to such research project. A research project that receives a grant award shall maintain financial records that demonstrate strict compliance with this section. The audit conducted pursuant to section 192.1015 shall also certify compliance with this section.

4. The grant application shall describe in detail the proposed research project and how the research project shall be conducted in compliance with the requirements of sections 192.1010 to 192.1035. The life sciences research board shall not approve a grant award unless the board makes specific written findings that such research project shall be conducted in compliance with sections 192.1010 to 192.1035. The grant application and the grant award shall be a public record within the meaning of chapter 610, RSMo. The board shall promulgate rules in accordance with chapter 536, RSMo, to implement the provisions of this subsection.

5. Any taxpayer of this state or its political subdivisions shall have standing to bring suit against the department of health, members of

the board, and the officers and employees of the department and the board in any circuit court with jurisdiction to enforce the provisions of this section.

6. Sections 192.1010 to 192.1035 shall not be construed to permit or make lawful any conduct that is otherwise unlawful pursuant to the laws of this state.

7. All of the provisions of sections 192.1010 to 192.1025 are severable; provided, however, the provisions of this section are not severable from the provisions of sections 192.1010 to 192.1025. If any provision of sections 192.1010 to 192.1025 is found to be invalid, unenforceable or unconstitutional, the remaining provisions of sections 192.1010 to 192.1025 shall be and remain valid. However, if any provision of this section is found to be invalid, unenforceable or unconstitutional, all of the provisions of sections 192.1010 to 192.1025 shall be invalid and unenforceable."; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 226, Page 1, Section 192.1010, Lines 16 to 18 of said page, by deleting all of said lines and inserting in lieu thereof the following: "**consist of grant awards from moneys appropriated from the life sciences and medical research account established pursuant to section 196.1090, RSMo. The grant awards shall be designed to achieve the**"; and

Further amend said bill, Page 8, Section 192.1015, Lines 5 and 6 of said page, by deleting the words "**research fund**" and inserting in lieu thereof the following: "**medical research account**"; and

Further amend said bill, Page 8, Section 192.1015, Line 8 of said page, by deleting the words "**research fund**" and inserting in lieu thereof the following: "**medical research account**"; and

Further amend said bill, by inserting at the appropriate location the following:

"**196.1075. 1. As used in sections 196.1075 to 196.1105, the following terms mean:**

(1) "Account", an account within the health care trust fund created in subsection 2 of this section;

(2) "Health care trust fund", the fund created in subsection 2 of this section;

(3) "MSA", the master settlement agreement entered into on November 23, 1998, as amended, in the tobacco case;

(4) "Tobacco case", the case of *State of Missouri ex rel. Jeremiah W. (Jay) Nixon, Attorney General v. The American Tobacco Company, Inc., et al.*, case number 972-1465, filed in the circuit court of the City of St. Louis, state of Missouri;

(5) "Tobacco claim", any claim of the state of Missouri for conduct, acts or omissions arising out of or in any way related, in whole or in part, to the use, sale, distribution, manufacture, development, advertising, marketing or health affects of tobacco products; the exposure to tobacco products; or research, statements or warnings regarding the potential adverse affects of tobacco use, including those asserted in the tobacco case and any claims of the same or similar nature against any person or entity, including but not limited to the defendants in the tobacco case, provided that a claim of the state of Missouri for taxes or licensure fees shall not be considered a tobacco claim;

(6) "Tobacco claim payment", any moneys or proceeds of any moneys, including interest thereon, paid into the state treasury as a result of a tobacco claim, including but not limited to a payment to the state of Missouri pursuant to the MSA or any other tobacco claim settlement, award or judgment. Tobacco claim payment shall include any moneys paid into the state treasury that results in a direct offset or reduction of moneys received into the state treasury pursuant to the MSA or any other tobacco claim settlement, award or judgment.

2. The first fifty million dollars of tobacco claim payments shall be deposited in an endowment fund to be known as the "Fund for Missouri's Future". The state treasurer shall invest moneys in the fund in the same manner as surplus funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of the moneys in the fund for Missouri's future shall be credited to such fund until the corpus of the fund reaches one billion dollars. Moneys constituting the corpus of the fund shall not be appropriated without a two-thirds vote of the members elected to each house of the general assembly as authorized by a concurrent resolution. Once the corpus of the fund reaches one billion dollars, earnings on the corpus shall be subject to appropriation. A separate and special trust fund to be known as the "Health Care Trust Fund" is hereby created in the state treasury. All tobacco claim payments received by the state after the initial fifty million dollars is deposited in the fund for Missouri's future as provided in this subsection and all earnings resulting from the investment of the moneys in the fund for Missouri's future after the corpus of such fund reaches one billion dollars shall be deposited into the health care trust fund. All moneys received in the health care trust fund shall be allocated by appropriation or transferred into separate accounts within the health care trust fund as provided in sections 196.1075 to 196.1105 and shall be used solely for smoking prevention and cessation, early childhood and youth development care and education, prescription drug coverage and health care, and life sciences and medical research. If a transfer of the fifty million dollars into the endowment fund is made prior to the effective date of this act, it shall satisfy the provisions of this subsection and no additional transfers into the endowment fund shall be made unless as further provided by law.

3. No moneys shall be withdrawn from the health care trust fund or any account of such fund except by an appropriation or transfer for the purpose and use authorized for such fund and any applicable account. No obligation for payment of moneys so appropriated from the health care trust fund and any applicable account of such fund shall be incurred and paid unless the commissioner of the office of administration certifies it for payment and further certifies that:

(1) The expenditure is within the purpose and use required for the health care trust fund and any applicable account;

(2) The expenditure is within any one specific purpose or use lawfully contained within the appropriation made by the general assembly; and

(3) There is an appropriation of an unencumbered balance within the health care trust fund and any applicable account sufficient to pay it.

At the time of issuance, each certification shall be entered on the general accounting books as an encumbrance on the appropriation.

196.1081. The "Prescription Drug Coverage and Health Care Treatment and Access Account" is hereby created within the health care trust fund. Appropriations made by the general assembly from the prescription drug coverage and health care treatment and access account, shall be used and expended solely for prescription drug coverage and health care.

196.1084. The "Tobacco Prevention, Education and Cessation Account" is hereby created within the health care trust fund. Moneys in the account shall be used solely for tobacco prevention, education and cessation, including but not limited to programs to prevent tobacco usage by minors, to prevent or reduce tobacco usage generally, and to prevent tobacco addiction.

196.1087. The "Early Childhood and Youth Development Care and Education Account" is hereby created within the health care trust fund. Moneys in the account shall be used solely for early childhood and youth development care and education, including but not limited to community grants. Appropriations made by the general assembly from the account shall be used and expended solely for the purpose provided in this section.

196.1090. The "Life Sciences and Medical Research Account" is hereby created within the health care trust fund and shall be used and expended solely for life sciences and medical research purposes.

196.1093. At least ten percent of moneys appropriated from the accounts pursuant to sections 196.1081, 196.1084, 196.1087 and 196.1090, other than moneys used for prescription drug coverage, shall be used for programs and grants that benefit minorities, women and at-risk children and communities through community based not-for-profit organizations.

196.1096. The commissioner of administration shall establish such books of account as are necessary to account for the proceeds of any tobacco claim payments made to the state of Missouri and interest thereon and shall make or refuse to make such certifications as are necessary to ensure that these funds are allocated, used and expended only for the purposes set forth in sections 196.1075 to 196.1105.

196.1099. Moneys which are appropriated from the health care trust fund for the purposes provided in sections 196.1075 to 196.1105 shall constitute additional amounts over and above any moneys that are appropriated for such purposes from general revenue as of July 1, 2001. The state shall not reduce the level of funding that was in effect on July 1, 2001, for such a purpose from general revenue sources because of the appropriation of moneys for such purpose from the health care trust fund. This section shall not apply to amounts appropriated or expended for the purposes of administering section 135.095, RSMo.

196.1102. Any moneys received by the state as a result of the tobacco settlement agreement together with interest and earnings thereon shall not be classified as "total state revenues" as defined in sections 17 and 18 of article X of the Missouri Constitution and the expenditure of such moneys shall not be an "expense of state government" pursuant to section 20 of article X of the Missouri Constitution.

196.1105. 1. The provisions of sections 196.1075, 196.1078, 196.1081, 196.1084, 196.1087, 196.1090, 196.1093, 196.1096, 196.1099 and 196.1102 shall not become effective unless a ballot measure has been submitted to and approved by the voters. The secretary of state shall submit the ballot measure at an election to be held and conducted on the Tuesday immediately following the first Monday in November, 2001.

2. The official summary statement shall be as follows:

"Authorizes deposit of tobacco settlement moneys into funds for use in smoking prevention, health care and prescription drug coverage for seniors, life sciences and medical research, early childhood and youth development care and education, and an endowment fund which would not be subject to the constitutional limit on state spending. Defeat of the referendum measure would not create the funds and the moneys shall be credited to general revenue for appropriations by the general assembly."; and

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 226, Page 10, Section 1, Line 13, by inserting after all of said line the following:

"**Section 2. Notwithstanding any provisions of sections 192.1010 to 192.1025 to the contrary, the life sciences research board shall annually transfer four hundred thousand dollars to the Missouri higher education scholarship donation fund in the state treasury established in section 173.196, RSMo. Such transfer shall be used solely by the graduate fellowship program established in section 173.199, RSMo, for scholarships for any eligible person who pursues a graduate degree in the fields of chemistry, life sciences, or agricultural sciences. The provisions of this subsection shall expire on July 1, 2007.**"; and

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

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 226, Page 3, Section 192.1010, Lines 20 and 23 of said Page, by striking the number "192.1025" and inserting in lieu thereof the number "**192.1035**" on both of said lines; and

Further amend said bill and section, Page 4, Lines 3 and 23 of said page, by striking the number "192.1025" and inserting in lieu thereof the number "**192.1035**" on both of said lines; and

Further amend said bill, Page 5, Section 192.1012, by striking the number "192.1025 and inserting in lieu thereof the number "**192.1035**"; and

Further amend said bill, Page 8, Section 192.1020, Line 19 of said page, by inserting immediately after the word "costs" on said line the words: "**, subject to the provisions of this section and Section 192.1035**".

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SB 125**, entitled:

An Act to repeal sections 50.1000, 64.170, 64.180, 64.190, 64.205, 64.850, 67.398, 67.582, 67.1545, 71.794, 77.370, 82.300, 99.847, 135.208, 135.209, 135.230, 135.478, 135.481, 135.484, 135.487, 135.530, 138.010, 138.020, 198.280, 204.300, 204.370, 214.030, 221.425, 238.060, 242.010, 242.200, 242.210, 247.224, 250.236, 260.830, 260.831, 347.189, 393.705 and 447.700, RSMo 2000, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session and section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, relating to political subdivisions, and to enact in lieu thereof sixty-four new sections relating to the same subject.

With House Amendments Nos. 1, 2, 3, 4, 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 34, 35, 36, 38, House Substitute Amendment No. 1 for House Amendment No. 39, House Amendments Nos. 41 and 42.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 72, Section 135.530, Line 16, by inserting after all of said line the following:

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

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

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

(3) Nonprofit cemeteries;

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

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

purposes;

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

(7) All personal property leased for a period of at least one year to this state, any city, county or political subdivision; or to any religious, educational or charitable organization, provided such property is actually and regularly used exclusively for religious worship, for school and colleges, or for purposes purely charitable."; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 6, Section 64.170, Line 21, by inserting immediately after the word "installation" the following: "**, plumbing or drain laying**"; and

Further amend said bill, Page 9, Section 64.180, Line 20, by inserting immediately after the word "agencies" the following: "**consistent with section 64.196**"; and

Further amend said bill, Page 13, Section 64.190, Line 6, by inserting immediately after all of said line the following:

"**64.196. After August 28, 2001, any county seeking to adopt a building code in a manner set forth in section 64.180 shall, in creating or amending such code, adopt a current, calendar year 1999 or later edition, nationally recognized building code, as amended.**"; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Bill No. 125, Page 92, Section 214.035, Line 4, by inserting after all of said line the following:

"215.036. 1. Housing trust fund moneys shall be used to financially assist, in whole or in part by loans or grants, the development of housing stock and to provide housing assistance to persons and families with incomes at or below the levels described in [subsections] **subsection** 2 [and 3] of this section**, and to provide housing assistance and related services to tenants of qualified low-income housing projects as defined in Section 42 of the Internal Revenue Code of 1986, as amended, or any successor provision**. [At least fifty percent of the loan or grant funds awarded over each two-year period, coincident with the biennium described in section 33.080, RSMo, shall be awarded for such activities and projects for residential occupancy by persons and families with incomes at or below the levels described in subsection 3 of this section.]

2. Persons or families are eligible [under] **pursuant to** this subsection if the household combined adjusted gross income is equal to or less than the following percentages of the median family income for the geographical area:

Size of Household	Percent of State or Geographic Area Family Median Income
One person	35%
Two persons	40%
Three persons	45%
Four persons	50%
Five persons	54%
Six persons	58%
Seven persons	62%
Eight persons	66%

As used in this section, the term "geographical area" shall be based upon the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger.

[3. Persons or families are eligible under this subsection if the household combined adjusted gross income is equal to or less than the following percentages of the median family income for the

geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger:

Size of Household	Percent of State or Geographic Area Family Median Income
One person	18%
Two persons	20%
Three persons	23%
Four persons	25%
Five persons	27%
Six persons	29%
Seven persons	31%
Eight persons	33%

4. During each two-year period described in subsection 1 of this section, at least thirty percent of the funds dispersed under this act shall be allocated to housing provider organizations which qualify as a "not-for-profit" organization as defined in chapter 355, RSMo, or section 42(h)(5)(C) of the Internal Revenue Code of 1986.]

215.038. The following are projects eligible for assistance under sections 215.034 to 215.039:

(1) Limited equity cooperatives in multifamily units, which shall be considered rental housing, and the monthly cooperative fee shall be considered the rental rate, or detached units, in urban, rural, or suburban areas;

(2) Rent subsidies for newly constructed units or rehabilitated multifamily units [otherwise assisted under this act]**, whether tenant-based or project-based**;

(3) Rent subsidies for existing units which are not in violation of municipal or county housing codes**, whether tenant-based or project based**;

(4) Capacity building grants for not-for-profit housing corporations, as defined in subsection 4 of section 215.036, where the recipient serves a rural area and has been involved in housing construction, rehabilitation or services of the nature described in section 215.036 for less than four years;

(5) [Matching funds for social services directly related to special needs] **Facilities, equipment and services related to after-school learning centers, day care and continuing educational services for** tenants in assisted projects;

(6) Infrastructure improvement for eligible projects;

(7) New construction of permanent rental housing;

(8) Rehabilitation of [vacant] rental houses, or [vacant] multifamily units;

(9) New construction or rehabilitation of single-room occupancy units;

(10) New construction or rehabilitation of single-family housing;

(11) Shelters and related services for the homeless;

(12) Emergency aid such as temporary rental and mortgage payment and repairs to prevent homelessness;

(13) Provisions for rental housing for elderly and low-income residents of rural areas of Missouri by the Farmers Home Administration, or its successor agency;

(14) Mortgage insurance guarantees or payments for eligible projects; and

(15) Housing related services, including, but not limited to, home maintenance programs."; and

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

HOUSE AMENDMENT NO. 4

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 102, Section 247.165, Line 5, by deleting the year "**1999**" and inserting in lieu thereof the following: "**1996**"; and

Further amend said bill, Page 102, Section 247.165, Line 8, by inserting after the word "**section**" the following: "**except that such territory annexed in a county of the first classification without a charter form of government and with a population of more than sixty-three thousand eight hundred but less than seventy thousand inhabitants must have been**

annexed between January 1, 1999, and the effective date of this section"; and

Further amend said bill, Page 106, Section 247.165, Line 1, by inserting after all of said line the following:

"**247.171. The proportion of the sum of all outstanding bonds and debt, with interest thereon, that is required to be paid to the water supply district, pursuant to subsection 1 of section 247.031 and subdivision (5) of subsection 1 of section 247.170, shall be the same as the proportion of the assessed valuation of the real and tangible personal property within the area sought to be detached and excluded bears to the assessed valuation of all of the real and tangible personal property within the entire area of the water supply district.**"; and

Further amend said bill, Page 130, Section 1, Line 10, by inserting after all of said line the following:

"[247.224. Any person who resides within the boundary of a public water supply district located in any county of the first classification with a population of more than eighty thousand and less than eighty-three thousand inhabitants and who is unable to receive services from such district due to the district's failure to provide such services may elect to be removed from such district by sending a written and signed request for removal via certified mail to the district. The district shall, upon receipt of such request, remove such resident from the district. If the resident elects to be removed from the district, the resident shall compensate the district for any costs incurred by the district for such resident's removal from the district and for any attempts by the district to provide service to such resident prior to the certified date that the district received the request for removal.]"; and

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

HOUSE AMENDMENT NO. 5

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 87, Section 214.035, Line 15, by inserting after all of said line the following:

"**217.900. 1. There is hereby established the "Missouri State Penitentiary Redevelopment Commission".**

2. The commission shall consist of ten commissioners who shall be qualified voters of the state of Missouri. Three commissioners, no more than two of whom shall belong to the same political party, shall be residents of Jefferson City and shall be appointed by the mayor of that city; three commissioners, no more than two of whom shall belong to the same political party, shall be residents of Cole County but not of Jefferson City and shall be appointed by the county commission; and four commissioners, no more than three of whom shall belong to the same political party, none of whom shall be residents of Cole County or of Jefferson City, shall be appointed by the governor with the advice and consent of the senate. The governor shall appoint one of the commissioners who is not a resident of Cole County or Jefferson City to be the chair of the commission. No elected or appointed official of the state of Missouri or of any city or county in this state shall be appointed to the commission.

3. The commissioners shall serve for terms of three years, except that the first person appointed by each the mayor, the county commission and the governor shall serve for two years and the second person appointed by the governor shall serve for four years. Each commissioner shall hold office until a successor has been appointed and qualified. In the event a vacancy exists or in the event a commissioner's term expires, a successor commissioner shall be appointed by whomever appointed the commissioner who initially held the vacant positions and if no person is so selected within sixty days of the creation of the vacancy, the unexpired term of such commissioner may be filled by a majority vote of the remainder of the commissioners, provided such successor commissioner shall meet the requirements set forth by this section. Pending any such

appointment to fill any vacancy, the remaining commissioners may conduct commission business. Commissioners shall serve without compensation but shall be entitled to reimbursement from the Missouri state penitentiary redevelopment commission fund established in subsection 7 of this section for expenses incurred in conducting the commission's business.

4. The commission shall have the following powers:

(1) To acquire title to the property historically utilized as the Missouri state penitentiary and to acquire by gift, bequest, purchase, lease or sublease from public or private sources property adjacent thereto and necessary or appropriate to the successful redevelopment of the Missouri state penitentiary property;

(2) To lease or sell real property to developers who will utilize the property consistent with the master plan for the property;

(3) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(4) To hire employees necessary to perform the commission's work;

(5) To contract and to be contracted with, including, but without limitation, the authority to enter into contracts with cities, counties and other political subdivisions, agencies of the state of Missouri and public agencies pursuant to sections 70.210 to 70.325, RSMo, and otherwise, and to enter into contracts with other entities, in connection with the acquisition by gift, bequest, purchase, lease or sublease and in connection with the planning, construction, financing, leasing, subleasing, operation and maintenance of any real property or facility and for any other lawful purpose, and to sue and to be sued;

(6) To receive for its lawful activities any rentals, proceeds from the sale of real estate, contributions or moneys appropriated or otherwise designated for payment to the authority by municipalities, counties, state or other political subdivisions or public agencies or by the federal government or any agency or officer thereof or from any other sources and to apply for grants and other funding;

(7) To disburse funds for its lawful activities and fix salaries and wages of its employees;

(8) To invest any of the commission's funds in such types of investments as shall be determined by a resolution adopted by the commission;

(9) To borrow money for the acquisition, construction, equipping, operation, maintenance, repair, remediation or improvement of any facility or real property to which the commission holds title and for any other proper purpose, and to issue negotiable notes, bonds and other instruments in writing as evidence of sums borrowed;

(10) To perform all other necessary and incidental functions, and to exercise such additional powers as shall be conferred by the general assembly; and

(11) To purchase insurance, including self-insurance, of any property or operations of the commission or its members, directors, officers and employees, against any risk or hazard, and to indemnify its members, agents, independent contractors, directors, officers and employees against any risk or hazard.

5. In no event shall the state be liable for any deficiency or indebtedness incurred by the commission.

6. The income of the commission and all properties any time owned by the authority shall be exempt from all taxation in the state of Missouri.

7. There is hereby created in the state treasury the "Missouri State Penitentiary Redevelopment Commission Fund", which shall consist of money collected pursuant to this section. The fund shall be administered by the Missouri state penitentiary redevelopment commission. Money in the fund shall be used solely for the purposes of the Missouri state penitentiary redevelopment commission.

8. 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 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.

9. Upon the dissolving of the commission, any funds remaining in the Missouri State Penitentiary Commission Fund shall be transferred to the general revenue fund."; and

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

HOUSE AMENDMENT NO. 8

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Section 135.305, Page 59, Line 22, by inserting immediately after said line the following:

"135.305. A Missouri wood energy producer shall be eligible for a tax credit on taxes otherwise due under chapter 143, RSMo, except sections 143.191 to 143.261, RSMo, as a production incentive to produce processed wood products in a qualified wood producing facility using Missouri forest product residue. The tax credit to the wood energy producer shall be five dollars per ton of processed material. The credit may be claimed for a period of [five] **ten** years and is to be a tax credit against the tax otherwise due."; and

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

HOUSE AMENDMENT NO. 10

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 82, Section 204.640, Lines 8 to 11 of said page, by deleting all of said lines; and

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

HOUSE AMENDMENT NO. 11

Amend House Committee Substitute for Senate Bill No. 125, Page 2, Section A, Line 11, by inserting after all of said line the following:

"64.342. 1. Section 64.341 to the contrary notwithstanding, the county commission of any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand containing part of a city with a population over three hundred fifty thousand is hereby authorized to acquire, by purchase or gift, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate, in whole or in part, concession stands or marinas within any area contiguous to the lake which is used as a public park, playground, camping site or recreation area. **No such lease or concession grant shall be for a longer term than twenty-five years.**

2. Such concession stands or marinas may offer refreshments for sale to the public using such areas and services therein relating to boating, swimming, picnicking, golfing, shooting, horseback riding, fishing, tennis and other recreational, cultural and educational uses upon such terms and under such regulations as the county may prescribe.

3. All moneys derived from the operation of concession stands or marinas shall be paid into the county treasury and be credited to a "Park Fund" to be established by each county authorized under subsection 1 of this section and be used and expended by the county commission for park purposes.

4. The provisions of this section authorizing and extending authority to counties concerning marinas shall not apply to any privately operated marina in operation prior to August 28, 2000**, except that if an operator is in default or if no bids are received during the open bid period, then the county may operate such marina for a period not to exceed a cumulative total of twenty-four months**."; and

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

HOUSE AMENDMENT NO. 12

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 72, Section 135.530, Line 16, by inserting after all of said line the following:

"**135.552. 1. As used in this section, the following terms shall mean:**

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Director", the director of the department of public safety;

(3) "Sexual violence crisis service center", a nonprofit organization having a primary function of serving sexual violence victims, or running a discrete, separate program that serves sexual violence victims, or two or more nonprofit organizations operating under a formal arrangement to provide sexual violence services to victims of rape, sexual assault and sexual abuse, their significant others, secondary victims and the community. For purposes of this section, eligible services of a sexual violence crisis service center, include, but shall not be limited to, the operation of a twenty-four-hour crisis hotline promoted as a service for sexual violence victims and the provision of information, referrals, medical and justice system advocacy, crisis intervention and support groups at no charge and community education and prevention education;

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148 and 153, RSMo, exclusive of the provisions relating to withholding tax contained in sections 143.191 to 143.265, RSMo, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, exclusive of the provisions relating to withholding tax contained in sections 143.191 to 143.265, RSMo;

(5) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, an insurance company paying an annual tax on its gross premium receipts in this state or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a sexual violence crisis service center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next three succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a sexual violence crisis service center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which organizations and programs in this state may be classified as sexual violence crisis service centers. The director may require an organization or program seeking to be classified as a sexual violence crisis service center to submit any information which is reasonably necessary to make such a determination. The director shall classify an organization or program as a sexual violence crisis service center if such organization or program meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if an organization or program has been classified as

a sexual violence crisis service center, and by which such taxpayer can then contribute to such centers and claim a tax credit. Sexual violence crisis service centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to sexual violence crisis service centers in any one fiscal year shall not exceed two million dollars. Tax credits shall be issued based on the order in which accepted contributions are received.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all organizations and programs classified as sexual violence crisis service centers. If a sexual violence crisis service center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those sexual violence crisis service centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each sexual violence crisis service center shall provide information to the director concerning the identity of each taxpayer making a contribution to the sexual violence crisis service center who is claiming a tax credit pursuant to this section and the amount of the contribution. The director shall provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section 32.057, RSMo, relating to the disclosure of tax information.

9. This section shall become effective January 1, 2002, and shall apply to tax years after December 31, 2001.

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

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Director", the director of the department of social services;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148 and 153, RSMo, exclusive of the provisions relating to withholding tax contained in sections 143.191 to 143.265, RSMo, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, exclusive of the provisions relating to withholding tax contained in sections 143.191 to 143.265, RSMo;

(4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, an insurance company paying an annual tax on its gross premium receipts in this state or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo;

(5) "Unplanned pregnancy resource center", a nonresidential facility located in this state:

(a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by

offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and

(b) Where childbirths are not performed; and

(c) Which does not perform or refer for abortions and which does not hold itself out as performing or referring for abortions; and

(d) Which provides direct client services, as opposed to merely providing counseling or referral services by telephone; and

(e) Which provides its services at no cost; and

(f) Which is exempt from income taxation pursuant to the United States Internal Revenue Code.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to an unplanned pregnancy resource center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next three succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to an unplanned pregnancy resource center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which facilities in this state may be classified as unplanned pregnancy resource centers. The director may require a facility seeking to be classified as an unplanned pregnancy resource center to submit any information which is reasonably necessary to make such a determination. The director shall classify a facility as an unplanned pregnancy resource center if such facility meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a facility has been classified as an unplanned pregnancy resource center, and by which such taxpayer can then contribute to such centers and claim a tax credit. Unplanned pregnancy resource centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to unplanned pregnancy resource centers in any one fiscal year shall not exceed two million dollars. Tax credits shall be issued based on the order in which accepted contributions are received.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all facilities classified as unplanned pregnancy resource centers. If an unplanned pregnancy resource center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those unplanned pregnancy resource centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each unplanned pregnancy resource center shall provide information to the director concerning the identity of each taxpayer making a contribution to the unplanned pregnancy resource center who is claiming a tax credit pursuant to this section and the amount of the contribution. The director shall provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section 32.057, RSMo, relating to the disclosure of tax information.

9. This section shall become effective January 1, 2002, and shall apply to tax years after December 31, 2001.

135.631. The tax credits available pursuant to sections 135.552 and 135.630 shall not be available in any tax year beginning after December 31, 2006, but any tax credit claimed pursuant to section 135.552 or 135.630 prior to that date may be carried forward as otherwise provided by those sections.; and

Further amend said bill, Page 119, Section 447.700, Line 10, by inserting after all of said line the following:

"[620.1400. Sections 620.1400 to 620.1460 shall be known and may be cited as the "Missouri Individual Training Account Program Act" and its provisions shall be effective only within distressed communities as defined by section 135.530, RSMo.]

[620.1420. As used in sections 620.1400 to 620.1460, the following terms mean:

(1) "Costs of classroom training", the normal costs incurred in the provision of classroom training which may also include specifically identified costs incurred for instructors, classroom space and facilities, administrative support services, and directly related expenses, that together do not exceed the amount normally allowed for support of vocational and technical classes;

(2) "Department", the department of economic development;

(3) "Employee", a full-time or part-time employed worker whose salary is equal to or less than two hundred percent of the federal poverty level;

(4) "Employee upgrade training", the progressive development of skills associated with the defined set of work processes. Such training shall be consistent with a career pattern of advancement, as measured by skill proficiency and the progressive earnings and related benefits, that are recognized within an occupation, trade or industry;

(5) "Individual training account", an account funded by the tax credits provided for in section 620.1440 for the provision of employee upgrade training to employees through their participation in classroom training provided by educational institutions;

(6) "Local educational institution", a publicly funded or privately funded local educational institution which is certified by a recognized accrediting association as capable of providing adequate classroom training to accomplish the purpose of sections 620.1400 to 620.1460.]

[620.1430. 1. A Missouri employer who desires to participate in the individual training account program shall provide the department of economic development with notification of intent to participate. The notification shall include, but need not be limited to, the names and occupations of employees whom the employer has selected to be trained, whether or not the employees are currently working for the employer, the name of the local educational institution that will provide the training, and a brief description of the training to be given by the institution.

2. The employer shall have complete discretion in the selection of the local educational institution or

institutions to provide training and shall be responsible for the payment of the costs of classroom training.]

[620.1440. 1. Employers may be reimbursed for the costs of training provided pursuant to the provisions of the individual training account program. Such reimbursement shall be in the form of tax credits as authorized in subsection 2 of this section. The tax credits may be claimed for courses provided in no more than two calendar years for each employee. For each year, the maximum amount of credit per employee which can be certified by the department of economic development shall be the lesser of fifty percent of the costs of classroom training or one thousand five hundred dollars.

2. Tax credits may be claimed against any liability incurred by the employer pursuant to the provisions of chapter 143, RSMo, and chapter 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo. Earned tax credits may be carried forward for a period not to exceed five years and may be sold or transferred.

3. No claim for tax credits submitted to the department by an employer shall be certified until the employer provides documentation that an employee has successfully completed the employee's course training and has been employed by the employer in a new, full-time position for a period of at least three months. It must be demonstrated satisfactorily to the department that the new position in which the employee located is an upgrade in employment, in terms of salary and responsibilities, from the previously held position. All such increases in salary shall be in addition to normal cost-of-living increases provided for in authorized labor-management contracts. If the employee was previously employed in a part-time position, the base salary for the position shall be calculated as if it were a full-time position.]

[620.1450. The maximum amount of tax credits allowable pursuant to the provisions of the individual training account program shall not annually exceed six million dollars.]"; and

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

HOUSE AMENDMENT NO. 13

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 59, Line 22, by adding the following new section 137.181:

"In all appeals allowed in Section 137.180, the burden of proof as to the increase in value shall be on the assessor."; 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. 125, Pages 114 to 119, Section 447.700, Lines 17 to 24 on Page 114, Lines 1 to 24 on Page 115, Lines 1 to 24 on Page 116, Lines 1 to 24 on Page 117, Lines 1 to 24 on Page 118, and Lines 1 to 10 on Page 119, by deleting all of said lines and inserting in lieu thereof the following:

"447.700. As used in sections 447.700 to 447.718, the following terms mean:

(1) "Abandoned property", real property previously used for, or which has the potential to be used for, commercial or industrial purposes which reverted to the ownership of the state, a county, or municipal government, or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default or settlement, including conveyance by deed in lieu of foreclosure; or a privately owned property endorsed by the city, or county if the property is not in a city, for inclusion in the program which will be transferred to a person other than the potentially responsible party as defined in chapter 260, RSMo, and has been vacant for a period of not less than three years from

the time an application is made to the department of economic development;

(2) "Allowable cost", all or part of the costs of project facilities, including the costs of acquiring the property, relocating any remaining occupants, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping or furnishing project facilities, demolition, site clearance and preparation, **backfill,** supplementing and relocating public capital improvements or utility facilities, designs, plans, specifications, surveys, studies and estimates of costs, expenses necessary or incident to determining the feasibility or practicability of assisting an eligible project or providing project facilities, architectural, engineering and legal service fees and expenses, the costs of conducting any other activities as part of a voluntary remediation and such other expenses as may be necessary or incidental to the establishment or development of an eligible project and reimbursement of moneys advanced or applied by any governmental agency or other person for allowable costs**. Allowable costs shall also include the demolition and reconstruction of any building or structure which is not the object of remediation as defined in section 260.565, RSMo, but which is located on the site of an abandoned or underutilized property approved for financial assistance pursuant to sections 447.702 to 447.708, provided that any such demolition is contained in a redevelopment plan approved by the director of the department of economic development and the municipal or county government having jurisdiction in the area in which the project is located**;

(3) "Applicant", the person that submits an application for consideration of a project or location or real property for financial, tax credit or other assistance pursuant to sections 447.700 to 447.718; an applicant may not be any party who intentionally or negligently caused the release or potential release of hazardous substances at the eligible project as that term is defined pursuant to chapter 260, RSMo;

(4) "Eligible project", abandoned or underutilized property to be acquired, established, expanded, remodeled, rehabilitated or modernized for industry, commerce, distribution or research, or any combination thereof, the operation of which, alone or in conjunction with other facilities, will create new jobs or preserve existing jobs and employment opportunities, attract new businesses to the state, prevent existing businesses from leaving the state and improve the economic welfare of the people of the state. The term "eligible project", without limitation, includes voluntary remediation conducted pursuant to sections 260.565 to 260.575, RSMo. To be an "eligible project" pursuant to sections 447.700 to 447.718, the obligations of the prospective applicant and the governmental agency shall be defined in a written agreement signed by both parties. The facility, when completed, shall be operated in compliance with applicable federal, state and local environmental statutes, regulations and ordinances. An "eligible project" shall be determined by consideration of the entire project. The definition or identification of an "eligible project" shall not be segmented into parts to separate commercial and industrial uses from residential uses**. Any property immediately adjacent to any abandoned or underutilized property may also be an "eligible project" pursuant to section 447.700 to 447.718, provided that the abandoned or underutilized property otherwise meets the qualifications of this subdivision**;

(5) "Financial assistance", direct loans, loan guarantees, and grants pursuant to sections 447.702 to 447.706; and tax credits, inducements and abatements pursuant to section 447.708;

(6) "Governmental action", any action by a state, county or municipal agency relating to the establishment, development or operation of an eligible project and project facilities that the governmental agency has authority to take or provide for the purpose under law, charter or ordinance, including but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies;

(7) "Governmental agency", the state, county and municipality and any department, division, commission, agency, institution or authority, including a municipal corporation, township, and any agency thereof and any other political subdivision or public corporation; the United States or any agency thereof; any agency, commission or authority established pursuant to an interstate compact or agreement and any combination of the above;

(8) "Person", any individual, firm, partnership, association, limited liability company, corporation or governmental agency, and any combination thereof;

(9) "Project facilities", buildings, structures and other improvements and equipment and other property or fixtures, excluding small tools, supplies and inventory, and public capital improvements;

(10) "Public capital improvements", capital improvements or facilities owned by a governmental agency and which such agency has authority to acquire, pay the costs of, maintain, relocate or operate, or to contract with other persons to have the same done, including but not limited to, highways, roads, streets, electrical, gas, water and sewer facilities, railroad and other transportation facilities, and air and water pollution control and solid waste disposal facilities;

(11) "Underutilized", real property of which less than thirty-five percent of the commercially usable space of the property and improvements thereon, are used for their most commercially profitable and economically productive use; or property that was used by the state of Missouri as a correctional center for a period of at least one hundred years and which requires environmental remediation before redevelopment can occur, if approval from the general assembly has been given for any improvements to, or remediation, lease or sale of, said property;

(12) "Voluntary remediation", an action to remediate hazardous substances and hazardous waste pursuant to sections 260.565 to 260.575, RSMo.

447.708. 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to [135.256] **135.257**, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

(2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars per year for each person who is "a person difficult to employ" as defined by section 135.240, RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4) **of subsection 1** of section 135.225, RSMo;

(3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245, RSMo, for application and use of the refund and the eligibility requirements of this section;

(4) The eligible project operates in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements;

(5) The eligible project operator shall file such reports as may be required by the director of economic development or the director's designee;

(6) The taxpayer may claim the state tax credits authorized by this subsection and the state income exemption for a period not in excess of ten consecutive tax years. For the purpose of this section, "taxpayer" means an individual proprietorship, partnership or corporation described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director shall determine the number of years the taxpayer may claim the state tax credits and the state income exemption based on the projected net state economic benefits attributed to the eligible project;

(7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained during the taxpayer's tax period for which the credits are earned, in the case of an eligible project that does not replace a similar facility in Missouri. "New job" means a person who was not previously employed by the taxpayer or related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the same meaning as defined in subdivision (9) of section 135.100, RSMo;

(8) For the purpose of meeting the existing job retention requirement, if the eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a person who was previously employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, within the tax period immediately preceding the time the person was employed by the taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned;

(9) In the case where an eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner and operator of the eligible project shall provide the director with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a comparison of the activities performed at the closed facility prior to the date the facility ceased operating, to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If the director finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, and that such move was detrimental to the overall economic development efforts of the state, the director may deny the taxpayer's request to claim tax benefits;

(10) Notwithstanding any provision of law to the contrary, for the purpose of this section, the number of new jobs created and maintained, the number of existing jobs retained, and the value of

new qualified investment used at the eligible project during any tax year shall be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month of the tax year. If the eligible project is in operation for less than the entire tax year, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment created at the eligible project during any tax year shall be determined by dividing the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month during the portion of the tax year during which the eligible project was in operation, by the number of full calendar months during such period;

(11) For the purpose of this section, "new qualified investment" means new business facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo, which is used at and in connection with the eligible project. "New qualified investment" shall not include small tools, supplies and inventory. "Small tools" means tools that are portable and can be hand held.

2. The determination of the director of economic development pursuant to subsection 1 of this section, shall not affect requirements for the prospective purchaser to obtain the approval of the granting of real property tax abatement by the municipal or county government where the eligible project is located.

3. **(1)** The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits allowed in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition [and]**,** asbestos abatement, and direct utility charges for performing the voluntary remediation activities for the preexisting hazardous substance contamination and releases, including, but not limited to, the costs of performing operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575, RSMo.

(2) The director of the department of economic development, with the approval of the director of the department of natural resources, shall, in addition to the tax credits otherwise allowed in this section, grant a demolition tax credit to the applicant for up to one hundred percent of the costs of demolition that are not part of the voluntary remediation activities, provided that the demolition is either on the property where the voluntary remediation activities are occurring or on any adjacent property, and that the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development.

(3) The amount of remediation **and demolition** tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.

(4) The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the

tax otherwise imposed by chapter 148, RSMo. The remediation **and demolition** tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years.

(5) The project facility [is] **shall be** projected to create at least ten new jobs or at least twenty-five retained jobs, or a combination thereof, as determined by the department of economic development**, to be eligible for tax credits pursuant to this section**.

(6) No more than seventy-five percent of earned remediation tax credits may be issued when the remediation costs were paid, and the remaining percentage may be issued when the department of natural resources issues a "Letter of Completion" letter or covenant not to sue following completion of the voluntary remediation activities. It shall not include any costs associated with ongoing operational environmental compliance of the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility.

4. In the exercise of the sound discretion of the director of the department of economic development or the director's designee, the tax credits and exemptions described in this section may be terminated, suspended or revoked, if the eligible project fails to continue to meet the conditions set forth in this section. In making such a determination, the director shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any condition violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and operator. The director shall also consider changes in general economic conditions and the recommendation of the director of the department of natural resources, or his or her designee, concerning the severity, scope, nature, frequency and extent of any violations of the environmental compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo. The director of the department of economic development shall notify the directors of the departments of natural resources and revenue of the termination, suspension or revocation of any tax credits as determined in this section or pursuant to the provisions of section 447.716.

5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, RSMo, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

(1) That portion of the taxpayer's income attributed to the eligible project; or

(2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in

subdivision (6) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section, to any other person, for the purpose of this subsection referred to as assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

11. For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:

(1) The shareholders of the corporation described in section 143.471, RSMo;

(2) The partners of the partnership.

The credit provided in this subsection shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period."; and

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

HOUSE AMENDMENT NO. 15

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 36, Section 81.265, Lines 14 to 20, by deleting all of said section; and

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

HOUSE AMENDMENT NO. 16

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 108, Section 250.236, Line 2, by inserting the following section:

"**253.570. The Missouri general assembly shall, through appropriations as provided by law, participate in the funding of the TWA Flight 800 International Memorial in Smith Point Beach, New York, in an amount equal to one thousand dollars for each of the seven Missourians who died aboard TWA Flight 800 on July 17, 1996. Such funds shall be disbursed August 28, 2001, to the Families of Flight 800 Memorial Fund.**"; and

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

HOUSE AMENDMENT NO. 17

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, by striking the following:

"unincorporated territory of the county, or to the unincorporated territory of the county as a whole."; and

Further amend said bill by adding the following on Line 12: "**County.**"; and

Further amend said bill, Page 11, Line 2, by striking the word "unincorporated" and replacing it with the word "**affected"**; and

Further amend said bill, Page 11, Line 6, by striking the word "unincorporated" and replacing it with the word "**affected**"; and

Further amend said bill, Page 11, Line 10, by striking the word "unincorporated" and replacing it with the word "**affected**".

HOUSE AMENDMENT NO. 18

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 3, Section A, Line 1, by inserting after all of said line the following:

"**26.730. 1. There is hereby established within the office of the lieutenant governor a "Missouri Multicultural Center and Program", which shall serve as an all-purpose all-encompassing resource for local political subdivisions and government agencies, including but not limited to counties, municipalities, judicial circuits, law enforcement agencies, school districts, public health agencies or any other political subdivisions or local government agencies, state governmental agencies, nongovernmental community agencies, businesses, advocacy groups, immigrants, refugees and international tourists in this state. The center and program, as directed by the multicultural citizens' advisory committee, may develop outreach materials, in various formats, and shall serve as a communications link to direct persons to where materials are available, which describe the resources, opportunities, informational sites or other informational sources that the committee determines would be of assistance to the entities listed in this subsection. The materials and links described in this subsection shall, at minimum, be made available in electronic format, or in any other form the committee deems appropriate. The center and program may contract, subject to approval by the office of administration, for the provision of the information and services described in this subsection with any higher educational facility in the state or any other outside source it deems capable of adequately providing such services and information.**

2. There is hereby established within the office of the lieutenant governor a "Multicultural Citizens' Advisory Committee", which shall develop and implement, or facilitate the development and implementation of, the program authorized pursuant to subsection 1 of this section. The committee shall consist of twenty-five members, to be appointed as follows:

(1) Five persons employed by state executive departments, one from each of the following five departments, to be designated by the director of the appropriate department: elementary and secondary education, social services, health, economic development and public safety;

(2) Four members of the general assembly, as follows:

(a) Two members of the house of representatives appointed by the speaker of the house of representatives, one from each major political party; and

(b) Two members of the senate appointed by the president pro tem of the senate, one from each major political party;

(3) Fifteen citizens of this state who work directly with the multicultural population of this state, appointed by the lieutenant governor; and

(4) The lieutenant governor, who shall serve as an ex officio member of the committee.

3. The initial members of the committee shall be appointed between September 1, 2001, and December 31, 2001. Beginning January 1, 2002, all appointees shall become members of the committee, and the lieutenant governor shall cause the committee to meet no later than sixty days after that date. Upon the first meeting constituting a quorum of the committee, the committee shall select one of its members as chair. The chair shall serve as chair for two years, and the committee may reappoint the chair for an additional term or select a new chair at the expiration of such term. The committee shall meet on a regular basis until the program described in this section has been developed, and then the committee shall meet only as needed. The members of the committee shall serve four-year terms, except that the first term of the following members shall be for two years:

(1) The members appointed by the department of economic development and the department of public safety;

(2) One member appointed by the speaker of the house of representatives and one member appointed by the president pro tem of the senate, as selected by the speaker and the president pro tem prior to the appointment of the committee member;

(3) Eight members appointed by the governor, as selected by the governor prior to the appointment of the committee member.

4. Vacancies on the committee shall be filled as soon as is practicable by the person charged with the appointment of the person who vacated the position. Members of the committee shall not be compensated for their duties as members, but shall receive reimbursement for all actual and necessary expenses incurred in the course of performing such duties, provided that the lieutenant governor shall not receive such expenses.

5. The committee shall submit to the lieutenant governor a list of three names, one of which the lieutenant governor shall employ as an executive director, who shall serve as the executive officer of the committee. As a priority, the director shall have a background and knowledge of the experiences and transition faced by individuals with multicultural backgrounds moving to Missouri and international tourists visiting in Missouri. The salary and office space for the executive director, as well as the expenses for committee hearings, shall be provided by the office of the lieutenant governor."; and

Further amend said bill, Page 130, Section 1, Line 10, by inserting after all of said line the following:

"Section B. Because immediate action is necessary to provide full, meaningful and expedited access for immigrants and refugees to the public services of this state, section 26.730 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 26.730 of this act shall be in full force and effect upon its passage and approval."; and

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

HOUSE AMENDMENT NO. 19

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 130, Line 10, by adding after said line the following:

"The state highway commission shall reduce the speed from 45 to 35 miles per hour on Highway 14 at the east city limit line of Ozark, Missouri to 10th Avenue.".

HOUSE AMENDMENT NO. 20

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 14, Section 64.205, Line 12, by inserting after all of said line the following:

"**Section 1. Any device, other than a device located in a public building, that is not used by the general public shall be exempt from the provisions of sections 701.350 to 701.380.**"; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 21

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 74, Section 138.020, Line 19 of said page, by inserting after all of said line the following:

"160.400. 1. A charter school is an independent, publicly supported school.

2. **Except as otherwise provided pursuant to this section,** charter schools may be operated only in a metropolitan school district or in an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants **or any school district containing territory formerly contained in any school district in which charter schools were authorized to be established pursuant to this section** and may be sponsored by any of the following:

(1) The school board of the district;

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

(3) A community college located in the district.

3. [A maximum of five percent of the school buildings currently in use for instructional purposes in a district may be converted to charter schools. This limitation does not apply to vacant buildings or buildings not used for instructional purposes.] **All buildings owned or controlled by a school district in which charter schools may be established pursuant to sections 160.400 to 160.420 and which buildings are not used by the district for their educational purposes or otherwise previously contractually obligated to another party shall be made available to charter schools in the district at a de minimis cost.**

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

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

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

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

8. A charter school may affiliate with a four-year college or university, including a private college or university, or a community college as otherwise specified in subsection 2 of this section when its charter is granted by a sponsor other than such college, university or community college. Affiliation status recognizes a relationship between the charter school and the college or university for purposes of teacher training and staff development, curriculum and assessment development, use of physical facilities owned by or rented on behalf of

the college or university, and other similar purposes. The primary campus of the college or university must be located within the county in which the school district lies wherein the charter school is located or in a county adjacent to the county in which the district is located. A university, college or community college may not charge or accept a fee for affiliation status.

9. **There is hereby established a "Charter School Sponsor Oversight and Accountability Fund". The state treasurer shall, on the first business day of each fiscal year, transfer, from general revenue to the charter school sponsorship oversight and accountability fund, an amount equal to the sum of the number of charter schools which have an approved charter as of the date of the transfer multiplied by twenty-three thousand four hundred dollars, plus the sum of the number of students enrolled in each charter school established pursuant to sections 160.400 to 160.420 during the preceding school year multiplied by one-half of one percent of the per pupil operating revenue for the preceding year for the school district where each such charter school was located. The fund shall be subject to appropriation. The coordinating board of higher education shall establish, by rule, and administer a grant-based funding program for reimbursing costs of school districts and higher education institutions sponsoring charter schools pursuant to this section. Charter school sponsors may apply to the coordinating board each year, no later than August first, to receive a grant for each charter school which it sponsored the preceding year. The grant application shall meet the requirements established pursuant to this section. The amount of each annual grant for an approved application shall be equal to the sum of twenty-three thousand four hundred dollars, plus the number of students enrolled in the charter school during the preceding school year multiplied by one-half of one percent of the per pupil operating revenue for the preceding school year for the school district where the charter school was located. The grant shall be used for providing charter school sponsorship oversight and accountability functions related to the charter granted to the charter school. If the funding is insufficient in any year to fund all eligible, fundable grant applications, all grant awards shall be uniformly prorated until the total amount of grant awards matches the available funds. Any available funding in excess of the total of eligible, fundable grant applications shall be retained in the fund the following year and counted as current year transferred funds for the purpose of reducing the amount of the transfer authorized pursuant to this subsection.**

10. No university, college or community college shall grant a charter to a nonprofit corporation if an employee of the university, college or community college is a member of the corporation's board of directors.

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

12. No member of the board of directors of a charter school shall hold any office or employment from the board or the charter school while a member of the board nor have any substantial interest, as defined pursuant to section 105.450, RSMo, in any entity employed by or contracting with the board.

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

160.405. 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. **The proposed charter shall specify a proposed starting date which shall be no earlier**

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

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

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

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

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

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

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

(1) **A charter application shall be provided to a proposed sponsor no later than eleven months prior to the proposed starting date for the charter school to begin operation. Within five business days of receipt of the application, the proposed sponsor shall forward a copy of the charter application to the state board of education and to the school board of the district if the proposed sponsor is not a school board;**

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

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

[(3)] **(4)** If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor's written reasons for its denial. If the state board determines that the applicant meets the requirements of this section and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school**. The state board shall review the proposed charter and make a determination of whether to deny or grant the proposed charter within sixty days of receipt of the proposed charter and shall notify the applicant in writing as to the reasons for its denial, if applicable**; [and]

[(4)] **(5)** The sponsor of a charter school shall give priority to charter school applicants that propose a school oriented to high-risk students and to the reentry of dropouts into the school system. If a sponsor grants three or more charters, at least one-third of the charters granted by the sponsor

shall be to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their proposed mission, curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk" student is one who is at least one year behind in satisfactory completion of course work or obtaining credits for graduation, pregnant or a parent, homeless or has been homeless sometime within the preceding six months, has limited English proficiency, has been suspended from school three or more times, **is eligible for free or reduced price school lunch,** or has been referred by the school district for enrollment in an alternative program. "Dropout" shall be defined through the guidelines of the school core data report. The provisions of this subsection do not apply to charters sponsored by the state board of education.

3. If a charter is approved by a sponsor, it shall be submitted to the state board of education which may, within [forty-five] **sixty** days, disapprove the granting of the charter. The state board of education may disapprove a charter only on grounds that the application fails to meet the requirements of sections 160.400 to 160.420.

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

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

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

(2) Comply with laws and regulations of the state relating to health, safety, and minimum educational standards;

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

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, **publish audit reports and annual financial reports as provided pursuant to chapter 165, RSMo, provided that the annual financial report may be published via the Internet on the secretary of state's website in lieu of other publishing requirements,** and provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo. A charter school that incurs debt must include a repayment plan in its financial plan;

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

(6) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, collect baseline data during at least the first three years for determining how the charter school is performing and to the extent applicable, [participate in] **employ** the statewide system of assessments, comprised of the essential skills tests and the nationally standardized norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, **which shall also include a statement that background checks have been completed on the charter school's board members,** report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof, and provide data required for the study of charter schools pursuant to subsection 3 of section 160.410. No charter school will be considered in the Missouri school improvement program review of the district in which it is located for the resource or process standards of the program. Nothing in this paragraph shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter;

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

(8) Provide, in a timely fashion, all information necessary to confirm on-going compliance with all provisions of the charter and sections 160.400 to 160.420.

6. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor. The sponsor and the governing board and staff of the charter school shall jointly review the school's performance, management and operations at least once every two years.

7. (1) A sponsor may revoke a charter at any time if the charter school commits a serious breach of one or more provisions of its charter or on any of the following grounds: failure to meet academic performance standards as set forth in its charter, failure to meet generally accepted standards of fiscal management, **failure to provide information necessary to confirm compliance with all provisions of the charter and sections 160.400 to 160.420 within forty-five days following receipt of written notice requesting such information** or violation of law.

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

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

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

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

8. **A sponsor shall take all reasonable steps necessary to confirm each charter school sponsored by such sponsor is in material compliance and remains in material compliance with all material provisions of the charter and sections 160.400 to 160.420.**

9. A school district may enter into a lease with a charter school for physical facilities. [A charter school may not be located on the property of a school district unless the district governing board agrees.]

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

11. Charter school board members shall be subject to the same liability for acts while in office as if they were regularly and duly elected members of school boards in any other public school district in this state. The board of directors of a charter school may participate, to the same extent as a school board, in the Missouri public entity risk management fund in the manner provided pursuant to sections 537.700 to 537.755, RSMo.

160.410. 1. A charter school shall enroll all pupils resident in the district in which it operates or eligible to attend a district's school under an urban voluntary transfer program who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission except that:

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

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school.

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

3. The department of elementary and secondary education shall commission a study of the performance of students at each charter school in comparison with a comparable group and a study of the impact of charter schools upon the districts in which they are located, to be conducted by a contractor selected through a request for proposal. The department of elementary and secondary education shall reimburse the contractor from funds appropriated by the general assembly for the purpose. The study of a charter school's student performance in relation to a comparable group shall be designed to provide information that would allow parents and educators to make valid comparisons of academic performance between the charter school's students and a group of students comparable to the students enrolled in the charter school. The impact study shall be undertaken every two years to determine the effect of charter schools on education stakeholders in the districts where charter schools are operated. The impact study may include, but is not limited to, determining if changes have been made in district policy or procedures attributable to the charter school and to perceived changes in attitudes and expectations on the part of district personnel, school board members, parents, students, the business community and other education stakeholders. The department of elementary and secondary education shall make the results of the studies public and shall deliver copies to the governing boards of the charter schools, the sponsors of the charter schools, the school board and superintendent of the districts in which the charter schools are operated.

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

(1) The school's charter; and

(2) The school's most recent annual report card published pursuant to section 160.522; and

(3) The results of background checks on the charter school's board members.

The charter school may charge reasonable fees for furnishing copies of documents pursuant to this subsection.

160.415. 1. For the purposes of calculation and distribution of state school aid under section 163.031, RSMo, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district within which each pupil resides. Each charter school shall report the names, addresses, and eligibility for free or reduced-price lunch or other categorical aid, of pupils resident in a school district who are enrolled in the charter school to the school district in which those pupils reside and to the state department of elementary and secondary education. Each charter school shall promptly notify the state department of elementary and secondary education and the pupil's school district when a student discontinues enrollment at a charter school.

2. (1) A school district having one or more resident pupils attending a charter school shall pay to the charter school an annual amount equal to the product of the equalized, adjusted operating levy for school purposes for the pupils' district of residence for the current year times the guaranteed tax base per eligible pupil, as defined in section 163.011, RSMo, times the number of the district's resident pupils attending the charter school plus all other state aid attributable to such pupils, including summer school, if applicable, and all aid provided pursuant to section 163.031, RSMo.

(2) The district of residence of a pupil attending a charter school shall also pay to the charter school any other federal or state aid that the district receives on account of such child.

(3) The amounts provided pursuant to this subsection shall be prorated for partial year enrollment for a pupil.

(4) A school district shall pay the amounts due pursuant to this subsection as the disbursal agent and no later than twenty days following receipt of any such funds.

[(5) The per-pupil amount paid by a school district to a charter school shall be reduced by the amount per pupil determined by the state board of education to be needed by the district in the current year for repayment of leasehold revenue bonds obligated pursuant to a federal court desegregation action.]

3. If a school district fails to make timely payments of any amount for which it is the disbursal agent, the state department of elementary and secondary education shall authorize payment to the charter school of the amount due pursuant to subsection 2 of this section and shall deduct the same amount from the next state school aid apportionment to the owing school district. If a charter school is paid more or less than the amounts due pursuant to subsection 2 of this section, the amount of overpayment or underpayment shall be adjusted in its next payment by the school district or the department of elementary and secondary education, as appropriate. Any dispute between the school district and a charter school as to the amount owing to the charter school shall be resolved by the department of elementary and secondary education, and the department's decision shall be the final administrative action for the purposes of review pursuant to chapter 536, RSMo.

4. The charter school and a local school board may agree by contract for services to be provided by the school district to the charter school. The charter school may contract with any other entity for services. Such services may include but are not limited to food service, custodial service, maintenance, management assistance, curriculum assistance, media services and libraries and shall be subject to negotiation between the charter school and the local school board or other entity. Documented actual costs of such services shall be paid for by the charter school.

5. A charter school may enter into contracts with community partnerships and state agencies acting in collaboration with such partnerships that provide services to children and their families linked to the school.

6. A charter school shall be eligible for transportation state aid pursuant to section 163.161, RSMo, and shall be free to contract with the local district, or any other entity, for the provision of transportation to the students of the charter school.

7. (1) The proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be paid in full to charter schools enrolling those students by their school district where such enrollment is through a contract for services described in this section. The proportionate share of money generated under other federal or state categorical aid programs shall be directed to charter schools serving such students eligible for that aid.

(2) A charter school district shall provide the special services provided pursuant to section 162.705, RSMo, and may provide the special services pursuant to a contract with a school district or any provider of such services.

8. A charter school may not charge tuition, nor may it impose fees that a school district is prohibited from imposing.

9. A charter school is authorized to incur debt

in anticipation of receipt of funds. A charter school may also borrow to finance facilities and other capital items. A school district may incur bonded indebtedness or take other measures to provide for physical facilities and other capital items for charter schools that it sponsors or contracts with. Upon the dissolution of a charter school, any liabilities of the corporation will be satisfied through the procedures of chapter 355, RSMo.

10. Charter schools shall not have the power to acquire property by eminent domain.

11. The governing body of a charter school is authorized to accept grants, gifts or donations of any kind and to expend or use such grants, gifts or donations. A grant, gift or donation may not be accepted by the governing body if it is subject to any condition contrary to law applicable to the charter school or other public schools, or contrary to the terms of the charter.

160.420. 1. **Any school district in which charter schools may be established pursuant to sections 160.400 to 160.420 shall establish a uniform policy which provides that** if a charter school offers to retain the services of an employee of a school district, and the employee accepts a position at the charter school, [the contract between the charter school and the school district may provide that] an employee at the employee's option may remain an employee of the district and the charter school shall pay to the district the district's full costs of salary and benefits provided to the employee. [A] **The district's policy shall provide that any** teacher who accepts a position at a charter school and opts to remain an employee of the district retains such teacher's permanent teacher status and **retains such teacher's** seniority rights in the district **for three years**. The school district shall not be liable for any such employee's acts while an employee of the charter school.

2. A charter school may employ noncertificated instructional personnel; provided that no more than twenty percent of the full-time equivalent instructional staff positions at the school are filled by noncertificated personnel. All noncertified instructional personnel shall be supervised by certified instructional personnel. **A charter school may employ noncertificated administrative personnel and noncertificated principals and assistant principals.** The charter school shall ensure that all instructional employees of the charter school have experience, training and skills appropriate to the instructional duties of the employee, and the charter school shall ensure that a criminal background check and child abuse registry check are conducted for each employee of the charter school prior to the hiring of the employee. Appropriate experience, training and skills of noncertificated instructional personnel shall be determined considering:

(1) Teaching certificates issued by another state or states;

(2) Certification by the National Standards Board;

(3) College degrees in the appropriate field;

(4) Evidence of technical training and competence when such is appropriate; and

(5) Level of supervision and coordination with certificated instructional staff.

3. Personnel employed by the charter school shall participate in the retirement system of the school district in which the charter school is located, subject to the same terms, conditions, requirements and other provisions applicable to personnel employed by the school district. **For purposes of participating in the retirement system, the charter school shall be considered to be a public school within the school district and personnel employed by the charter school shall be public school employees. In the event of a lapse of the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, personnel employed by the charter school shall continue to participate in the retirement system and shall do so on the same terms, conditions, requirements and other provisions as they participated prior to the lapse.**

160.534. [For fiscal year 1996 and each subsequent fiscal year,] **1. Except as otherwise provided in subsection 2 of this section,** any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the

school district bond fund as provided in section 164.303, RSMo, shall be transferred to the state school moneys fund. Such moneys shall be transferred on a monthly basis and shall be distributed in the manner provided in section 163.031, RSMo.

2. Notwithstanding the provisions of section 313.321, RSMo, to the contrary, all revenue received by the Missouri lottery commission from the sale of Missouri lottery tickets and from all other sources, in excess of the total amount received in fiscal year 2001, and all excursion gaming boat proceeds received by the gaming commission in excess of the total amount received in fiscal year 2001, shall be transferred on a monthly basis as follows:

(1) For fiscal year 2003, twenty percent to the school building property tax relief fund established pursuant to section 166.300, RSMo, and eighty percent to the state school moneys fund;

(2) For fiscal year 2004, forty percent to the school building property tax relief fund and sixty percent to the state school moneys fund;

(3) For fiscal year 2005, sixty percent to the school building property tax relief fund and forty percent to the state school moneys fund;

(4) For fiscal year 2006, eighty percent to the school building property tax relief fund and twenty percent to the state school moneys fund; and

(5) For fiscal year 2007, one hundred percent to the school building property tax relief fund.

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.

164.303. There is hereby established in the state treasury the "School District Bond Fund". Such amounts as may be necessary to fund the annual requests submitted by the health and educational facilities authority to fund the payment of costs and grants as provided in subsection 7 of section 360.106 and sections 360.111 to 360.118, RSMo, and necessary costs for administration of those provisions, but not to exceed seven million dollars per year, shall be transferred by appropriation to the fund from the gaming proceeds for education fund before any amounts in the gaming proceeds for education fund are transferred [to the state school moneys fund,] as provided in section 160.534, RSMo. Moneys deposited in the school district bond fund shall be used by the health and educational facilities authority, subject to appropriation, to fund the payment of costs and grants as provided in subsection 7 of section 360.106 and sections 360.111 to 360.118, RSMo, and necessary costs for administration of those provisions. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the credit of the general revenue fund at the end of each biennium.

166.300. 1. As used in this section, the following [words and phrases] **terms** shall mean:

(1) ["Capital improvement projects", expenditures for lands or existing buildings, improvements of grounds, construction of buildings, additions to buildings, remodeling of buildings and initial equipment purchases;

(2)] **"New construction", either the construction of a new building or the addition of a newly constructed area to an existing building, including expenditures for lands or existing buildings, architectural and engineering services, tests and inspections of lands or buildings, construction of buildings, additions to buildings and technology connectivity;**

(2) "Renovation", the modernization or modification of any existing building that will enhance the ability of such building to serve its educational purposes, excluding routine maintenance and repair, and including renovation expenditures for health and safety reasons, educational purposes, architectural and engineering services, tests and inspections of lands or buildings, renovations of existing buildings and technology connectivity;

(3) "School [facility] **building**", a structure dedicated primarily to housing teachers and students in the instructional process, but shall not include [buildings] **facilities** dedicated primarily to administrative and support functions within the school **or the school district**.

2. There is hereby created a [revolving] fund to be known as the "School Building [Revolving] **Property Tax Relief** Fund". All forfeitures of assets transferred pursuant to section 166.131, all gifts and bequests to such fund, **all moneys transferred to such fund pursuant to section 160.534, RSMo,** and such moneys as may be appropriated to the fund shall be deposited into the school building [revolving] **property tax relief** fund[; except that no more than four hundred forty million dollars, in the aggregate, shall be transferred to the fund]. **The fund shall be administered by the department of elementary and secondary education in the manner described in, and for the purposes described in, sections 166.300 to 166.324.**

3. After a fund balance has been established by prior years' deposits and interest, school districts may submit applications for [lease purchases] **matching grants** from the [revolving] fund for [specific] **allowed capital improvement** projects consistent with rules and regulations of the state board of education and [subsection 3 of] this section[, except that]**. The department shall divide its annual disbursements of matching grant moneys from the fund in equal, fifty percent portions to new construction projects and to renovation projects, and shall approve**

and prioritize applications accordingly, pursuant to this section. School districts may apply for both new construction and renovation grants in the same application, provided that new construction costs and renovation costs are separately itemized on such district's application, so that each may be separately approved or denied by the department. If, at the conclusion of the matching grant application period, there are funds available for either new construction or renovation that will not be used, and if there is a greater need for funds for the other category, then the department may transfer funds to the category with greater need at that time.

4. No school district may be permitted to [enter into a lease purchase] **receive matching funds** from the school building [revolving] **property tax relief** fund without first submitting a long-range capital improvements plan. **Such plan shall include a detailed proposal of the specific allowed capital improvement projects to which grant moneys will be put, and shall include the specific manner in which the school district will provide for its matching portion, as such matching portion is calculated pursuant to section 166.305. Such plan shall also calculate the estimated amount of the state's portion of the matching funds, provided that the department shall not provide a match of funds for any costs of a project in excess of the maximum per-pupil amount described in section 166.308. Anticipated district expenditures on projects may exceed the maximum per-pupil amount, but in such case the state portion of matching funds shall be calculated solely on the maximum per-pupil amount stated in section 166.308. The department shall review and approve such plan prior to issuing matching grants.**

[3.] **5.** To be eligible for [a lease purchase authorized by this section] **matching funds pursuant to sections 166.300 to 166.324**:

(1) A school district shall meet the minimum criteria for state aid and for increases in state aid established pursuant to section 163.021, RSMo;

(2) A school district shall provide a program which is accredited by the state board of education for grades kindergarten through twelve or for grades kindergarten through eight; and

(3) A school district shall [have an equalized, assessed valuation per eligible pupil for the preceding year which is less than the statewide average equalized, assessed valuation per eligible pupil for the preceding year; and

(4) A school district shall have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri.

4. Lease purchase] **not be experiencing financial stress as defined in section 161.520, RSMo.**

6. The department of elementary and secondary education shall develop minimum state school building standards that may be used as criteria to determine if the district qualifies for a new construction project. The minimum state school building standards shall be met by any new construction project in order to qualify for matching grant approval by the department.

7. Matching grant applications **for new construction** shall be funded, as funds allow, first for all applications pursuant to subdivision (1) of this subsection [and]**,** then for applications pursuant to subdivision (2) of this subsection and then for applications pursuant to **each successive** subdivision [(3)] of this subsection **thereafter**, and for funding of applications pursuant to a particular subdivision, applications shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest [appraised] **assessed** valuation per pupil shall be given priority. Ranking of the applications for offering of [lease purchases] **matching grants for new construction** shall be done in the following order:

(1) Districts with [capital replacement] **new construction** costs in excess of insurance proceeds due to [facility] **school building** destruction caused by [fire or] natural **or man-made** disaster [shall be ranked on the basis of percentage of bonding

capacity];

(2) Districts with a cumulative percentage growth in fall membership for the [third through the fifth] **three** preceding years in excess of twelve percent [and which have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri; and]**;**

(3) [Districts with an equalized assessed valuation per pupil which is less than the statewide average equalized assessed valuation per pupil and which have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri.] **Districts with a cumulative percentage growth in fall membership for the three preceding years in excess of nine percent;**

(4) Districts with a cumulative percentage growth in fall membership for the three preceding years in excess of six percent;

(5) Districts that are experiencing overcrowding but do not have the percentages of required new growth described in subdivisions (1) to (4) of this subsection shall qualify pursuant to subdivisions (1) to (4) of this subsection based on the same percentage of need as do districts with new growth based on the method of calculation developed by the department to determine this percentage of need for districts with overcrowding; and

(6) Districts for which new school buildings, or additions to existing school buildings, are needed in order to provide for:

(a) All-day kindergarten;

(b) Educational technology;

(c) Inter-district reorganization;

(d) Intra-district reorganization; or

(e) Increased student safety or student health.

8. The department shall develop minimum state school building standards that may be used as criteria to determine if a district qualifies for a renovation project. The minimum state school building standards shall be met by any renovation project in order to qualify for matching grant approval by the department.

9. Matching grant applications for renovation shall be funded, as funds allow, for all applications pursuant to subdivision (1) of subsection 10 of this section, then, with the remaining renovation funds, eighty percent of the funds shall be used on applications pursuant to subdivision (2) of subsection 10 of this section and twenty percent of the funds shall be used on applications pursuant to subdivision (3) of subsection 10 of this section. If, at the conclusion of the application period, there are funds available from either the allocation to subdivision (2) or to subdivision (3) of subsection 10 of this section, and if there is a greater need that can be met by transferring the remainder of the unused allocation to the allocation of the other subdivision, then the department may transfer funds to the allocation of the subdivision with the greater need.

10. For purposes of this subsection, the age of the original building for which the renovation grant is being sought shall be considered the age of the entire school building in question, regardless of subsequent renovations prior to the grant application. Ranking of the applications for offering of matching grants for renovation shall be done in the following order:

(1) Districts with renovation costs in excess of insurance proceeds due to school building destruction caused by natural or man-made disaster. Applications in this subdivision shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest assessed valuation per pupil shall be given priority;

(2) School facilities that are thirty-five years old or older, ranked from oldest to newest. If a renovation project is for a school building that is on the National Register of Historic Places, or a similar historic buildings criteria which the state board of education may promulgate by rule, then the project will be ranked ahead of

renovation projects for school buildings not so designated. If two or more buildings are the same age, the applications shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest assessed valuation per pupil shall be given priority; and

(3) Buildings that are less than thirty-five years of age shall be ranked according to need, with the criteria for need developed by the department.

If a school district can demonstrate that a building that is fifty years old or older should be replaced instead of renovated, the replacement may be approved by the department with funding from renovation projects for buildings thirty-five years of age or older pursuant to subdivision (2) of this subsection. In order to approve a building replacement in lieu of renovation, the department may consider health and safety issues, a comparison of replacement or renovation costs, future energy savings or other criteria developed by the department. It shall be the school district's responsibility to present information to the department, on department developed forms or format, to demonstrate the need for the building replacement.

11. Each district that:

(1) Receives approval of its grant application pursuant to subsections 3 and 4 of this section;

(2) Is eligible pursuant to subsection 5 of this section; and

(3) Qualifies, pursuant to the funding priorities and availabilities of subsections 6 to 10 of this section, for funding; shall receive notification from the department within thirty days of its approval, and the district shall obtain its portion of the matching funds mandated by section 166.305 within one year of the date of its receipt of the notification. Upon obtaining the required matching funds, the district shall submit notification to the department, for approval by the department on forms created by the department. Such notification shall be given within thirty days of obtaining the funds, or as soon as possible prior to the end of the one-year period, whichever occurs first. In the event that the district fails to obtain all of its portion of the matching funds within the one-year period, the district shall forfeit its right to any state matching funds for the school year immediately following such failure, but the district shall not be prohibited from resubmitting its application for the school year next following such occurrence. Any district receiving a renovation matching grant shall not be eligible for another matching grant in any year unless all applications qualifying pursuant to this section for that year from districts which have not yet received a grant pursuant to this section are funded.

[5.] **12.** When **school** building replacement **or renovation** is caused by [fire or] natural **or man-made** disaster, the requirement for a school district to have a long-range capital improvements plan**, as required by subsection 4 of this section,** may be waived by the [state board of education] **department of elementary and secondary education**.

[6. Each school district participating in a lease purchase from the school building revolving fund shall repay such lease purchase in no more than ten annual payments made on or before June thirtieth of each year. The first such payment shall be due and payable on June thirtieth of the first full fiscal year following receipt of lease purchase proceeds. Lease purchase repayments shall be immediately deposited to the school building revolving fund by the department. Interest charged to the school district shall not exceed three percent.

7. Any school district which fails to obligate the full amount of a loan from the school building revolving fund for the allowable lease purchase must return the unobligated amount plus interest earned to the department no later than June thirtieth of the second full fiscal year after receipt of loan proceeds.

8. If a school district fails to make an annual payment to the school building revolving fund after notice of nonpayment by the department, members of the board of education and the school district's

superintendent shall have violated section 162.091, RSMo, and the attorney general of the state of Missouri shall be notified by the state board of education to begin prosecution procedures.

9. All property purchased pursuant to a lease purchase from the school building revolving fund shall remain the property of the state until such time as the lease purchase has been fully repaid pursuant to this section. If a school district does not make an annual payment to the school building revolving fund after notice of nonpayment by the department, the state board of education may, if the delinquency exceeds one hundred eighty days, take possession of the property. As a part of the lease purchase agreement, the school district shall agree to assume all costs, obligations and liabilities for or arising out of establishment, operation and maintenance of the lease purchase property. Other provisions of law to the contrary notwithstanding, neither the state nor any state agency shall have any obligation for such costs, obligations or liabilities unless and until the state board of education takes possession of the property pursuant to this subsection upon a school district's failure to make annual payments as required in the lease purchase agreement.

10. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the school building revolving fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. All yield, interest, income, increment or gain received from time deposit of moneys in the state treasury to the credit of the fund shall be credited by the state treasurer to the fund.]

13. The department shall be responsible for the publication of grant applications that incorporate the criteria of this section and any additional criteria in accordance with this section that the department deems appropriate. Such applications shall be first published on or before January 1, 2002, so that the initial applications for such grants may be acted upon for the 2002-2003 school year.

14. State funds provided pursuant to this section shall not be used for lease purchases.

166.301. All moneys in the school building revolving fund that existed prior to August 28, 2001, and which is hereby abolished, shall be transferred to the school building property tax relief fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the school building property tax relief fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. All yield, interest, income, increment or gain received from time deposits of moneys in the state treasury to the credit of the former school building revolving fund shall be credited by the state treasurer to the property tax relief fund.

166.305. For the purpose of calculating the matching portion for which a school district is responsible pursuant to section 166.300, each school district in this state shall be assigned a local matching percentage pursuant to this section. All school districts in the state shall be rank ordered from lowest to highest based upon the district's equalized, assessed valuation per eligible pupil for the second preceding school year. Each district will be assigned a unique percentage on a sliding scale which assigns a local match percentage of fifty percent to the lowest ranked district and a local match percentage of seventy-five percent to the highest ranked district and assigns a unique percentage to all remaining districts by assigning to districts percentages which are uniformly spaced across the interval from fifty percent to seventy-five percent and based upon the rank ordering.

For a renovation project of a school building on the National Register of Historic Places, or a similar historic buildings criteria which the state board of education may promulgate by rule, the local match percentage will be reduced by five percent.

166.308. 1. For new construction project grant applications pursuant to section 166.300, the department shall match funds with the applicant district up to the following maximum per-pupil state match amounts for new construction costs:

(1) Eight thousand dollars per high school student that the project is designed to house;

(2) Seven thousand dollars per middle school student that the project is designed to house; and

(3) Six thousand dollars per elementary school student that the project is designed to house.

2. For renovation project grant applications pursuant to section 166.300, the department shall match funds with the applicant district up to the following maximum per-pupil state match amounts for total renovation costs:

(1) Five thousand six hundred dollars per high school student to be housed in the renovated school facility or facilities; and

(2) Four thousand nine hundred dollars per middle school student to be housed in the renovated school facility or facilities; and

(3) Four thousand two hundred dollars per elementary school student to be housed in the renovated school facility or facilities.

3. The department shall annually adjust the per-pupil apportionment in this section to reflect construction cost changes. For this purpose, the department may adopt the use of the Consumer Price Index for all Urban Consumers for the United States or its successor index, as defined and officially recorded by the United States Department of Labor or its successor entity or may adopt any other schedule of annual adjustment to accurately reflect such cost changes.

166.311. Moneys in the school building property tax relief fund shall be distributed between the first and fifteenth day of July most immediately following the date on which the department receives notification from an approved school district that such district has obtained its portion of the required matching funds pursuant to section 166.300. The state board of education shall certify the amounts to be distributed to the several school districts to the commissioner of administration who shall issue the warrants therefor. The funds shall be placed to the credit of the capital projects fund by the receiving school district in the amount approved pursuant to sections 166.300 to 166.308. Such moneys shall be used by such district solely for the capital construction or renovation project for which grant approval was awarded and shall not be used to retire debt.

166.314. 1. If any completed allowed project costs more than the estimated final cost submitted to the department by the district, then the district shall be responsible for all of such additional costs.

2. If any completed allowed project costs less than the estimated final cost submitted to the department by the district, then the district shall return the department's percentage of such excess funds, and the department shall deposit such funds in the school building construction and renovation fund established in section 166.300.

3. Upon completion of any project for which funds were granted pursuant to sections 166.300 to 166.324, the school district shall submit a final report to the department. The department may require an audit of these reports or other district records to ensure that all funds received pursuant to sections 166.300 to 166.324 are expended in accordance with program requirements.

4. If the department, after the review of expenditures or audit has been conducted pursuant to this section, determines that a school district failed to expend funds in accordance with this chapter, the department shall notify the school district of the amount that must be repaid to the department within sixty days. If the school district fails to make the required payment within sixty days, the department shall notify the school board and the school district in writing that an amount equal to the unused amount received by the school district shall be withdrawn from such school district's total amount of state aid calculated pursuant to chapter 163, RSMo, for certain subsequent school years, according to a withholding schedule developed by the

department for such district.

166.317. The use of state matching grant moneys by a school district shall not make the department or this state liable for any tort, breach of contract or any other action for damages caused by a school district arising from an approved new construction or renovation project by the district, including, but not limited to, contracts between the school district and its construction contractors, construction managers, architects or engineers. The school district shall be liable for all torts, breaches of contract or any other actions for damages caused by the school district.

166.321. 1. All title to all property acquired, constructed or improved with grant moneys pursuant to sections 166.300 to 166.324 shall be held by the school district to which the department grants such moneys.

2. The applicant school district shall comply with all laws and rules pertaining to the construction, reconstruction or alteration of, or addition to, school buildings.

166.324. The department of elementary and secondary education shall promulgate such rules and forms as are necessary for the operation of sections 166.300 to 166.324. No rule or portion of a rule promulgated pursuant to sections 166.300 to 166.324 shall take effect unless such rule has been promulgated pursuant to chapter 536, RSMo.

167.349. In any school district to which any provisions of sections 167.340 to 167.346 apply and in which district charter schools may be established pursuant to section 160.400, RSMo, any state college or university which provides educational programs to any part of such district **and any campus of the state university located in a county of the third classification** may sponsor one or more charter schools pursuant to section 160.400, RSMo, and, in addition to the purposes for which charter schools may be established pursuant to sections 160.400 to 160.420, RSMo, such charter schools may be established to emphasize remediation of reading deficiencies."; and

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

HOUSE AMENDMENT NO. 22

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 3, Section A, Line 1 of said page, by inserting after all of said line the following:

"**32.375. 1. Notwithstanding any provision of law to the contrary, in any dispute regarding the potential liability of a taxpayer for collection and remittance or payment of sales or use tax or related interest, additions to tax or penalties, the director of revenue may, at the request of the taxpayer, consider the reasons for the taxpayer's failure to pay the amounts in dispute.**

2. The director may abate all or any portion of any amount assessed or decide to not assess any such amount pursuant to this section if the director determines:

(1) The taxpayer took reasonable steps to determine whether the amounts were owed;

(2) Based on information reasonably available to the taxpayer, the taxpayer reasonably believed that the transactions at issue were not subject to tax and that the amounts in dispute were not owed;

(3) At the time of the transactions at issue, the department of revenue had not issued either:

(a) A regulation that indicated that the transactions at issue were subject to tax; or

(b) Any other written or oral communication that the taxpayer knew of or should have known of stating that the transactions at issue were subject to tax; and

(4) In the discretion of the director, such abatement is in the best interest of the state and will not undermine compliance by taxpayers with the tax laws of this state.

3. If the director determines that any amounts may be abated pursuant to this section, as consideration for the abatement, the taxpayer shall agree that:

(1) The taxpayer shall bear his or her own

costs, including any attorney fees;

(2) During the three year period beginning with the date of the agreement, the taxpayer shall comply with all sales and use tax obligations arising from the type of transactions that were the basis of the amounts that are the subject of the agreement and the taxpayer shall not challenge or protest any such sales or use tax obligations arising during the three year period; except that any final decision of a court of competent jurisdiction finding such transactions to be nontaxable and any statutory changes that become effective during the three year period shall apply to the taxpayer notwithstanding any provision of the agreement; and

(3) The taxpayer shall not contest in court or otherwise any amount of the liability sought to be abated.

4. If due to a disagreement concerning the amount to be abated the taxpayer does not agree to the terms provided by subsection 3 of this section or if the director determines the amounts in dispute should not be abated, the director shall issue a final decision setting forth the director's determination. Within sixty days after the date on which the director's decision is delivered in person or is mailed to the taxpayer, whichever is earlier, the taxpayer may file a petition for review of the final decision with the administrative hearing commission.

5. On petition for review before the administrative hearing commission, the commission shall consider whether the director's determination was reasonable based on the factors set forth in subsection 2 of this section. The commission may:

(1) Issue an order to the director stating an amount to be abated by the director, if the commission finds the director's decision unreasonable; or

(2) Issue an order denying the relief sought by the taxpayer, if the commission finds the director's determination reasonable.

6. The provisions of subsection 3 of this section shall apply to any abatement ordered by the commission.

7. A decision of the administrative hearing commission pursuant to this section shall not be subject to appeal or petition for review by the taxpayer or the director.

32.378. 1. In addition to the authority granted to the director of revenue and the administrative hearing commission pursuant to section 32.375, the director of revenue may agree to compromise any tax, interest, penalties or additions to tax assessed or collected by the director of revenue on any of the following grounds:

(1) Doubt as to liability, which exists in any case where there is a genuine dispute as to the existence or amount of the correct tax liability under the law;

(2) Doubt as to collectibility, which exists in any case where the amount assessed including interest, additions to tax and penalties exceeds the taxpayer's ability to pay as defined by regulations promulgated by the director of revenue; or

(3) To promote effective tax administration which means that compromise of the liability will not undermine compliance by taxpayers with the tax laws and that:

(a) Collection of the full liability will result in severe economic hardship to the taxpayer; or

(b) Regardless of the taxpayer's financial circumstances, exceptional circumstances exist such that collection of the full liability will be detrimental to voluntary compliance by taxpayers. Such exceptional circumstances include, but are not limited to, instances where the taxpayer's failure to pay the taxes assessed is the result of circumstances beyond the reasonable control of the taxpayer and is not the result of negligence on the part of the taxpayer, or instances where a reasonable person would not have expected the assessment based on previous policy of the department of revenue or information provided to the taxpayer by the department of revenue.

2. As part of the consideration for any

compromise of taxes that is based on subdivisions (2) or (3) of subsection 1 of this section, the taxpayer shall agree:

(1) That the state of Missouri shall keep all payments and other credits applied to the tax, interest, penalties or additions to tax for the periods covered by the offer;

(2) That the state of Missouri shall keep any and all amounts otherwise due the taxpayer as a result of overpayments of any tax or other liability, including interest, additions to tax and penalties, for periods ending before or as of the end of the calendar year in which the offer is accepted; except that the state shall not keep any amounts that, together with amounts already paid on the compromise exceed the liability compromised;

(3) That the taxpayer shall have no right to contest in court or otherwise the amount of the liability compromised;

(4) That the taxpayer shall bear his or her own costs, including any attorney fees;

(5) That during the three year period beginning with the date of the compromise, the taxpayer shall comply with all tax obligations arising from issues or transactions related to the issues or transactions that were the basis of the tax that is the subject of the compromise and that the taxpayer shall not challenge or protest any such tax obligations arising during the three year period; however, any statutory changes that become effective during the three year period shall apply to the taxpayer notwithstanding this provision of the compromise;

(6) That if there is a default in payment of any principal or interest due under terms of the agreement of compromise, or if the taxpayer fails to comply with the provisions of the agreement set forth in subdivision (5) of this subsection, the director of revenue may:

(a) Proceed immediately by suit to collect the entire unpaid balance of the amount agreed upon; or

(b) Proceed immediately by suit to collect as liquidated damages an amount equal to the liability compromised, minus any payments already received under the terms of the agreement, with interest on the unpaid balance from the date of default; or

(c) Disregard the amount of the compromise and apply all amounts previously paid under the agreement against the amount of the liability compromised and assess and collect by levy or suit the balance of the liability. If the director chooses this option, the taxpayer shall have the right to contest in court or otherwise the amount of the liability compromised.

3. The director's remedies under this section are cumulative and the director may pursue any combination of such remedies together or consecutively until the entire liability is paid. No action or inaction by the director shall constitute a waiver or election not to pursue any remedy granted by this section.

4. The taxpayer requesting to compromise payment of taxes, interest, additions to tax, or penalties shall provide any information reasonably requested by the director in order that the director may determine that the offer is made in good faith.

5. If compromise of taxes is agreed upon, any statute of limitations applicable to the assessment and collection of the liability compromised shall be tolled during the period beginning on the date of the compromise and ending one year after the last payment is due pursuant to the agreement.

6. The director's decision to reject or accept an offer of compromise under this section shall be based on consideration of all the facts and circumstances, including the taxpayer's record of overall compliance with the tax laws. Notwithstanding any provision of law to the contrary, the director's decision shall not be subject to review by the administrative hearing commission or any court.

7. The provisions of this section shall not apply to the resolution of any dispute of tax liability in accordance with section 32.375.

Section 1. In the event the department of

revenue enters into an agreement with a taxpayer and said agreement exceeds the department's statutory authority and the taxpayer has relied to his detriment, the department shall be permitted to honor said contract. This section shall only apply to cases where the department has collected sales tax that was not owed by the taxpayer."; and

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

HOUSE AMENDMENT NO. 23

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 1, In the Title, Line 28, by deleting all of said line and inserting in lieu thereof the following: "subject, with an emergency clause for certain sections."; and

Further amend said bill, Page 39, Section 99.847, Line 12 of said page, by inserting after all of said line the following:

"135.150. 1. [Until January 1, 1987, the director of revenue shall prescribe such rules and regulations necessary to carry out the provisions of sections 135.100 to 135.150.] **For taxpayers commencing operations on or after January 1, 2001, no more than four million dollars in tax credits may be authorized in any year under this program. The director of the department of economic development shall determine and implement appropriate procedures to ensure that the cap is not exceeded in any year. These procedures will be submitted to the joint committee on economic development policy and planning pursuant to section 620.080, RSMo.**

2. [Beginning January 1, 1987,] **The department may adopt such rules, statements of policy, procedures, forms and guidelines as may be necessary for the implementation of this program.** The director of economic development shall prescribe the method for submitting applications for [claiming] **participation in the program authorized by sections 135.100 to 135.150 and for a taxpayer receiving tax credits to claim** the tax credits [allowed in] **authorized by** subsections [2 and] 3 **and 4** of section 135.110 and shall, if such application or portion thereof is approved, certify same to the director of revenue or the director of insurance that the taxpayer claiming the credits has satisfied all requirements prescribed in sections 135.100 to 135.150 and is [therefore] eligible to claim the credits. The director of economic development shall also calculate and specify the amount of the credit earned by the taxpayer during the taxpayer's first taxable year in which such credits are claimed and for each of the nine succeeding taxable years the credits are claimed by the taxpayer and shall certify such amounts to the director of revenue or the director of insurance and shall notify the taxpayer in writing of the action taken on [his] **the taxpayer's** request for the credits and if the request for credits is disallowed, the director of economic development shall state the reason or reasons the claim for credit was disallowed. The director shall certify the extent to which earned credits can be claimed to the director of revenue or the director of insurance and shall notify the taxpayer in writing of such determination. [The director of economic development may prescribe such rules and regulations necessary to carry out the provisions of sections 135.100 to 135.150.]

3. The director of revenue and, when appropriate, the director of insurance may prescribe rules and regulations necessary to process the credits following certification by the director of economic development.

4. No rule or portion of a rule promulgated [under the authority of] **pursuant to** sections 135.100 to 135.160 shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024,] **chapter 536,** RSMo.

[4.] **5.** Any taxpayer who **commences operations before January 1, 2002, or any taxpayer who commences operations on or after January 1, 2002, and has been approved for participation in the program and** has submitted an application for claiming tax credits as [allowed in] **authorized by** section 135.110 may file with the director of economic development, a protest within sixty days (one hundred fifty days if the taxpayer is outside the United States) after the date of such certification notice or the date of the notice denying such certification. The protest shall be in

writing and shall set forth the grounds on which the protest is based.

[5.] **6.** If a protest is filed, the director of economic development shall consider the taxpayer's grounds for protest and make a determination concerning such protest. The director of economic development shall notify the taxpayer in writing of such determination within thirty days following the date on which the written protest was received. Such notice shall be mailed to the taxpayer by certified or registered mail and such notice shall set forth briefly the director of economic development's findings of fact and the basis of decision.

[6.] **7.** The decision of the director of economic development on the taxpayer's protest is final upon the expiration of thirty days from the date when [he] **the director** mails notice of his **or her** action to the taxpayer unless within this period, the taxpayer seeks review of the [director of economic development's] **director's** determination by the administrative hearing commission, which is hereby authorized."; and

Further amend said bill, Page 59, Section 135.230, Line 22 of said page, by inserting after all of said line the following:

"135.400. As used in sections 135.400 to 135.430, the following terms mean:

(1) "Certificate", a tax credit certificate issued by the department of economic development in accordance with sections 135.400 to 135.430;

(2) "Community bank", either a bank community development corporation or development bank, which are financial organizations which receive investments from commercial financial institutions regulated by the federal reserve, the office of the comptroller of the currency, the office of thrift supervision, or the Missouri division of finance. Community banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity investments in businesses or in real estate provided that such transactions have associated public benefits;

(3) "Community development corporation", [a not for profit corporation and a recipient of Community Development Block Grant (CDBG) funds pursuant to the Housing Community Development Act of 1974. Such corporations design specific, comprehensive programs to stimulate economic development, housing or other public benefits leading to the development of economically sustainable neighborhoods or communities] **a not-for-profit corporation whose board of directors is composed of business, civic and community leaders, and whose primary purpose is to encourage and promote the industrial, economic, entrepreneurial, commercial and civic development or redevelopment of a community or area, including the provision of housing and community economic development projects that benefit low-income individuals and communities**;

(4) "Department", the Missouri department of economic development;

(5) "Director", the director of the department of economic development, or a person acting under the supervision of the director;

(6) "Investment", a transaction in which a Missouri small business or a community bank receives a monetary benefit from an investor pursuant to the provisions of sections 135.403 to 135.414;

(7) "Investor", an individual, partnership, financial institution, trust or corporation meeting the eligibility requirements of sections 135.403 to 135.414. In the case of partnerships and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors;

(8) "Missouri small business", an independently owned and operated business as defined in Title 15 U.S.C. Section 632(a) and as described by Title 13 C.F.R. Part 121, which is headquartered in Missouri and which employs at least eighty percent of its employees in Missouri, except that no such small business shall employ more than one hundred employees. Such businesses must be involved in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real

estate, insurance or professional services. For the purpose of qualifying for the tax credit pursuant to sections 135.400 to 135.430, "Missouri small business" shall include cooperative marketing associations organized pursuant to chapter 274, RSMo, which are engaged in the business of producing and marketing fuels derived from agriculture commodities, without regard for whether a cooperative marketing association has more than one hundred employees. Cooperative marketing associations organized pursuant to chapter 274, RSMo, shall not be required to comply with the requirements of section 135.414;

(9) "Primary employment", work which pays at least the minimum wage and which is not seasonal or part-time;

(10) "Principal owners", one or more persons who own an aggregate of [fifty] **thirty-five** percent or more of the Missouri small business and who are involved in the operation of the business as a full-time professional activity;

(11) "Project", any commercial or industrial business or other economic development activity undertaken in a target area, designed to reduce conditions of blight, unemployment or widespread reliance on public assistance which creates permanent primary employment opportunities;

(12) "State tax liability", any liability incurred by a taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, section 375.916, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions[;

(13) "Target area", a group of blocks or a self-defined neighborhood where the rate of poverty in the area is greater than twice the national poverty rate and as defined by the department of social services in conjunction with the department of economic development. Areas of the state satisfying the criteria of this subdivision may be designated as a "target area" following appropriate findings made and certified by the departments of economic development and social services. In making such findings, the departments of economic development and social services may use any commonly recognized records and statistical indices published or made available by any agency or instrumentality of the federal or state government. No area of the state shall be a target area until so certified by the department of social services and the revitalization plan submitted pursuant to section 208.335, RSMo, has received approval].

135.403. 1. Any investor who makes a qualified investment in a Missouri small business shall be entitled to receive a tax credit equal to forty percent of the amount of the investment or, in the case of a qualified investment in a Missouri small business in a distressed community as defined by section 135.530, a credit equal to sixty percent of the amount of the investment, and any investor who makes a qualified investment in a community bank or a community development corporation shall be entitled to receive a tax credit equal to fifty percent of the amount of the investment if the investment is made in a community bank or community development corporation for direct investment. The total amount of tax credits available for qualified investments in Missouri small businesses shall not exceed [thirteen] **four** million dollars **per year for ten years** and at least [four] **two** million dollars **per year** of the amount authorized by this section and certified by the department of economic development shall be for investment in Missouri small businesses in distressed communities. Authorization for all or any part of this [four] **two** million [dollar amount] **dollars per year** shall in no way restrict the eligibility of Missouri small businesses in distressed communities, as defined in section 135.530, for the remaining amounts authorized within this section. No more than twenty percent of the tax credits available each year for investments in community banks or community development corporations for direct investment shall be certified for any one project, as defined in section 135.400. The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of sections 135.400 to 135.430 and may be used to satisfy the state tax liability of the owner of the certificate that becomes due in the tax year in which the qualified investment is made, or in any

of the [ten] **five** tax years thereafter. When the qualified small business is in a distressed community, as defined in section 135.530, the tax credit may also be used to satisfy the state tax liability of the owner of the certificate that was due during each of the previous three years in addition to the year in which the investment is made and any of the [ten] **five** years thereafter. No investor may receive a tax credit pursuant to sections 135.400 to 135.430 unless that person presents a tax credit certificate to the department of revenue for payment of such state tax liability. The department of revenue shall grant tax credits in the same order as established by subsection 1 of section 32.115, RSMo. Subject to the provisions of sections 135.400 to 135.430, certificates of tax credit issued in accordance with these sections may be transferred, sold or assigned by **filing a** notarized endorsement thereof **with the department** which names the transferee **and the amount of tax credit transferred**.

2. Five hundred thousand dollars in tax credits shall be available annually from the total amount of tax credits authorized by section 32.110, RSMo, and subdivision (4) of subsection 2 of section 32.115, RSMo, as a result of investments in community banks or community development corporations. Aggregate investments eligible for tax credits in any one Missouri small business shall not be more than one million dollars. Aggregate investments eligible for tax credits in any one Missouri small business shall not be less than five thousand dollars as of the date of issuance of the first tax credit certificate for investment in that business."; and

Further amend said bill, Page 60, Section 135.406, Line 19 of said page, by inserting after all of said line the following:

"135.408. A qualified investment in a Missouri small business may be made either through an unsecured loan or the purchase of equity or unsecured debt securities of such business. Investors in a small business qualifying for tax credits [under] **pursuant to** the provisions of sections 135.400 to 135.430, however, must collectively own less than [fifty] **sixty-five** percent of a business after their investments are made. Qualified investments in a Missouri small business must be expended for capital improvements, plant, equipment, research and development, or working capital for the business or such business activity as may be approved by the department.

135.411. The amount of the qualified investment made in a Missouri small business must remain in that business for a minimum of [five] **three** years **and, if the business is in a distressed community, it must remain in the distressed community for a minimum of five years**. Withdrawal of the investment prior to **expiration of** the minimum [five-year] period shall result in revocation of the tax credit, and repayment of any amounts of the tax credit already applied against the investor's state tax liability**, but the department may pro rate the revocation or repayment authorized by this section. The sale, change in control or going public of a business shall not trigger such a revocation if the business continues to operate**.

135.423. **Except as otherwise provided in this section,** the department may revoke a tax credit certificate **issued pursuant to sections 135.400 to 135.430 or enforce repayment of any amounts of the tax credit already applied against the investor's state liability** if any representation to the department in connection with the application proves to have been false when made or if the application violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department may determine. The department shall specify the amount of credit being revoked and shall send notice of the revocation to the investor and to the state department of revenue. **Any revocation, partial revocation or repayment of a tax credit issued pursuant to sections 135.400 to 135.430 shall apply only to the original applicant for the tax credit and not to a good faith subsequent purchaser or transferee thereof.**"; and

Further amend said bill, Page 71, Section 135.487, Line 11 of said page, by inserting after all of said line the following:

"135.500. 1. Sections 135.500 to 135.529 shall be known and may be cited as the "Missouri

Certified Capital Company Law".

2. As used in sections 135.500 to 135.529, the following terms mean:

(1) "Affiliate of a certified company":

(a) Any person, directly or indirectly owning, controlling or holding power to vote [ten] **fifteen** percent or more of the outstanding voting securities or other ownership interests of the Missouri certified capital company;

(b) Any person [ten] **fifteen** percent or more of whose outstanding voting securities or other ownership interest are directly or indirectly owned, controlled or held with power to vote by the Missouri certified capital company;

(c) Any person directly or indirectly controlling, controlled by, or under common control with the Missouri certified capital company;

(d) A partnership in which the Missouri certified capital company is a general partner;

(e) Any person who is an officer, director or agent of the Missouri certified capital company or an immediate family member of such officer, director or agent;

(2) "Applicable percentage", one hundred percent;

(3) "Capital in a qualified Missouri business", any debt, equity or hybrid security, of any nature and description whatsoever, including a debt instrument or security which has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants which are acquired by a Missouri certified capital company as a result of a transfer of cash to a business. Capital in a qualified Missouri business shall not include secured debt instruments;

(4) "Certified capital **investment**", an investment of cash by an investor in a Missouri certified capital company **that fully funds either the investor's equity interest in a certified capital company, a qualified debt instrument that a certified capital company issues, or both**;

(5) "Certified capital company", any partnership, corporation, trust or limited liability company, whether organized on a profit or not-for-profit basis, that is located, headquartered and registered to conduct business in Missouri that has as its primary business activity, the investment of cash in qualified Missouri businesses, and which is certified by the department as meeting the criteria of sections 135.500 to 135.529;

(6) "Department", the Missouri department of economic development;

(7) "Director", the director of the department of economic development or a person acting under the supervision of the director;

(8) "Investor", any insurance company that contributes cash;

(9) "Liquidating distribution", payments to investors or to the certified capital company from earnings;

(10) "Person", any natural person or entity, including a corporation, general or limited partnership, trust or limited liability company;

(11) **"Qualified debt instrument", a debt instrument that a certified capital company issues at par value or at a premium that:**

(a) Has an original maturity date of at least five years from the date on which it was issued;

(b) Has a repayment schedule that is no faster than a level principal amortization; and

(c) Until the certified capital company may make distributions other than qualified distributions, the interest, distribution or payment features of which are not related to the certified capital company's profitability or the performance of its investment portfolio;

(12) "Qualified distribution", any distribution of payment to equity holders of a certified capital company in connection with the following:

(a) Reasonable costs and expenses of forming, syndicating, managing and operating the certified capital company;

(b) Management fees for managing and operating the certified capital company [; and] **which, on an annual basis, do not exceed two and one-half percent of the certified capital**

company's total certified capital;

(c) Reasonable and necessary fees paid for professional services related to the operation of the certified capital company; and

[(c)] **(d)** Any increase in federal or state taxes, penalties and interest, including those related to state and federal income taxes, of equity owners of a certified capital company which related to the ownership, management or operation of a certified capital company;

[(12)] **(13)** "Qualified investment", the investment of cash by a Missouri certified capital company in such a manner as to acquire capital in a qualified Missouri business**. The investment must also be for the purchase of an equity security of the qualified business or a debt security of the qualified business, provided the debt has a maturity of at least one year. The debt security must be unsecured or be convertible into equity securities or equity participation instruments such as options or warrants. As a condition of the investment, the qualified business must agree to retain its headquarters and principal business operations in the state, or in a distressed community, if the investment is to be credited to a distressed community allocation, for three years following any qualified investment**;

(14) "Qualified Missouri agricultural business", any independently owned and operated business, which is headquartered and located in Missouri, which is involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, real estate development, insurance and professional services provided by accountants, lawyers or physicians, and which is either:

(a) A rural agricultural business whose projects add value to agricultural products and aid the economy of a rural community, including any development facility as defined in subdivision (3) of subsection 2 of section 348.430, RSMo, and whose gross sales during its most recent complete fiscal year shall not have exceeded five million dollars; or

(b) Any business that is an eligible borrower as described pursuant to Section 4279.108 of the Rural Development Instructions of the United States Department of Agriculture and whose gross sales during its most recent complete fiscal year shall not have exceeded five million dollars;

[(13)] **(15)** "Qualified Missouri business", an independently owned and operated business, which is headquartered and [located] **has its principal business operations** in Missouri and which is in need of venture capital and cannot obtain conventional financing. Such business**:**

(a) Shall have no more than two hundred employees[,]**;**

(b) Shall have at least eighty percent of [which are] **its employees** employed in Missouri[. Such business]**;**

(c) Shall be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, real estate development, insurance and professional services provided by accountants, lawyers or physicians[.]**;**

(d) If [such business] **it** has been in existence for three years or less, its gross sales during its most recent complete fiscal years shall not have exceeded four million dollars. If such business has been in existence for longer than three years, its gross sales during its most recent complete fiscal year shall not have exceeded three million dollars[.]**;**

(e) Shall certify that it will maintain its headquarters and principal business operations in this state, or in a distressed community, if the investment is to be credited to a distressed community allocation, for three years following any qualified investment; and

(f) If any business which is classified as a qualified Missouri business at the time of the first investment in such business by a Missouri certified capital company shall, for a period of seven years

from the date of such first investment, remain classified as a qualified Missouri business and may receive follow-on investments from any Missouri certified capital company and such follow-on investments shall be qualified investments even though such business may not meet the [other] qualifications of **paragraphs (a), (b) and (d) of** this [subsection] **subdivision** at the time of such follow-on investments**, provided, however, that such business continues to meet the other requirements set forth in this subdivision, and such business reaffirms its intention to maintain its headquarters and its principal business operations in this state, or in a distressed community, if the investment is to be credited to a distressed community allocation**;

[(14)] **(16)** "State premium tax liability", any liability incurred by an insurance company pursuant to the provisions of section 148.320, 148.340, 148.370 or 148.376, RSMo, and any other related provisions, which may impose a tax upon the premium income of insurance companies after January 1, 1997.

135.503. 1. Any investor that makes an investment of certified capital shall, in the year of investment, earn a vested credit against state premium tax liability equal to the applicable percentage of the investor's investment of certified capital. An investor shall be entitled to take up to ten percent of the vested credit in any taxable year of the investor. Any time after three years after August 28, 1996, the director, with the approval of the commissioner of administration, may reduce the applicable percentage on a prospective basis. Any such reduction in the applicable percentage by the director shall not have any effect on credits against state premium tax liability which have been claimed or will be claimed by any investor with respect to credits which have been earned and vested pursuant to an investment of certified capital prior to the effective date of any such change.

2. An insurance company claiming a state premium tax credit earned through an investment in a certified capital company shall not be required to pay any additional retaliatory tax levied pursuant to section 375.916, RSMo, as a result of claiming such credit.

3. The credit against state premium tax liability which is described in subsection 1 of this section may not exceed the state premium tax liability of the investor for any taxable year. All such credits against state premium tax liability may be carried forward indefinitely until the credits are utilized. The maximum amount of certified capital in one or more certified capital companies for which earned and vested tax credits will be allowed in any year to any one investor or its affiliates shall be limited to ten million dollars.

4. Except as provided in subsection 5 of this section, the aggregate amount of certified capital for which earned and vested credits against state premium tax liability are allowed for all persons pursuant to sections 135.500 to 135.529 shall not exceed the following amounts: for calendar year 1996, $0.00; for calendar year 1997, an amount which would entitle all Missouri certified capital company investors to take aggregate credits of five million dollars; and for any year thereafter, an additional amount to be determined by the director but not to exceed aggregate credits of ten million dollars for any year with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of section 33.282, RSMo, provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years to take them, pursuant to subsection 1 of this section. During any calendar year in which the limitation described in this subsection will limit the amount of certified capital for which earned and vested credits against state premium tax liability are allowed, certified capital for which credits are allowed will be allocated in order of priority based upon the date of filing of information described in subdivision (1) of subsection 5 of section 135.516. [Certified capital limited in any calendar year by the application of the provisions of this subsection shall be allowed and allocated in the immediately succeeding calendar year in the order of priority set forth in this subsection.] The department shall make separate allocations of certified capital for which credits are allowed under the limitations described in this subsection and under the limitations described in subsection 5 of this section.

5. In addition to the maximum amount pursuant to subsection 4 of this section, the aggregate amount of certified capital for which earned and vested credits against state premium tax liability are allowed for persons pursuant to sections 135.500 to 135.529 shall be the following: for calendar year 1999 [and for any year thereafter,] an amount to be determined by the director which would entitle all Missouri certified capital company investors to take aggregate credits not to exceed four million dollars for any year**; and for calendar year 2002, an amount to be determined by the director, but not to exceed forty million dollars, entitling all Missouri certified capital company investors in the applicable funds to take aggregate credits not to exceed four million dollars for any year,** with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of section 33.282, RSMo, provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years or pursuant to the provisions of subsection 4 **or 5** of this section to take them, pursuant to subsection 1 of this section. For purposes of any requirement regarding the schedule of qualified investments for certified capital for which earned and vested credits against state premium tax liability are allowed pursuant to this subsection only, the definition of a "qualified Missouri business" as set forth in subdivision [(13)] **(15)** of subsection 2 of section 135.500 means**:**

(a) A Missouri business that is located in a distressed community as defined in section 135.530, **has at least eighty percent of its employees in distressed communities,** and meets all of the requirements of subdivision [(13)] **(15)** of subsection 2 of section 135.500, except that its gross sales during its most recent complete fiscal year shall not have exceeded five million dollars**; or**

(b) With respect to certified capital invested in 2002, a qualified Missouri agricultural business.

During any calendar year in which the limitation described in this subsection limits the amount of additional certified capital for which earned and vested credits against state premium tax liability are allowed, additional certified capital for which credits are allowed shall be allocated in order of priority based upon the date of filing of information described in subdivision (1) of subsection 5 of section 135.516 with respect to such additional certified capital. The department shall make separate allocations of certified capital for which credits are allowed under the limitations described in this subsection and under the limitations described in subsection 4 of this section. No limitation applicable to any certified capital company with respect to certified capital for which credits are allowed pursuant to subsection 4 of this section shall limit the amount of certified capital for which credits are allowed pursuant to this subsection. No limitation applicable to any certified capital company with respect to certified capital for which credits are allowed pursuant to this subsection shall limit the amount of certified capital for which credits are allowed pursuant to subsection 4 of this section.

6. The department shall advise any Missouri certified capital company, in writing, within fifteen days after receiving the filing described in subdivision (1) of subsection 5 of section 135.516 whether the limitations of subsection [3] **4 or 5** of this section then in effect will be applicable with respect to the investments and credits described in such filing with the department.

7. In no event shall the cumulative amount of tax credits authorized by this section exceed one hundred eighty million dollars.

135.508. **1.** The department may certify profit or not-for-profit entities which submit an application to be designated as a Missouri certified capital company. The department shall review the organizational documents for each applicant for certification and the business history of the applicant, determine that the Missouri certified capital company's cash, marketable securities and other liquid assets are at least five hundred thousand dollars, determine that the liquid asset base for certified companies is at least five hundred thousand dollars at all times during the company's participation in the program authorized by sections

135.500 to 135.529, and determine that the officers and the board of directors, partners, trustees or managers are thoroughly acquainted with the requirements of sections 135.500 to 135.529.

2. To be certified, at least two of the principals have a minimum of five years of experience making venture capital investments out of private equity funds, with no less than twenty million dollars being provided by third-party investors for investment in the early stage of operating businesses. At least one full-time manager or principal of the certified capital company who has such experience must be primarily located in an office of the certified capital company which is based in this state.

3. To be certified, there must be no evidence that the applicant has:

(1) Violated any provision of this law;

(2) Made a material misrepresentation or false statement or concealed any essential or material fact from any person during the application process or with respect to information and reports required of certified capital companies pursuant to this law;

(3) Been convicted of, or entered a plea of guilty or nolo contendere to, a crime against the laws of this state or any other state or of the United States or any other country or government, including a fraudulent act in connection with the operation of a certified capital company, or in connection with the performance of fiduciary duties in another capacity;

(4) Been adjudicated liable in a civil action on grounds of fraud, embezzlement, misrepresentation or deceit; or

(5) Been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment or administrative order by any court of competent jurisdiction, administrative law judge, or any state or federal agency, national securities, commodities, or option exchange, or national securities, commodities or option association, involving a material violation of any federal or state securities or commodities law or any rule or regulation adopted pursuant to such law, or any rule or regulation of any national securities, commodities or options exchange, or national securities, commodities or options association; or

(6) Been the subject of any injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance or small loan companies, real estate, mortgage brokers or other related or similar industries.

4. No insurance company which receives tax credits permitted under sections 135.500 to 135.529 for an investment in a Missouri certified capital company shall, individually or with or through one or more affiliates, be a managing general partner of or control the direction of investments of that Missouri certified capital company. Within seventy-five days of application, the department shall either issue the certification and notify the department of revenue and the director of the department of insurance of such certification or shall refuse the certification and communicate in detail to the applicant the grounds for the refusal, including the suggestions for the removal of those grounds.

5. The department shall be responsible for the administration of the tax credits authorized by sections 135.500 to 135.529. No rule or portion of a rule promulgated under the authority of sections 135.500 to 135.529 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be

invalid and void.

135.516. 1. To continue to be certified, a Missouri certified capital company shall make qualified investments according to the following schedule:

(1) Within two years after the date on which a Missouri certified capital company is designated as a Missouri certified capital company at least twenty-five percent of its certified capital shall be, or have been, placed in qualified investments;

(2) Within three years after the date on which a Missouri certified capital company is designated as a Missouri certified capital company at least forty percent of its certified capital shall be, or have been, placed in qualified investments;

(3) Within four years after the date on which a Missouri certified capital company is designated as a Missouri certified capital company, at least fifty percent of its total certified capital shall be, or have been, placed in qualified investments. A Missouri certified capital company may not make an investment in an affiliate of the certified capital company. For the purposes of this subsection, if a legal entity is not an affiliate before a certified capital company initially invests in the entity, it will not be an affiliate if a certified capital company provides additional investment in such entity subsequent to its initial investment;

(4) A certified capital company, at least fifteen working days prior to making what it determines to be an initial qualified investment in a specific qualified Missouri business, shall certify to the department that the company in which it proposes to invest meets the definition of a qualified Missouri business pursuant to subdivision (14) of subsection 2 of section 135.500. The certified capital company shall state the amount of capital it intends to invest and the name of the business in which it intends to invest. The certified capital company shall also provide to the department an explanation of its determination that the business meets the definition of a qualified Missouri business. If the department determines that the business does not meet the definition of a qualified Missouri business, it shall, within the fifteen-working-day period prior to the making of the proposed investment, notify the certified capital company of its determination and an explanation thereof. If the department fails to notify the certified capital company with respect to the proposed investment within the fifteen-working-day period prior to the making of the proposed investment, the company in which the certified capital company proposes to invest shall be deemed to be a qualified Missouri business. If a certified capital company fails to notify the department prior to making an initial investment in a business, the department may subsequently determine that the business in which the certified capital company invested was not a qualified Missouri business even though the business, at the time of the investment, met the requirements of subdivision (14) of subsection 2 of section 135.500;

(5) All certified capital which is not required to be placed in qualified investments or which has been placed in qualified investments and can be received by the company[, may be held or invested in such manner as the Missouri certified capital company, in its discretion, deems appropriate]**:**

(a) Shall be held in a financial institution or held by a registered broker-dealer;

(b) Shall not be invested in a certified investor of the certified capital company or any affiliate of the certified investor of the certified capital company;

(c) Shall be invested only in:

a. Any United States Treasury obligations;

b. Certificates of deposit or other obligations, maturing within three years after acquisitions of such certificates or obligations, issued by a financial institution or trust company incorporated pursuant to the laws of the United States;

c. Obligations which (i) are rated "A" or better by any nationally recognized credit rating agency, or (ii) issued by, or guaranteed with respect to payment by, an entity whose unsecured indebtedness is rated "A" or better by any nationally recognized credit rating agency and which is not subordinated to other unsecured indebtedness of the issuer or

guarantor, as the case may be;

d. Mortgage-backed securities, with an average life of five years or less, after the acquisition of such securities, which are rated "A" or better by any nationally recognized credit rating agency;

e. Collateralized mortgage obligations and real estate mortgage investment conduits that are direct obligations of an agency of the United States government, are not private-label issues, are in book-entry form, and do not include the classes of interest only, principal only, residual or zero; or

f. Interests in money market funds, the portfolio of which is limited to cash and obligations described in subparagraphs a to e of this paragraph.

2. The proceeds of all certified capital which is received by a certified capital company after it was originally placed in qualified investments may be placed again in qualified investments and shall count toward any requirement in sections 135.500 to 135.529 with respect to placing certified capital in qualified investments.

[2.] **3.** A certified capital company may make qualified distributions at any time. In order to make distributions, other than qualified distributions, a certified capital company must have placed an amount cumulatively equal to one hundred percent of its certified capital in qualified investments**, and, with respect to qualified investments made with certified capital raised after August 28, 2001, twenty-five percent of such qualified investment must be in qualified Missouri agricultural businesses**. Cumulative distributions to equity holders, other than qualified distributions, in excess of the certified capital company's original certified capital and any additional capital contributions to the certified capital company shall be subject to audit by a nationally recognized certified public accounting firm acceptable to the department, at the expense of the certified capital company. The audit shall determine whether aggregate cumulative distributions to all investors and equity holders, other than qualified distributions, when combined with all tax credits utilized by investors pursuant to sections 135.500 to 135.529, have resulted in an annual internal rate of return of fifteen percent computed on the sum of total original certified capital of the certified capital company and any additional capital contributions to the certified capital company. Twenty-five percent of distributions made, other than qualified distributions, in excess of the amount required to produce a fifteen percent annual internal rate of return, as determined by the audit, shall be payable by the certified capital company to the Missouri development finance board. Distributions or payments to debt holders of a certified capital company, however, may be made without restriction with respect to debt owed to them by a certified capital company. A debt holder that is also an investor or equity holder of a certified capital company may receive distributions or payments with respect to such debt without restriction.

4. In the event that a business in which a qualified investment is made fails to comply with its agreement to retain its headquarters and principal business operations in the state, or in a distressed community, if the investment is to be credited to a distressed community allocation, for three years following any qualified investment, by relocating its headquarters or principal business operations of such business within the state to another state, the cumulative amount of qualified investment shall be reduced for purposes of this subsection only by the amount of such qualified investment, unless:

(1) The certified capital company invests an amount of at least equal to the investment of certified capital in the relocated business in a qualified business located in the state or in a distressed community, if the investment is to be credited to a distressed community allocation, within six months of the relocation; or

(2) The business demonstrates that it has returned its principal business operations to Missouri or a distressed community, if the investment is to be credited to a distressed community allocation, within three months of such relocation.

[3.] **5.** No qualified investment may be made

at a cost to a Missouri certified capital company greater than fifteen percent of the total certified capital under management of the Missouri certified capital company at the time of investment.

[4.] **6.** Documents and other materials submitted by Missouri certified capital companies or by businesses for purposes of the continuance of certification may be deemed "closed records" pursuant to the provisions of section 620.014, RSMo.

[5.] **7.** Each Missouri certified capital company shall report the following to the department:

(1) As soon as practicable after the receipt of certified capital, the name of each investor from which the certified capital was received, the amount of each investor's investment of certified capital and tax credits computed without regard to any limitations under subsection [3] **4** of section 135.503, and the date on which the certified capital was received;

(2) On a quarterly basis, the amount of the Missouri certified capital company's certified capital at the end of the quarter, whether or not the Missouri certified capital company has invested more than fifteen percent of the total certified capital under management in any one company, and all qualified investments that the Missouri certified capital company has made;

(3) Each Missouri certified capital company shall provide annual audited financial statements to the department which include an opinion of an independent certified public accountant to the department within ninety days of the close of the fiscal year. The audit shall address the methods of operation and conduct of the business of the Missouri certified capital company to determine if the Missouri certified capital company is complying with the statutes and program rules and that the funds received by the Missouri certified capital company have been invested as required within the time limits provided by sections 135.500 to 135.529.

135.527. 1. On an annual basis, on or before January thirty-first, each certified capital company shall file with the department, on forms or in a manner prescribed by the department, a report for the period ending December thirty-first of the immediately preceding calendar year:

(1) The total dollar amount the certified capital company received from certified investors, the identity of the certified investors and the amount received from each certified investor;

(2) The total dollar amount the certified capital company invested and the amount invested in qualified businesses, together with the identity and location of those businesses and the amount invested in each qualified business; and

(3) The total number of permanent, full-time jobs either created or retained by the qualified business, the average wage of the jobs created or retained, the industry sectors in which the qualified businesses operate and any additional capital invested in qualified businesses from sources other than certified capital companies.

2. The report shall be verified by one or more principals of the certified capital company submitting the form.

3. The department may audit and examine the accounts, books or records of certified capital companies, certified investors and qualified Missouri businesses that received qualified investments for the purpose of ascertaining the correctness of any report filed, and to ascertain a certified capital company's compliance with the provisions of sections 135.500 to 135.529.

4. Beginning on March 31, 2002, and on March thirty-first of each even-numbered year thereafter, the department shall report on a biennial basis to the governor, the speaker of the house of representatives, and the president pro tempore of the senate on or before April first:

(1) The total dollar amount each certified capital company received from all certified investors and any other investor, the identity of the certified investors, and the total amount of premium tax credit used by each certified investor for the previous calendar year;

(2) The total dollar amount invested by each certified capital company and that portion invested in qualified businesses, the identity and location of those businesses, the amount invested in each qualified business and the total number of permanent, full-time jobs created or retained by each qualified business; and

(3) The return for the state as a result of the certified capital company investments, including the extent to which:

(a) Certified capital company investments have contributed to employment growth;

(b) The wage level of businesses in which certified capital companies have invested exceeds the average wage for the county in which the jobs are located; and

(c) The investments of the certified capital companies in qualified businesses have contributed to expanding or diversifying the economic base of the state."; and

Further amend said bill, Page 72, Section 135.530, Line 16 of said page, by inserting after all of said line the following:

"[135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall assign appropriate standard industrial classification numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall, also be eligible to receive a tax credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the

department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community. A corporation, partnership or sole proprietorship, which has no more than one hundred employees for whom payroll taxes are paid, and which is already located in a distressed community, which expends funds for such equipment as set forth in this subsection in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a twenty-five percent tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, up to a maximum of seventy-five thousand dollars in tax credits for such additional equipment and expense per such entity. Tax credits pursuant to this subsection or subsection 1 may be used to satisfy the state tax liability due in the tax year the credit is certified, and that was due during the previous three years, and in any of the five tax years thereafter.

4. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

5. The tax credits allowed pursuant to subsections 1, 2 and 3 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 3 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 4 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

6. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1 or 3 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

7. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245,

respectively, for the same business for the same tax period.

8. An existing business located within a distressed community, that hires new employees within such distressed communities may be eligible for the tax credits provided in this section. In order to be eligible for such tax credits, the business located within the distressed community, during one of its tax years, must employ within such distressed communities at least twice as many workers as were employed at the beginning of that tax year. Prior to the addition of the new employees, the business shall have no more than one hundred employees. The provisions of this section shall apply only to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, or telecommunications business or a professional firm.]

135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than [seventy-five] **sixty** percent of its employees at [the facility] **facilities** in [the] distressed [community] **communities**, and which has fewer than one hundred **fifty** employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall [assign] **specify which** appropriate standard industrial classification numbers [to the companies which are]**, or North American Industrial Classification System numbers assigned to a business make the business** eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall, also be eligible to receive a tax credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for **the purchase of or at least a two-year lease of** computer equipment and its maintenance, medical

laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of [seventy-five] **one hundred fifty** thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community. **The maximum tax credit allowed pursuant to this subsection shall apply to entities which have previously qualified for a tax credit pursuant to this subsection for future tax years for which such entities qualify.**

4. A corporation, partnership or sole partnership, which has no more than one hundred employees for whom payroll taxes are paid, which is already located in a distressed community and which expends funds for such equipment pursuant to subsection 3 of this section in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the funds expended for such additional equipment per such entity. Tax credits allowed pursuant to this subsection or subsection 1 of this section may be carried back to any of the three prior tax years and carried forward to any of the five tax years.

5. An existing corporation, partnership or sole proprietorship that is located within a distressed community and that relocates employees from another facility outside of the distressed community to its facility within the distressed community, and an existing business located within a distressed community that hires new employees for that facility may both be eligible for the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits, such a business, during one of its tax years, shall employ within a distressed community at least twice as many employees as were employed at the beginning of that tax year. A business hiring employees shall have no more than [one] **two** hundred employees **in the distressed community** before the addition of the new employees. This subsection shall only apply to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming or telecommunications business, or a professional firm.

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by **filing a** notarized endorsement **thereof with the department** which names the transferee **and the amount of tax credits transferred, and any revocation, partial revocation or repayment of a tax credit issued pursuant to this section shall apply only to the original applicant for the tax credit and not to a good faith subsequent purchaser or transferee thereof**.

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than [ten] **seven** million **five hundred thousand** dollars for each year beginning in 1999. The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

8. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the

facility, unless the affected collective bargaining unit concurs with the move.

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period. **A change in ownership or control of a taxpayer shall not revoke or otherwise restrict the tax credits allowed pursuant to this section.**

135.545. A taxpayer shall be allowed a credit for taxes paid pursuant to chapter 143, 147 or 148, RSMo, in an amount equal to fifty percent of a qualified investment in transportation development for aviation, mass transportation, including parking facilities for users of mass transportation, railroads, ports, including parking facilities and limited access roads within ports, waterborne transportation, bicycle and pedestrian paths, or rolling stock located in a distressed community as defined in section 135.530, and which are part of a development plan approved by the appropriate local agency. If the department of economic development determines the investment has been so approved, the department shall grant the tax credit in order of date received. A taxpayer may carry forward any unused tax credit for up to ten years and may carry it back for the previous three years until such credit has been fully claimed. Certificates of tax credit issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee. The tax credits allowed pursuant to this section shall be for an amount of no more than [ten] **seven** million **five hundred thousand** dollars for each year. This credit shall apply to returns filed for all taxable years beginning on or after January 1, 1999. [Any unused portion of the tax credit authorized pursuant to this section shall be available for use in the future by those entities until fully claimed.]"; and

Further amend said bill, Page 112, Section 347.189, Line 21 of said page, by inserting after all of said line the following:

"348.300. As used in sections 348.300 to 348.318, the following terms mean:

(1) "Commercial activity located in Missouri", any research, development, prototype fabrication, and subsequent precommercialization activity, or any activity related thereto, conducted in Missouri for the purpose of producing a service or a product or process for manufacture, assembly or sale or developing a service based on such a product or process by any person, corporation, partnership, joint venture, unincorporated association, trust or other organization doing business in Missouri. Subsequent to January 1, 1999, a commercial activity located in Missouri shall mean only such activity that is located within a distressed community, as defined in section 135.530, RSMo;

(2) "Follow-up capital", capital provided to a commercial activity located in Missouri **or any other Missouri business** in which a qualified fund has previously invested seed capital or start-up capital **within the previous three years** and which does not exceed ten times the amount of such seed and start-up capital;

(3) "Qualified contribution", cash contribution to a qualified fund;

(4) "Qualified economic development organization", any corporation organized under the provisions of chapter 355, RSMo, which has as of January 1, 1991, obtained a contract with the department of economic development to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in the state of Missouri; and the Missouri technology corporation organized pursuant to the provisions of sections 348.253 to 348.266;

(5) "Qualified fund", any corporation, partnership, joint venture, unincorporated association, trust or other organization which is established under the laws of Missouri after December 31, 1985, which meets all of the following requirements established by this subdivision. The fund shall have as its sole purpose and business the making of investments, of which at least ninety percent of the dollars invested shall be qualified investments. The fund shall enter into a contract with one or more qualified economic

development organizations which shall entitle the qualified economic development organizations to receive not less than ten percent of all distributions of equity and dividends or other earnings of the fund **only when such distributions of equity and dividends are made or other earnings are distributed**. Such contracts shall require the qualified fund to transfer to the Missouri technology corporation organized pursuant to the provisions of sections 348.253 to 348.266, this interest and make corresponding distributions thereto in the event the qualified economic development organization holding such interest is dissolved or ceases to do business for a period of one year or more;

(6) "Qualified investment", any investment of seed capital, start-up capital, or follow-up capital in any commercial activity located in Missouri;

(7) "Person", any individual, corporation, partnership or other entity;

(8) "Seed capital", capital provided to a commercial activity located in Missouri for research, development and precommercialization activities to prove a concept for a new product or process or service, and for activities related thereto;

(9) "Start-up capital", capital provided to a commercial activity located in Missouri for use in preproduction product development or service development or initial marketing thereof, and for activities related thereto;

(10) "State tax liability", any state tax liability incurred by a taxpayer under the provisions of chapters 143, 147 and 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions;

(11) "Uninvested capital", the amount of any distribution, other than of earnings, by a qualified fund made within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318; or the portion of all qualified contributions to a qualified fund which are not invested as qualified investments within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318 to the extent that the amount not so invested exceeds ten percent of all such qualified contributions."; and

Further amend said bill, Page 119, Section 447.700, Line 10 of said page, by inserting after all of said line the following:

"[620.1400. Sections 620.1400 to 620.1460 shall be known and may be cited as the "Missouri Individual Training Account Program Act" and its provisions shall be effective only within distressed communities as defined by section 135.530, RSMo.]

[620.1410. There is hereby established an "Individual Training Account Program" within the department of economic development. Job training and retraining activities conducted pursuant to the provisions of sections 620.1400 to 620.1460 shall be directed to employee advancement, where jobs are linked to training before the training commences, and shall emphasize upgrade training where current or potential employers, by means of educational programs, provide existing employees with training for higher skilled positions. Job training activities provided pursuant to the provisions of the individual training account program shall attempt to prepare employed workers, including those with obsolete or inadequate job skills, for positions that remain unfilled or that may be created by current or potential employers.]

[620.1420. As used in sections 620.1400 to 620.1460, the following terms mean:

(1) "Costs of classroom training", the normal costs incurred in the provision of classroom training which may also include specifically identified costs incurred for instructors, classroom space and facilities, administrative support services, and directly related expenses, that together do not exceed the amount normally allowed for support of vocational and technical classes;

(2) "Department", the department of economic development;

(3) "Employee", a full-time or part-time employed worker whose salary is equal to or less than two hundred percent of the federal poverty level;

(4) "Employee upgrade training", the progressive development of skills associated with the defined set of work processes. Such training shall be consistent with a career pattern of advancement, as measured by skill proficiency and the progressive earnings and related benefits, that are recognized within an occupation, trade or industry;

(5) "Individual training account", an account funded by the tax credits provided for in section 620.1440 for the provision of employee upgrade training to employees through their participation in classroom training provided by educational institutions;

(6) "Local educational institution", a publicly funded or privately funded local educational institution which is certified by a recognized accrediting association as capable of providing adequate classroom training to accomplish the purpose of sections 620.1400 to 620.1460.]

[620.1430. 1. A Missouri employer who desires to participate in the individual training account program shall provide the department of economic development with notification of intent to participate. The notification shall include, but need not be limited to, the names and occupations of employees whom the employer has selected to be trained, whether or not the employees are currently working for the employer, the name of the local educational institution that will provide the training, and a brief description of the training to be given by the institution.

2. The employer shall have complete discretion in the selection of the local educational institution or institutions to provide training and shall be responsible for the payment of the costs of classroom training.]

[620.1440. 1. Employers may be reimbursed for the costs of training provided pursuant to the provisions of the individual training account program. Such reimbursement shall be in the form of tax credits as authorized in subsection 2 of this section. The tax credits may be claimed for courses provided in no more than two calendar years for each employee. For each year, the maximum amount of credit per employee which can be certified by the department of economic development shall be the lesser of fifty percent of the costs of classroom training or one thousand five hundred dollars.

2. Tax credits may be claimed against any liability incurred by the employer pursuant to the provisions of chapter 143, RSMo, and chapter 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo. Earned tax credits may be carried forward for a period not to exceed five years and may be sold or transferred.

3. No claim for tax credits submitted to the department by an employer shall be certified until the employer provides documentation that an employee has successfully completed the employee's course training and has been employed by the employer in a new, full-time position for a period of at least three months. It must be demonstrated satisfactorily to the department that the new position in which the employee located is an upgrade in employment, in terms of salary and responsibilities, from the previously held position. All such increases in salary shall be in addition to normal cost-of-living increases provided for in authorized labor-management

contracts. If the employee was previously employed in a part-time position, the base salary for the position shall be calculated as if it were a full-time position.]

[620.1450. The maximum amount of tax credits allowable pursuant to the provisions of the individual training account program shall not annually exceed six million dollars.]

[620.1460. The department of economic development may promulgate necessary rules and regulations to carry out the provisions of sections 620.1400 to 620.1460. No rule or portion of a rule promulgated pursuant to the authority of sections 620.1400 to 620.1460 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]";and

Further amend said bill, Page 130, Section 1, Line 10 of said page, by inserting after all of said line the following:

"Section B. Because of the need to reallocate and extend the tax credits contained in this section, the repeal and reenactment of sections 135.150, 135.400, 135.403, 135.408, 135.411, 135.423, 135.535, 135.545 and 348.300, and the repeal of sections 135.535, 620.1400, 620.1410, 620.1420, 620.1430, 620.1440, 620.1450 and 620.1460 of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 135.150, 135.400, 135.403, 135.408, 135.411, 135.423, 135.535, 135.545 and 348.300, and the repeal of sections 135.535, 620.1400, 620.1410, 620.1420, 620.1430, 620.1440, 620.1450 and 620.1460 of section A of this act shall be in full force and effect upon its passage and approval."; and

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

HOUSE AMENDMENT NO. 24

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 112, Section 347.189, Line 21, by adding after all of said line the following:

"348.302. 1. Any person who makes a qualified contribution to a qualified fund shall be entitled to receive a tax credit equal to **sixty** percent of the amount of the qualified contribution. The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of sections 348.300 to 348.318 and may be used to satisfy the state tax liability of the owner of such certificate that becomes due in the tax year in which the qualified contribution is made, or in any of the ten tax years thereafter. No person may receive a tax credit pursuant to sections 348.300 to 348.318 unless that person presents a tax credit certificate to the department of revenue for payment of such state tax liability.

2. The amount of such qualified contributions which can be made is limited so that the aggregate of all tax credits authorized [under] **pursuant to** the provisions of sections 348.300 to 348.318 shall not exceed [nine] **four** million dollars **per year plus any unused amounts from the previous year pursuant to sections 135.535 and 135.545, RSMo**. All tax credits authorized [under] **pursuant to** the provisions of this section may be transferred, sold or assigned **by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credits transferred**."; and

Further amend said title, enacting clause and intersectional references.

HOUSE AMENDMENT NO. 25

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 74, Section 172.930, Line 24, by inserting after all of said section the following:

"177.086. 1. Any school district authorizing the construction of facilities which may exceed an expenditure of [twelve thousand five hundred] **twenty-five thousand** dollars shall publicly advertise[, for two successive weeks,] in a newspaper of general publication, located within the county in which said school district is located, or if there be no such newspaper, in a newspaper of general publication in an adjoining county for bids

on said construction **for any two days of highest readership in a period of two consecutive weeks. It shall be sufficient notice for a school district to place a minimal notice in the newspaper pursuant to this subsection directing attention to full notice when the district also posts a full notice at the school district building headquarters and, if applicable, on the Internet**.

2. No bids shall be entertained by the school district which are not made in accordance with the specifications furnished by them and all contracts shall be let to the lowest responsible bidder complying with the terms of the letting, provided that the said school district shall have the right to reject any and all bids.

3. All bids must be submitted sealed and in writing, to be opened publicly at time and place of the district's choosing.

4. If a board of education, by unanimous decision of the whole board, declares the repair of a structure an emergency, the requirements of subsection 1 of this section shall be waived. The necessity of the repair must be the result of an unanticipated occurrence. The district shall make a reasonable effort to secure competitive bids for such repairs or replacements."; and

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

HOUSE AMENDMENT NO. 26

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 35, Section 71.194, Line 5, by inserting the following after said line:

"72.300. Any two or more municipalities which are adjoining or contiguous to each other on two or more sides and which are located in a county of the third class having a population of not less than [twenty-five] **twenty thousand** nor more than thirty thousand may provide for the absorption of the corporate existence and the territorial limits of one or more of the municipalities by another such municipality in the manner provided in sections 72.300 to 72.350."; and

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

HOUSE AMENDMENT NO. 27

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 74, Section 138.020, Line 19, by inserting after all of said line the following:

"139.050. 1. In all constitutional charter cities in this state which have seven hundred thousand inhabitants or more, all current and all delinquent general, school and city taxes may be paid entirely, or in installments of at least twenty-five percent of the taxes, and the delinquent taxes shall bear interest at the rate provided by section 140.100, RSMo, and shall be subject to the fees provided by law.

2. The director of revenue shall issue receipts for the partial payments.

3. Subsection 1 of this section shall not apply to payments for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.

139.052. 1. The governing body of any county may by ordinance or order provide for the payment of all or any part of current and delinquent real property taxes, in such installments and on such terms as the governing body deems appropriate. Additionally, the county legislative body may limit the right to pay such taxes in installments to certain classes of taxpayers, as may be prescribed by ordinance or order. Any delinquent taxes shall bear interest at the rate provided by section 140.100, RSMo, and shall be subject to the fees provided by law.

2. The county official charged with the duties of the collector shall issue receipts for any installment payments.

3. Installment payments made at any time during a tax year shall not affect the taxpayer's right to protest the amount of such tax payments under applicable provisions of law.

4. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section

381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.

139.053. 1. The governing body of any county, excluding township counties, may by ordinance or order provide for the payment of all or any part of current real and personal property taxes which are owed, at the option of the taxpayer, on an annual, semiannual or quarterly basis at such times as determined by such governing body.

2. The ordinance shall provide the method by which the amount of property taxes owed for the current tax year in which the payments are to be made shall be estimated. The collector shall submit to the governing body the procedures by which taxes will be collected pursuant to the ordinance or order. The estimate shall be based on the previous tax year's liability. A taxpayer's payment schedule shall be based on the estimate divided by the number of pay periods in which payments are to be made. The taxpayer shall at the end of the tax year pay any amounts owed in excess of the estimate for such year. The county shall at the end of the tax year refund to the taxpayer any amounts paid in excess of the property tax owed for such year. No interest shall be paid by the county on excess amounts owed to the taxpayer. Any refund paid the taxpayer pursuant to this subsection shall be an amount paid by the county only once in a calendar year.

3. If a taxpayer fails to make an installment payment of a portion of the real or personal property taxes owed to the county, then such county may charge the taxpayer interest on the amount of property taxes still owed for that year.

4. Any governing body enacting the ordinance or order specified in this section shall first agree to provide the county collector with reasonable and necessary funds to implement the ordinance or order.

5. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations."; and

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

HOUSE AMENDMENT NO. 29

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 74, Section 172.930, by removing said section from the bill; and

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

HOUSE AMENDMENT NO. 30

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 72, Section 135.530, Line 16, by inserting after said line the following:

"137.115. 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of [all taxable real property in the county owned by the person, or under his or her care, charge or

management, and] all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county of the first classification with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this paragraph, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percents of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter

a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

(1) For real property in subclass (1), nineteen percent;

(2) For real property in subclass (2), twelve percent; and

(3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. If the assessor increases the assessed valuation of any parcel of subclass (1) real property by more than seventeen percent since the last assessment, excluding increases due to new construction or improvements, then the assessor shall conduct a physical inspection of such property.

137.155. 1. The oath to be signed and affirmed or sworn to by each person making a list of property required by this chapter is as follows:

I, ..., do solemnly swear, or affirm, that the foregoing list contains a true and correct statement of all the [real property and] tangible personal property, made taxable by the laws of the state of Missouri, which I owned or which I had under my charge or management on the first day of January, 19.... I further solemnly swear, or affirm, that I have not sent or taken, or caused to be sent or taken, any property out of this state to avoid taxation. So help me God.

2. Any person who refuses to make oath or affirmation to his **or her** list, when required so to do by the assessor or his **or her** deputy, shall, upon conviction, be deemed guilty of a misdemeanor and no property shall be exempt from executions issued on judgments in prosecutions [under] **pursuant to** this section.

3. The list and oath shall be filed by the assessor, after [he] **the assessor** has completed his [assessor's] **or her** books, in the office of the county clerk, who, after entering the filing thereon, shall preserve and safely keep them.

137.360. 1. The certificate to be signed by each person making a list of property required by sections 137.325 to 137.420 shall be as follows:

I, ..., do hereby certify that the foregoing list contains a true and correct statement of all the [real property and] tangible personal property made taxable by the laws of the state of Missouri, which I owned or which I had under my charge or management on the first day of January, 19.... I further certify that I have not sent or taken or caused to be sent or taken any property out of this state to avoid taxation. Any person who refuses to make the certification to his **or her** list, when required so to do by the assessor or his **or her** deputy, shall upon conviction be deemed guilty of a misdemeanor and no property shall be exempt from executions issued on judgments in prosecutions [under] **pursuant to** this section.

2. The list and certificate shall be filed by the assessor after [he] **the assessor** has completed his [assessor's] **or her** books in the office of the county clerk who, after entering the filing thereon, shall preserve and safely keep them."; and

Further amend the title and enacting clause accordingly

HOUSE AMENDMENT NO. 31

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 130, Line 10, by inserting after all of said line the following:

"**Section 1. The state of Missouri hereby waives all rights to its possibility of reverter in the real property particularly described in the quitclaim deed in Book 279 at Pages 76-77 of the office of the recorder of deeds of Scott County.**"; and

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

HOUSE AMENDMENT NO. 32

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 72, Section 137.239, by deleting all of said section and amending the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 34

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 6, Section 50.1000 15 (d), Line 12, by inserting the following at the end of said line:

"50.1010. There is hereby authorized a "County Employees' Retirement Fund" which shall be under the management of a board of directors described in section 50.1030. The board of directors shall be responsible for the administration and the investment of the funds of such county employees' retirement fund. If insufficient funds are generated to provide the benefits payable pursuant to the provisions of sections 50.1000 to 50.1200, the board shall apportion the benefits according to the funds available. **An individual who is in a job classification, which the Retirement System determines is not eligible for coverage under the Retirement System after September 1, 2001, shall not be considered an Employee, unless adequate additional funds are provided for the costs associated with such coverage.**"; and

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

HOUSE AMENDMENT NO. 35

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Pages 35 and 36, Section 77.370, by deleting all of said section; and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 36

Amend House Substitute for House

Committee Substitute for Senate Bill No. 125, Page 74, Section 138.020, Line 19, by inserting immediately after said line the following:

"140.012 Notwithstanding any other law to the contrary, if **any real estate tax payment due under the authority of this chapter is delivered by United States mail to the county collector after the due date for such payment, the date of the United States postmark stamped on the envelop shall be deemed to be the date of delivery. This section shall apply only if the postmark date is on or before the due date for payment of real estate taxes and only if such payment was deposited in the mail postage prepaid, properly addressed to the county collector with whom the payment is required to be filed. If any document is sent by United States registered or certified mail, such registration or certification shall be prima facie evidence that such document was delivered to the person to which or to whom it is addressed. When the due date for payment of real estate taxes falls on a Saturday, a Sunday, or a legal holiday in this state, the payment shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday.**"; and

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

HOUSE AMENDMENT NO. 38

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 119, Section 447.700, by inserting after all of said section the following:

"**447.721. 1. There is hereby created in the state treasury the "Contiguous Property Redevelopment Fund", which shall consist of all moneys appropriated to the fund, all moneys required by law to be deposited in the fund, and all gifts, bequests or donations of any kind to the fund. The fund shall be administered by the department of economic development. Subject to appropriation, the fund shall be used solely for the administration of and the purposes described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the general revenue fund at the end of the biennium; provided, however, that all moneys in the fund on August 28, 2006, shall be transferred to the general revenue fund and the fund shall be abolished as of that date. All interest and moneys earned on investments from moneys in the fund shall be credited to the fund.**

2. The governing body of any city not within a county, any county of the first classification without a charter form of government and a population of more than two hundred seven thousand but less than three hundred thousand, any county of the first classification with a population of more than nine hundred thousand, any city with a population of more than three hundred fifty thousand that is located in more than one county or any county of the first classification with a charter form of government and a population of more then six hundred thousand but less than nine hundred thousand may apply to the department of economic development for a grant from the contiguous property redevelopment fund. The department of economic development may promulgate the form for such applications in a manner consistent with this section. Grants from the fund may be made to the governing body to assist the body both acquiring multiple contiguous properties within such city and engaging in the initial redeveloping of such properties for future use as private enterprise. For purposes of this section, "initial redeveloping" shall include all allowable costs, as that term is defined in section 447.700, and any other costs involving the improvement of the property to a state in which its redevelopment will be more economically feasible than such property would have been if such improvements had not been made.

3. In awarding grants pursuant to this section, the department shall give preference to those projects which propose the assembly of a greater number of acreage than other projects and to those projects which show that private interest exists for usage of the property once any redevelopment aided by grants pursuant to this

section is completed.

4. The department of economic development may promulgate rules for the enforcement of this section. No rule or portion of a rule promulgated pursuant to this section shall take effect unless it has been promulgated pursuant to chapter 536, RSMo.

5. The provisions of this section shall expire on August 28, 2006."; and

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

HOUSE AMENDMENT NO. 39

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 82, Section 204.640, Line 11, by adding after the period the following new language:

"Any political entity of this state that performs storm water and/or wastewater public works projects that exceed or are planned to exceed ten billion dollars shall develop rules or ordinances for the control of costs and the schedule for cost reimbursable contracts. The rules or ordinances shall be included in the terms and conditions of contracts with all consultants, suppliers and contractors providing services, materials or construction on a cost reimbursable basis for cost plus contracts in excess of one million collars and/or contracts which may exceed three years. Such rules or ordinances must include specific reporting requirements and standards of allowable costs and schedule variation beyond which the political entity's management intervention and corrective action shall be mandatory.

The rules or ordinances shall include within its purview the functions of planning, directing, coordinating, funds commitment, funding, public interaction, advertising for the selection of professional consultants, legal counsel and auditing of such public works. The rules or ordinances may authorize the use of consultants, but it shall not delegate management prerogatives or fiduciary authority that is inherent to such political entity. The rules or ordinances shall insure adequate checks and balances such that a single consultant shall not be utilized to determine costs, develop internal controls or develop performance standards that could influence either allowable costs or fees for services, which that consultant may provide. Data bases developed, updated or maintained by a consultant providing services to the political entity shall be the sole property of the entity.

The rules or ordinances shall be determined by the governing body of said public entity in conformance with chapter 610 RSMo. The public entity shall accept public testimony and a public comment period of not less than thirty days after the initial draft of said rules or ordinances and prior to final disposition." and

Further amend the title and enacting clause accordingly.

HOUSE AMENDMENT NO. 41

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 74, Section 138.020, Line 19, by inserting after all of said line the following:

"162.291. The voters of each seven-director district other than urban districts shall, at municipal elections, elect two directors who are citizens of the United States and resident taxpayers of the district, who have resided in [this state] **such district** for one year next preceding their election or appointment, and who are at least twenty-four years of age."; and

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

HOUSE AMENDMENT NO. 42

Amend House Substitute for House Committee Substitute for Senate Bill No. 125, Page 74, Section 138.020, Line 19, by inserting after all of said line the following:

"**162.605. 1. In addition to the members appointed to the board pursuant to section 162.601, there shall be appointed two additional school board members from the school district at large. Any member appointed pursuant to this section shall:**

(1) Be a resident of the city;

(2) Be appointed by the mayor of the city; and

(3) Serve a term of four years, or until a

successor is appointed and is qualified. Members may be appointed to additional four-year terms.

2. The first member appointed pursuant to this section shall be appointed immediately after the effective date of this section, and successive appointments for such seat shall occur every four years from the date of such initial appointment. The second member appointed pursuant to this section shall be appointed immediately prior to the 2003-2004 school year, and successive appointments for such seat shall occur every four years from the date of such appointment.

3. The mayor shall appoint members to fill any vacancy created by any member appointed pursuant to this section.

4. Any board member appointed pursuant to this section shall be a member of equal standing with all other members of such board, and all other laws applicable to such board members shall apply to members appointed pursuant to this section, except as otherwise provided in this section."; and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HS** for **HCS** for **HB 107**, as amended, and has taken up and passed **SCS** for **HS** for **HCS** for **HB 107**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 219** and has taken up and passed **SCS** for **HB 219**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 471**, as amended, and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SCS** for **SB 387**.

With House Committee Amendment No. 1.

HOUSE COMMITTEE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 387, Page 4, Section 393.158, Line 109, by inserting after the word "**serves**" the words "**fewer than**".

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 80**, as amended, and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **HCS** for **SS** for **SB 244**, as amended: Senators Staples, Mathewson, Childers, Cauthorn and Klindt.

PRIVILEGED MOTIONS

Senator Wiggins moved that the Senate refuse to recede from its position on **SCS** for **HB 471**, as amended, and grant the House a conference thereon, which motion prevailed.

Senator Steelman moved that the Senate refuse to concur in **HS** for **HCS** for **SB 365**, as amended, and request the House to recede from its position, and failing to so, grant the Senate a conference thereon, which motion prevailed.

Senator Kenney moved that the Senate refuse to recede from its position on **SCS** for **HB 80**, as

amended, and grant the House a conference thereon, which motion prevailed.

HOUSE BILLS ON THIRD READING

Senator Sims moved that **HS** for **HCS** for **HB 762**, with **SCS**, **SS** for **SCS**, **SA 8** and **SSA 1** for **SA 8** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SSA 1 for **SA 8** was again taken up.

At the request of Senator Caskey, the above substitute amendment was withdrawn.

SA 8 was again taken up.

At the request of Senator Schneider, the above amendment was withdrawn.

SS for **SCS** for **HS** for **HCS** for **HB 762**, as amended, was again taken up.

Senator Sims moved that **SS** for **SCS** for **HS** for **HCS** for **HB 762**, as amended, be adopted, which motion prevailed.

On motion of Senator Sims, **SS** for **SCS** for **HS** for **HCS** for **HB 762**, 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
Jacob	Johnson	Kenney	Kinder
Klarich	Klindt	Mathewson	Quick
Russell	Schneider	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins—30		

NAYS—Senators

Loudon	Rohrbach	Yeckel—3

Absent—Senators—None

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

Senator Sims 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 **SB 288**, with **HS** for **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HS for **HCS** for **SB 288**, entitled:

HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 288

An Act to repeal sections 59.040, 59.041, 59.050, 59.090, 59.100, 59.130, 59.250, 59.255, 59.257, 59.260, 59.300, 347.189, 347.740, 351.120, 351.127, 351.220, 351.268, 351.410, 351.415, 351.430, 351.435, 351.440, 351.458, 351.478, 351.482, 355.023, 356.233, 359.653, 400.1-105, 400.1-201, 400.2-103, 400.2-210, 400.2-326, 400.2-401, 400.2-502, 400.2-716, 400.2A-103, 400.2A-303, 400.2A-307, 400.2A-309, 400.4-210, 400.7-503, 400.8-103, 400.8-106, 400.8-110, 400.8-301, 400.8-302, 400.8-510, 400.9-101, 400.9-102, 400.9-103, 400.9-104, 400.9-105, 400.9-106, 400.9-107, 400.9-108, 400.9-109, 400.9-110, 400.9-111, 400.9-112, 400.9-113, 400.9-114, 400.9-115, 400.9-116, 400.9-201, 400.9-202, 400.9.203, 400.9-204, 400.9-205, 400.9-206, 400.9-207, 400.9-208, 400.9-301, 400.9-302, 400.9-303, 400.9-304, 400.9-305, 400.9-306, 400.9-307, 400.9-308, 400.9-309, 400.9-310, 400.9-311, 400.9-312, 400.9-313, 400.9-314, 400.9-315, 400.9-316, 400.9-317, 400.9-318, 400.9-401, 400.9-402, 400.9-403, 400.9-404, 400.9-405, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-501, 400.9-502, 400.9-503, 400.9-504, 400.9-505, 400.9-506, 400.9-507, 400.9-508 and 417.018, RSMo 2000 relating to business procedures regulated by the secretary of state and related matters, and to enact in lieu thereof one hundred ninety new sections relating to the same subject, with an emergency clause.

Was taken up.

Senator Gross assumed the Chair.

Senator Klarich moved that **HS** for **SCS** for **SB 288**, as amended, be adopted, which motion

prevailed by the following vote:

YEAS—Senators

Bentley	Bland	Cauthorn	Childers
Dougherty	Foster	Gibbons	Goode
Jacob	Johnson	Kinder	Klarich
Klindt	Loudon	Mathewson	Russell
Schneider	Scott	Sims	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—25			

NAYS—Senators

Caskey	Gross	House	Kenney
Quick	Rohrbach	Singleton—7	

Absent—Senator DePasco—1

Absent with leave—Senator Carter—1

President Maxwell assumed the Chair.

On motion of Senator Klarich, **HS** for **SCS** for **SB 288** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Dougherty	Foster	Gibbons
Goode	Jacob	Johnson	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Quick	Russell	Schneider
Scott	Sims	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators

Gross	House	Rohrbach	Singleton—4

Absent—Senator DePasco—1

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	Johnson	Kinder	Klarich
Klindt	Loudon	Quick	Russell
Schneider	Scott	Sims	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—25			

NAYS—Senators

Gross	House	Kenney	Rohrbach
Singleton—5			

Absent—Senators

DePasco	Jacob	Mathewson—3

Absent with leave—Senator Carter—1

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.

Bill ordered enrolled.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt Conference Committee Report on **SS** for **SCS** for **HB 453**, as amended, and requests a further conference on **SS** for **SCS** for **HB 453**, as amended, and the conferees be bound to remove Section 1 of the Conference Committee Substitute.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HCS** for **HB 241** and has taken up and passed **CCS** for **SCS** for **HCS** for **HB 241**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 157** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon and the conferees be allowed to exceed the differences in the licensing provisions.

PRIVILEGED MOTIONS

Senator Steelman moved that the Senate grant the House a further conference on **SS** for **SCS** for **HB 453**, as amended, 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 **SCS** for **HB 80**, as amended: Senators Kenney, Klarich, DePasco, Mathewson and Loudon.

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **SCS** for **HB 471**, as amended: Senators Wiggins, Kenney, Westfall, Schneider and Yeckel.

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **SS** for **SCS** for **HB 453**, as amended: Senators Steelman, Klarich, Gross, Mathewson and Quick.

On motion of Senator Kenney, the Senate recessed until 1:45 p.m.

RECESS

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

RESOLUTIONS

Senator Johnson offered Senate Resolution No. 835, regarding Elizabeth Porter, Buchanan County, which was adopted.

Senator Johnson offered Senate Resolution No. 836, regarding Dr. James J. McCarthy, St. Joseph, which was adopted.

Senator Stoll offered Senate Resolution No. 837, regarding Grace Presbyterian Church, Crystal City, which was adopted.

Senator Staples offered Senate Resolution No. 838, regarding Kate Elizabeth Walker, Jefferson City, which was adopted.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS** for **SCS** for **HS** for **HB 381**, as amended, and has taken up and passed **SS** for **SCS** for **HS** for **HB 381**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **HCS** for **SB 319** and has taken up and passed **CCS** for **HCS** for **SB 319**.

Emergency clause adopted.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SCS** for **SB 591**, entitled:

An Act to repeal sections 204.300, 204.370 and 250.236, RSMo 2000, relating to political subdivisions, and to enact in lieu thereof eight new sections relating to the same subject.

With House Amendments Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 591, Page 8, Section 262.802, Line 17, by adding after the word "made", the following:

"However, if a political subdivision requires the property to be connected to the sewer system of the political subdivision pursuant to Section 644.027, RSMo, such connection shall not trigger the payment of the assessment.".

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 591, by inserting in

the appropriate place the following:

"277.212. 1. The attorney general shall enforce the provisions of sections 277.200 to 277.215. The department of agriculture shall refer violations of the provisions of sections 277.200 to 277.215 to the attorney general. The attorney general or any person injured by a violation of the provisions of sections 277.200 to 277.215 may bring an action pursuant to the provisions of chapter 407, RSMo, for any remedy allowed for unlawful merchandising practices.

2. A seller who receives a discriminatory price or who is offered only a discriminatory price in violation of the provisions of sections 277.200 to 277.215 may receive [treble] damages, costs and a reasonable attorney's fee.

277.215. 1. Each packer shall make available for publication and to the department of agriculture a daily report setting forth information regarding prices paid for livestock under each contract in force in Missouri in which the packer and a Missouri resident are parties for the purchase of livestock by the packer and which sets a date for delivery more than fourteen days after the making of the contract.

2. The report shall be completed on forms prepared by the department for comparison with cash market prices for livestock and livestock carcasses according to procedures required by the department. The report shall not include information regarding the identity of a seller.

3. Any packer who fails to report as required by this section is guilty of a class A misdemeanor.

4. The department shall adopt rules to implement the provisions of sections 277.200 to 277.215.

5. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

6. In the event a federal law regarding livestock price reporting becomes effective, the department of agriculture shall immediately adopt such rules as are necessary to permit Missouri producers and packers to remain economically competitive with producers and packers in other states.

[7. Sections 277.200 to 277.215 shall expire December 31, 2002.]"; and

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 470**.

With House Committee Amendment No. 1, House Amendments Nos. 1 and 2.

HOUSE COMMITTEE AMENDMENT NO. 1

Amend Senate Bill No. 470, Page 1, Section 8.003, Line 6, by deleting all of said line and inserting in lieu thereof the following: "**one employee of the house of representatives appointed by the speaker of the house of representatives and one employee of the senate appointed by the president pro tempore; and four members appointed by the governor with the advice and consent of**"; and

Further amend said bill, Page 2, Section 8.003, Line 12, by deleting the word "**six**" and inserting in lieu thereof "**four**"; and

Further amend said bill, Page 2, Section 8.003, Line 16, by deleting the word "**six**" and inserting in lieu thereof "**four**"; and

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

HOUSE AMENDMENT NO. 1

Amend Senate Bill No. 470, Page 3, Section 8.007, Line 6 of said page, by inserting after all of said line the following:

"**(3) Evaluate and recommend courses of action to ensure accessibility to the capitol for physically disabled persons;**"; and

Further amend said bill, Page 3, Section 8.007, Line 7 of said page, by striking the numeral "(3)" and inserting in lieu thereof the numeral "(4)"; and

Further amend said bill, Page 3, Section 8.007,

Line 13 of said page, by striking the numeral "(4)" and inserting in lieu thereof the numeral "(5)"; and

Further amend said bill, Page 3, Section 8.007, Line 16 of said page, by striking the numeral "(5)" and inserting in lieu thereof the numeral "(6)"; and

Further amend said bill, Page 3, Section 8.007, Line 18 of said page, by striking the numeral "(6)" and inserting in lieu thereof the numeral "(7)"; and

Further amend said bill, Page 3, Section 8.007, Line 21 of said page, by inserting after all of said line the word "**and**"; and

Further amend said bill, Page 3, Section 8.007, Line 22 of said page, by striking the numeral "(7)" and inserting in lieu thereof the numeral "(8)"; and

Further amend said bill, Page 3, Section 8.007, Line 38 of said page, by striking the first occurrence of the word "**and**" and inserting in lieu thereof a comma "**,**"; and

Further amend said bill, Page 3, Section 8.007, Line 38 of said page, by inserting after the word "**restoration**" the following: "**and improved accessibility**".

HOUSE AMENDMENT NO. 2

Amend Senate Bill No. 470, Page 3, Section 8.007, Line 37, by inserting after the word "**stipulations**," the word "**and**".

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following Conference Committee to act with a like committee from the Senate on **SS** for **SCS** for **HB 453**, as amended. Representatives: Smith, Ransdall, Merideth, Jetton and Hohulin.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following Conference Committee to act with a like committee from the Senate on **SCS** for **HB 471**, as amended. Representatives: Jolly, Johnson 90, Clayton, Lograsso and Scott.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following Conference Committee to act with a like committee from the Senate on **SCS** for **HB 80**, as amended. Representatives: Gratz, Smith, Kelly 36, Ross, Reinhart.

PRIVILEGED MOTIONS

Senator Bentley moved that the Senate refuse to recede from its position on **SCS** for **HB 157** and grant the House a conference thereon and further that the conferees be allowed to exceed the differences in the licensing provisions, which motion prevailed.

Senator Steelman moved that the Senate refuse to concur in **HS** for **HCS** for **SCS** for **SB 617**, as amended, and request the House to recede from its position, and failing to do so, grant the Senate a conference thereon, and further that the conferees be allowed to exceed the differences in the research provision of the bill, which motion prevailed.

HOUSE BILLS ON THIRD READING

HB 501, with **SCS**, introduced by Representative Bowman, et al, entitled:

An Act to repeal sections 644.572, 644.574 and 644.576, RSMo 2000, relating to water pollution bonds, and to enact in lieu thereof three new sections relating to the same subject.

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

SCS for **HB 501**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 501

An Act to repeal sections 204.300, 204.370 and 250.236, RSMo 2000, relating to water and sewer systems, and to enact in lieu thereof eight new sections relating to the same subject.

Was taken up.

Senator Steelman moved that **SCS** for **HB 501** be adopted.

Senator Steelman offered **SS** for **SCS** for **HB 501**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 501

An Act to repeal sections 204.300, 204.370, 250.236 and 640.755, RSMo 2000, relating to water and sewage systems, and to enact in lieu thereof sixteen new sections relating to the same subject.

Senator Steelman moved that **SS** for **SCS** for **HB 501** be adopted, which motion prevailed.

On motion of Senator Steelman, **SS** for **SCS** for **HB 501** was read the 3rd time and passed by the following vote:

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Bland	Schneider	Yeckel—3

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.

PRIVILEGED MOTIONS

Senator Goode moved that **SCS** for **SB 387**, with **HCA 1**, be taken up for 3rd reading and final passage, which motion prevailed.

HCA 1 was taken up.

Senator Goode moved that the above amendment be adopted, which motion prevailed 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	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Staples—1

Absent with leave—Senator Carter—1

On motion of Senator Goode, **SCS** for **SB 387**, 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
Jacob	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

NAYS—Senators—None

Absent—Senators—None

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	DePasco	Foster	Gibbons
Goode	Gross	House	Jacob
Johnson	Kenney	Kinder	Klarich
Klindt	Loudon	Mathewson	Quick
Rohrbach	Russell	Scott	Sims

Singleton Staples Steelman Stoll
Westfall Wiggins Yeckel—31

NAYS—Senators—None

Absent—Senators
Dougherty Schneider—2

Absent with leave—Senator Carter—1

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

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

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

Bill ordered enrolled.

HOUSE BILLS ON THIRD READING

HS for **HCS** for **HBs 328** and **88**, with **SCS**, entitled:

An Act to repeal sections 198.530, 354.535, 354.618, 376.383, 376.406, 376.893, 376.1350, 376.1361, 376.1367, 376.1400 and 376.1403, RSMo 2000, relating to the regulation of managed care, and to enact in lieu thereof seventeen new sections relating to the same subject.

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

SCS for **HS** for **HCS** for **HBs 328** and **88**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 328 and 88

An Act to repeal sections 197.285, 198.530, 354.535, 354.618, 376.383, 376.406, 376.893, 376.1350, 376.1361, 376.1367, 376.1400, 376.1403 and 379.930, RSMo 2000, relating to the regulation of managed care, and to enact in lieu thereof twenty new sections relating to the same subject.

Was taken up.

Senator Sims moved that **SCS** for **HS** for **HCS** for **HBs 328** and **88** be adopted.

Senator Singleton offered **SS** for **SCS** for **HS** for **HCS** for **HBs 328** and **88**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 328 and 88

An Act to repeal sections 135.095, 197.285, 198.530, 354.535, 354.603, 354.606, 354.618, 376.383, 376.406, 376.406, 376.893, 376.1350, 376.1361, 376.1367, 376.1400, 376.1403 and 379.930, RSMo 2000, relating to the regulation of managed care, and to enact in lieu thereof thirty-four new sections relating to the same subject, with an emergency clause for certain sections.

Senator Singleton moved that **SS** for **SCS** for **HS** for **HCS** for **HBs 328** and **88** be adopted.

At the request of Senator Singleton, **SS** for **SCS** for **HS** for **HCS** for **HBs 328** and **88** was withdrawn.

Senators Schneider and Rohrbach offered **SS No. 2** for **SCS** for **HS** for **HCS** for **HBs 328** and **88**, entitled:

SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 328 and 88

An Act to repeal sections 354.603, 354.606, 376.383 and 376.406, RSMo 2000, relating to the regulation of managed care, and to enact in lieu thereof five new sections relating to the same subject, with an effective date for certain sections.

Senator Schneider moved that **SS No. 2** for **SCS** for **HS** for **HCS** for **HBs 328** and **88** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 2, Section 354.603, Line 26 of said page, by inserting an opening bracket before

the word "financial" and a closing bracket after the word "capability" on said line.

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

Senator Sims offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 1, Section A, Line 4, by inserting after all of said line the following:

"197.285. 1. Hospitals and ambulatory surgical centers shall establish and implement a written policy adopted by each hospital and ambulatory surgical center relating to the protections for employees who disclose information pursuant to subsection 2 of this section. This policy shall include a time frame for completion of investigations related to complaints, not to exceed thirty days, and a method for notifying the complainant of the disposition of the investigation. This policy shall be submitted to the department of health to verify implementation. At a minimum, such policy shall include the following provisions:

(1) No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center shall prohibit employees from disclosing information pursuant to subsection 2 of this section;

(2) No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center shall use or threaten to use his or her supervisory authority to knowingly discriminate against, dismiss, penalize or in any way retaliate against or harass an employee because the employee in good faith reported or disclosed any information pursuant to subsection 2 of this section, or in any way attempt to dissuade, prevent or interfere with an employee who wishes to report or disclose such information;

(3) Establish a program to identify a compliance officer who is a designated person responsible for administering the reporting and investigation process and an alternate person should the primary designee be implicated in the report.

2. This section shall apply to information disclosed or reported in good faith by an employee concerning:

(1) Alleged facility mismanagement or fraudulent activity;

(2) Alleged violations of applicable federal or state laws or administrative rules concerning patient care, patient safety or facility safety; or

(3) The ability of employees to successfully perform their assigned duties.

All information disclosed, collected and maintained pursuant to this subsection and pursuant to the written policy requirements of this section shall be accessible to the department of health at all times and shall be reviewed by the department of health at least annually. Complainants shall be notified of the department of health's access to such information and of the complainant's right to **[**appeal to the department of health**]** **notify the department of health of any information concerning alleged violations of applicable federal or state laws or administrative rules concerning patient care, patient safety or facility safety**.

3. Prior to any disclosure to individuals or agencies other than the department of health, employees wishing to make a disclosure pursuant to the provisions of this section shall first report to the individual or individuals designated by the hospital or ambulatory surgical center pursuant to subsection 1 of this section.

4. If the compliance officer, compliance committee or management official discovers credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to believe that the misconduct may violate criminal, civil or administrative law, then the hospital or ambulatory surgical center shall report the existence of misconduct to the appropriate governmental authority within a reasonable period, but not more than seven days after determining that there is credible evidence of a violation.

5. Reports made to the department of health shall be subject to the provisions of section

197.477, provided that the restrictions of section 197.477 shall not be construed to limit the employee's ability to subpoena from the original source the information reported to the department pursuant to this section.

6. Each written policy shall allow employees making a report who wish to remain anonymous to do so, and shall include safeguards to protect the confidentiality of the employee making the report, the confidentiality of patients and the integrity of data, information and medical records.

7. Each hospital and ambulatory surgical center shall, within forty-eight hours of the receipt of a report, notify the employee that his or her report has been received and is being reviewed.

[8. The enactment of this section shall become effective January 1, 2001.**]**"; and

Further amend the title and enacting clause accordingly.

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

Senator Cauthorn offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 13, Section 376.383, Line 29, by inserting immediately after all of said line the following:

"**11. All penalties paid pursuant to this section shall be disposed of in accordance with article IX, Section 7.**".

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

Senator Kenney offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 12, Section 376.383, Line 11, by inserting in said line before the word "day" the following "processing".

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

Senator Klarich offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 20, Section 376.381, Line 1, by inserting immediately after said line the following:

"**Section 1. 1. A completed application for medical assistance for services described in section 208.152 shall be approved or denied within thirty days from submission to the Division of Family Services or its successor.**

2. The Division of Medical Services shall remit to a licensed nursing home operator the medicaid payment for a newly admitted medicaid resident in a licensed long term care facility within forty-five days of the resident's date of admission."; and

Further amend the title and enacting clause accordingly.

Senator Klarich moved that the above amendment be adopted.

Senator Singleton raised the point of order that **SA 5** is out of order as it exceeds the scope and purpose of the bill.

The point of order was referred to the President Pro Tem, who ruled it not well taken.

SA 5 was again taken up.

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

Senator House offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 1, Section A, Line 4, 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 other than in a manner permitted by the "Privacy of Consumer Financial and Health Information Regulation" adopted on September 26, 2000, by the National Association of Insurance Commissioners;

(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 other than a licensee 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."; and

Further amend said bill, Page 20, Section B, Line 5, by inserting after all of said line the following:

"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.

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

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

Senator Russell offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 12, Section 376.383, Line 28, by inserting after the word and period "Section." the following: "Penalties assessed pursuant to this section shall not exceed 3 times the amount of the claim on which such penalties are being paid.".

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

Senator Scott offered **SA 8**, which was read:

SENATE AMENDMENT NO. 8

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 20, Section 376.383, Line 1 of said page, by inserting immediately after all of said line the following:

"**Section 1. No insurer or its agent or representative shall require any applicant or policyholder to divulge if any insurer has denied any claim of that applicant or policyholder.**"; and

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

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

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

SENATE AMENDMENT NO. 9

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 14, Section 376.384.2, Line 17, by deleting "2003" and inserting in lieu thereof "**2002**"; and

Further amend said bill, page 14, line 22, by deleting "2003" and inserting in lieu thereof "**2002**".

Senator Klarich moved that the above amendment be adopted.

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

Senator Cauthorn offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 11, Section 376.383, Line 26, by inserting immediately after the word "**fifteen**" the word "**working**"; and

Further amend said bill, page 12, section 376.383, line 5, by inserting immediately after the word "**fifteen**" the word "**working**"; and

Further amend said bill, page 13, section 376.383, lines 28 and 29, by striking the words "**or pay the claim**"; and

Further amend said bill, page 15, section 376.384, line 4, by striking the words "**and paying**".

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

Senator Klindt offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 11, Section 376.383, Line 9, by deleting after the word "information" the following words: "from the claimant".

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

Senator Loudon offered **SA 12**:

SENATE AMENDMENT NO. 12

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bills Nos. 328 and 88, Page 16, Section 376.384, Lines 21 to 26, by striking all of said lines and inserting in lieu thereof the following:

"**7. 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.".

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

Senator Schneider moved that **SS No. 2** for **SCS** for **HS** for **HCS** for **HBs 328** and **88**, as amended, be adopted, which motion prevailed.

On motion of Senator Sims, **SS No. 2** for **SCS** for **HS** for **HCS** for **HBs 328** and **88**, 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
Jacob	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Scott—1

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

Senator Sims 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 adopted the Conference Committee Report on **HB 621**, as amended, and has taken up and passed **CCS** for **HB 621**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HS** for **HCS** for **SB 365**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SS** for **SCS** for **HS** for **HCS** for **HB 762**, as amended, and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 275**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HS** for **HCS** for **SCS** for **SB 617**, as amended, and grants the Senate a conference thereon and the conferees be allowed to exceed the differences on research and development tax credits only.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following Conference Committee to act with a like committee from the Senate on **SCS** for **HB 157**. Representatives: Hosmer, Smith, Britt, Linton and Reid.

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 **HS** for **HCS** for **SCS** for **SB 617**, as amended. Representatives Rizzo, Scheve, Bonner, Byrd and Townley.

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 **HS** for **HCS** for **SB 365**, as amended. Representatives Overschmidt, Koller, Hampton, Robirds and Berkstresser.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **SS** for **SCS** for **SB 351**, entitled:

An Act to repeal sections 50.550, 57.010, 57.020, 57.030, 488.5336, 558.019, 590.100, 590.101, 590.105, 590.110, 590.112, 590.115, 590.117, 590.120, 590.121, 590.123, 590.125, 590.130, 590.131, 590.135, 590.150, 590.170, 590.175, 590.180, 590.650 and 610.100, RSMo 2000, relating to peace officers, and to enact in lieu thereof twenty-four new sections relating to the same subject, with penalty provisions.

With House Amendments Nos. 1, 2, 3 and House Substitute Amendment No. 1 for House Amendment No. 4.

HOUSE AMENDMENT NO. 1

Amend House Substitute for Senate Committee Substitute for Senate Substitute for for Senate Bill No. 351, by inserting in the appropriate location the following:

"**590.118. 1. All law enforcement agency personnel records of a peace officer may be made available to any hiring law enforcement agency. The availability of any records shall be subsequent to and conditioned upon a hearing on the issues as defined in sections 590.080, 590.090 and 590.100.**

2. Following a decision recommending punitive action from a hearing on the issues as defined in section 590.080, 590.090 and 590.100, the law enforcement agency shall provide such information to the peace officer standards and training commission."; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 351, Page 50, Section 590.195, Line 22, by inserting immediately after said line the following:

"**590.519. 1. The department of corrections shall notify the department of public safety within ten days after any correctional officer or any person serving in the position of correctional officer within this state passes a course of training developed by competent instructors approved by the department of public safety and the department of corrections of at least two hundred ninety-six hours. The department of public safety shall issue a correctional officer certification for each officer who passes such a course. Such certification shall only be valid while employed by the department of corrections.**

2. The department of corrections shall notify the department of public safety when any certified correctional officer is dismissed from employment. Upon receipt of such notification, the department of public safety shall immediately revoke the certification of the dismissed correctional officer.

3. The correctional officer shall not be deemed to have property interest in any certificate issued pursuant to this section.

4. Persons employed as correctional officers with the department of corrections on August 28, 2001, which have participated in a correctional officer training program prior to August 28, 2001, shall be eligible for certification."; and

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

HOUSE AMENDMENT NO. 3

Amend House Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 351, Page 6, Section 57.020, Line 23 of said page, by adding after all of said line the following:

"217.305. 1. The sheriff or other officer charged with the delivery of persons committed to the department for confinement in a correctional center shall deliver the person to the reception and diagnostic center designated by the director at times and dates as designated by the director and shall receive a certificate of delivery of the offender from the center.

2. Appropriate information relating to the offender shall be provided to the department in a written or electronic format, at or before the time the offender is delivered to the department, including, but not limited to:

(1) A copy of the sentence received from the clerk of the sentencing court. If provided in written form, this document shall be certified by the court;

(2) All other judgment, sentencing and commitment orders of the court, or such documents as authorized by the prosecuting attorney or circuit attorney or required by the department;

(3) Further information regarding the offender's age, crime for which sentenced and circumstances surrounding the crime and sentence, personal history, which may include facts related to his home environment, work habits and previous convictions and commitments. Such information shall be prepared by the prosecuting attorney of the county or circuit attorney of any city not within a county who was charged with the offender's prosecution**;**

(4) Information regarding all significant aspects of the offender's physical and mental condition, including any currently prescribed medication and any attempts to commit suicide. Such information shall be prepared by the sheriff or other officer charged with delivering the offender to the department and shall include copies of all medical and mental health documents in the possession of jail personnel relating to the offender."; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 4

Amend House Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 351, Page 20, Section 590.040, Line 15, by inserting after all of said line the following:

"**4. The basic training of every peace officer concerning the investigation and management of cases shall include training regarding interacting with individuals with mental illness.**"; and

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

In which the concurrence of the Senate is respectfully requested.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **HS** for **HCS** for **SCS** for **SB 617**, as amended: Senators Steelman, Klarich, Kenney, House and Scott.

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **SCS** for **HB 157**: Senators Bentley, Stoll, Childers, Klarich and Yeckel.

PRIVILEGED MOTIONS

Senator Sims moved that the Senate refuse to recede from its position on **SS** for **SCS** for **HS** for **HCS** for **HB 762**, as amended, and grant the House 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 **SS** for **SCS** for **HS** for **HCS** for **HB 762**, as amended: Senators Sims, Bentley, Childers, Wiggins and Bland.

PRIVILEGED MOTIONS

Senator Kenney moved that the Senate refuse to concur in **HS** for **HCS** for **SCS** for **SB 591**, 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 REPORTS

Senator Rohrbach, on behalf of the conference committee appointed to act with a like committee from the House on **HB 621**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE BILL NO. 621

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House on House Bill No. 621 with Senate Committee Amendment No. 1 and Senate Amendment No. 1, begs leave to report that we, after free and fair discussion of the differences between the House and the Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on House Bill No. 621, as amended;

2. That the House recede from its position on House Bill No. 621;

3. That the attached Conference Committee Substitute for House Bill No. 621, be adopted.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Larry Rohrbach	/s/ William Gratz
/s/ Sarah Steelman	/s/ Mark Hampton
/s/ John T. Russell	/s/ Carl Vogel
/s/ Wayne Goode	/s/ Randall Relford
/s/ Ronnie DePasco	/s/ Rex Rector

Senator Rohrbach moved that the above conference committee report be adopted, which motion prevailed 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
Rohrbach	Russell	Schneider	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senators

DePasco	Scott—2

Absent with leave—Senator Carter—1

On motion of Senator Rohrbach, **CCS** for **HB 621**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE BILL NO. 621

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

YEAS—Senators

Bland	Caskey	Cauthorn	Childers
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—31	

NAYS—Senators—None

Absent—Senators

Bentley	DePasco—2

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.

Senator Westfall, on behalf of the conference

committee appointed to act with a like committee from the House on **HCS** for **SB 610**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 610

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House on House Committee Substitute for Senate Bill No. 610, begs leave to report that we, after free and fair discussion of the differences between the House and the Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Bill No. 610;

2. That the Senate recede from its position on Senate Bill No. 610;

3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Bill No. 610, be Truly Agreed To and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Morris Westfall	Luann Ridgeway
/s/ Chuck Gross	Susan Phillips
/s/ John Cauthorn	/s/ Thomas Hoppe
/s/ Sidney Johnson	/s/ Henry Rizzo
/s/ Danny Staples	/s/ Bill Skaggs

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

YEAS—Senators

Bentley	Caskey	Cauthorn	Childers
Foster	Gibbons	Goode	Gross
House	Jacob	Johnson	Kenney
Kinder	Klarich	Klindt	Loudon
Quick	Rohrbach	Schneider	Scott
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators—None

Absent—Senators

Bland	DePasco	Dougherty	Mathewson
Russell—5			

Absent with leave—Senator Carter—1

On motion of Senator Westfall, **CCS** for **HCS** for **SB 610**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 610

An Act to repeal sections 52.300, 54.330, 137.100 and 141.610, RSMo 2000, and to enact in lieu thereof four new sections relating to political subdivisions.

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	Quick
Rohrbach	Russell	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senators

Mathewson	Schneider—2

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.

Senator Staples, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SS** for **SB 244**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 244

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Committee Substitute for Senate Substitute for Senate Bill No. 244, with House Amendments Nos. 1, 2, 4, 5, 6, 8, 9, 10, 11 and 13; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Substitute for Senate Bill No. 244, as amended;

2. That the Senate recede from its position on Senate Substitute for Senate Bill No. 244;

3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 244 be Truly Agreed To and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Danny Staples	/s/ Don Koller
/s/ Jim Mathewson	/s/ Wayne Crump
/s/ Doyle Childers	/s/ Tom Green
/s/ John Cauthorn	/s/ Van Kelly
/s/ David G. Klindt	/s/ Carson Ross

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

YEAS—Senators

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

NAYS—Senators—None

Absent—Senators

Kinder	Schneider—2

Absent with leave—Senator Carter—1

On motion of Senator Staples, **CCS** for **HCS** for **SS** for **SB 244**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 244

An Act to repeal sections 301.260, 302.173, 304.015, 304.035, 304.180, 304.580, 307.173 and 307.375, RSMo 2000, and to enact in lieu thereof thirteen new sections relating to motor vehicles and equipment, with penalty provisions.

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	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Carter—1

The President declared the bill passed.

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

Senator Staples 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 Singleton moved that the Senate refuse to concur in **HS** for **SS** for **SCS** for **SB 351**, 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 REPORTS

Senator Caskey, on behalf of the conference committee appointed to act with a like committee from the House on **SCS** for **HCS** for **HB 241**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 241

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on Senate Committee Substitute for House Committee Substitute for House Bill No. 241, with Senate Amendment No. 1; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Committee Substitute for House Committee Substitute for House Bill No. 241, as amended;

2. That the House recede from its position on House Committee Substitute for House Bill No. 241;

3. That the attached Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 241 be Truly Agreed To and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Harold Caskey	/s/ Phil Smith
/s/ David J. Klarich	/s/ Philip Willoughby
/s/ John Cauthorn	/s/ Melba Curls
/s/ Jim Mathewson	/s/ Luann Ridgeway
/s/ Michael R. Gibbons	/s/ Jason Crowell

Senator Caskey moved that the above conference committee report be adopted, which motion prevailed 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	Scott
Sims	Singleton	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators—None

Absent—Senators

Schneider Staples—2

Absent with leave—Senator Carter—1

On motion of Senator Caskey, **CCS** for **SCS** for **HCS** for **HB 241**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 241

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-six new sections relating to the same subject.

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	Mathewson	Quick
Rohrbach	Russell	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

NAYS—Senators

Jacob Schneider—2

Absent—Senators—None

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.

President Pro Tem Kinder assumed the Chair.

Senator Sims, on behalf of the conference committee appointed to act with a like committee from the House on **HS** for **SCS** for **SB 393**, as amended, submitted the following conference committee report:

CONFERENCE COMMITTEE REPORT ON
HOUSE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 393

Mr. President: Your Conference Committee, appointed to confer with a like committee of the House, on House Substitute for Senate Committee Substitute for Senate Bill No. 393, with House Amendments Nos. 1 and 2; begs leave to report that we, after free and fair discussion of the differences between the House and Senate, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Substitute for Senate Committee Substitute for Senate Bill No. 393, as amended;

2. That the Senate recede from its position on Senate Committee Substitute for Senate Bill No. 393;

3. That the attached Conference Committee Substitute for House Substitute for Senate Committee Substitute for Senate Bill No. 393, be Truly Agreed To and Finally Passed.

FOR THE SENATE:	FOR THE HOUSE:
/s/ Betty Sims	/s/ Joseph L. Treadway
/s/ Roseann Bentley	/s/ Rick Johnson
/s/ Marvin Singleton	/s/ Wes Shoemyer
/s/ Mary Bland	/s/ Roy W. Holand
/s/ Harry Wiggins	/s/ Linda Bartelsmeyer

Senator Sims moved that the above conference committee report be adopted, which motion prevailed 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	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Staples—1

Absent with leave—Senator Carter—1

On motion of Senator Sims, **CCS** for **HS** for **SCS** for **SB 393**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE
FOR HOUSE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 393

An Act to repeal sections 167.181, 191.211, 191.411, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 332.072, 332.181, 332.261, 332.311, and 332.321, RSMo 2000, relating to dental care, and to enact in lieu thereof twenty-two new sections relating to the same subject, with an emergency clause for certain sections.

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	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senators—None

Absent—Senator Staples—1

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
DePasco	Dougherty	Foster	Gibbons
Goode	House	Jacob	Johnson
Kenney	Kinder	Klarich	Klindt
Loudon	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators—None

Absent—Senators

Childers	Gross	Mathewson	Singleton
Staples—5			

Absent with leave—Senator Carter—1

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

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

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

HOUSE BILLS ON THIRD READING

HCS for **HB 780**, with **SCS**, entitled:

An Act to repeal sections 67.1300, 67.1360, 135.205, 135.208, 135.230, 135.305, 135.411, 135.478, 135.481, 135.484, 135.487, 135.500, 135.503, 135.508, 135.516, 135.530, 208.770, 447.700 and 620.145, RSMo 2000, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, and section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, relating to programs administered by the department of economic development, 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 Kenney.

SCS for **HCS** for **HB 780**, entitled:

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

An Act to repeal sections 67.1300, 67.1360, 135.150, 135.205, 135.230, 135.400, 135.403, 135.408, 135.411, 135.423, 135.460, 135.478, 135.481, 135.484, 135.487, 135.500, 135.503, 135.508, 135.516, 135.530, 135.545, 178.892, 208.770, 348.302, 447.700, 620.470, 620.474 and 620.1450, RSMo 2000, sections 135.200 and 135.535 as those sections were enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, and section 135.535 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20 relating to tax incentives for economic development, and to enact in lieu thereof thirty-two new sections relating to the same subject.

Was taken up.

Senator Kenney moved that **SCS** for **HCS** for **HB 780** be adopted.

Senator Mathewson offered **SS** for **SCS** for **HCS** for **HB 780**, entitled:

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

An Act to repeal sections 67.1300, 67.1360, 67.1545, 94.577, 135.110, 135.150, 135.205, 135.207, 135.230, 135.400, 135.403, 135.408, 135.411, 135.423, 135.460, 135.478, 135.481, 135.484, 135.487, 135.500, 135.503, 135.508, 135.516, 135.530, 135.545, 178.892, 215.036, 215.038, 348.300, 348.302, 429.015, 447.700, 447.708, 620.470, 620.474 and 620.1450, RSMo 2000, section 135.100 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.100 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular session, sections 135.200 and 135.535 as those sections were enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, and section 135.535 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20, relating to support for community economic development, and to enact in lieu thereof forty-three new sections relating to the same subject, with an emergency clause for a certain section and an expiration date for a certain section.

Senator Mathewson moved that **SS** for **SCS** for **HCS** for **HB 780** be adopted.

Senator Dougherty offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 82, Section 135.460.7, Line 26, by adding the following sentence after "applicable." "No more than 15% of the available tax credits shall be made available for programs designated under Section 6 of this chapter.".

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

Senator Goode offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 2, In the Title, Line 3, of the title, by striking "a certain section" and inserting in lieu thereof the following: "certain sections"; and

Further amend said bill, Page 3, Section A, Line 9 of said page, by inserting immediately after said line the following:

"**8.1000. As used in sections 8.1000 to 8.1027, the following terms shall mean:**

(1) "Design-build", a project for which the design and construction services are furnished under one contract;

(2) "Design-build contract", a contract between the division and a design-builder, to furnish the architecture or engineering and related design services required for a given public construction project and to furnish the labor, materials and other construction services for the same public project;

(3) "Design-builder", any individual, partnership, joint venture, corporation or other legal entity that furnishes the architectural or engineering services and construction services, whether itself or through subcontracts;

(4) "Design criteria consultant", a person, corporation, partnership or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to chapter 327, RSMo, and who

is employed by contract to the division to provide professional design and administrative services in connection with the preparation of the design criteria package;

(5) "Design criteria package", performance-oriented specifications for the public construction project sufficient to permit a design-builder to prepare a response to the division's request for proposals for a design-build project;

(6) "Director", the director of the division of design and construction;

(7) "Division", the state office of administration, division of design and construction;

(8) "Evaluation team", a group of people selected by the director to evaluate the proposals of the design-builders. The team shall consist of at least two representatives of the division of design and construction and two representatives of the using agency. A fifth member shall be selected by the director and shall serve as chairman to facilitate the evaluation process and to vote only in case of a tie;

(9) "Proposal", an offer to enter into a design-build contract;

(10) "Request for proposals", the document by which the division solicits proposals for a design-build contract;

(11) "Stipend", an amount paid to the unsuccessful proposers to defray the cost of submission of phase II of the design build proposal.

8.1003. 1. Notwithstanding any other provision of the law, the division of design and construction is hereby authorized to institute a pilot program whereby the design-build procurement process may be utilized on a limited number of public projects as set out below for the purpose of demonstrating the benefits of the design-build process in the public sector. This authorization for design-build procurement shall be for the sole and exclusive use of the division of design and construction.

2. The maximum number of projects to be procured on a design-build basis during the course of this pilot program shall be no more than four projects each with an estimated cost of five million dollars or less and no more than four projects each with an estimated cost of more than five million dollars.

3. The director of design and construction shall select those projects for which the use of the design-build procurement process is appropriate. In making that determination, the director shall consider:

(1) The likelihood that the design-build method of procurement will serve the public interest by providing substantial savings of time or money over the traditional design-bid-build delivery process;

(2) The time available to complete the project and meet the needs of the end user and any need to expedite the delivery process;

(3) The type of project and its suitability to the design-build process;

(4) The size of the project;

(5) The level of agency knowledge and confidence about the project scope and definition;

(6) The availability of using agency staff to manage the project;

(7) The availability of the division of design and construction staff to manage the project.

4. The director of design and construction shall present progress reports on any ongoing design-build projects to the general assembly at each regular session during the course of the pilot program. In addition, the director shall present a final detailed report of all completed design-build projects to the general assembly completed each year during the pilot program. Such final reports shall contain an assessment of the advantages and disadvantages of the design-build process relative to the traditional design-bid-build procurement process on such completed projects.

8.1006. The division may adopt regulations pursuant to chapter 536, RSMo, for the conduct

of the design-build process.

8.1009. 1. The director shall determine the scope and level of detail required to permit qualified persons to submit proposals in accordance with the request for proposals given the nature of the project.

2. A design criteria consultant may be employed or retained by the division to assist in preparation of the request for proposal, perform periodic site visits, prepare progress reports, review and approve progress and final pay applications of the design-builder, review shop drawings and submittals, decide disputes, interpret the construction documents, perform inspections upon substantial and final completion, assist in warranty inspections and to provide any other professional service where the director deems it to be in the public interest to have an independent design professional assisting with the project administration. The consultant shall be selected and its contract negotiated in compliance with sections 8.285 to 8.291.

8.1012. 1. Notice of requests for proposals shall be advertised in accordance with section 8.250. The division shall publish a notice of a request for proposal with a description of the project, the rationale for the decision to use the design-build method of procurement, the procedures for submittal and the selection criteria to be used.

2. The director shall establish in the request for proposal a time, place and other specific instructions for the receipt of proposals. Proposals not submitted in strict accordance with those instructions shall be subject to rejection.

3. A request for proposals shall be prepared for each design-build contract containing at minimum the following elements:

(1) The procedures to be followed for submitting proposals, the criteria for evaluation of proposals and their relative weight and the procedures for making awards;

(2) The proposed terms and conditions for the design-build contract;

(3) The design criteria package;

(4) A description of the drawings, specifications or other information to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications or other information that will be acceptable;

(5) A schedule for planned commencement and completion of the design-build contract;

(6) Budget limits for the design-build contract, if any;

(7) Affirmative action and minority or women business enterprise requirements for the design-build contract, if any;

(8) Requirements including any available ratings for performance bonds, payment bonds and insurance;

(9) Any other information that the division in its discretion chooses to supply, including without limitation, surveys, soil reports, drawings of existing structures, environmental studies, photographs or references to public records; and

(10) No request for proposal for a design build project issued by the division of design and construction shall include a project labor agreement, collective bargaining agreement, pre-hire agreement or any other agreement with employees, their representatives or any labor organization as a condition of bidding, negotiating, being awarded or performing work on a design build project. Any bidder, offeror, contractor, subcontractor or taxpayer shall have standing to challenge any bid specification, project agreement, grant or cooperative agreement which contains a project labor agreement, collective bargaining agreement, pre-hire agreement or similar agreement as being in violation of this section.

4. The director shall solicit proposals in a three-stage process. Phase I shall be the solicitation of qualifications of the design-build team. Phase II shall be the solicitation of a technical proposal including conceptual design for the project, and phase III shall be the

proposal of the construction cost.

5. The evaluation team shall review the submittals of the proposers and assign points to each proposal in accordance with sections 8.1000 to 8.1027 and section 327.395, RSMo, and as set out in the instructions of the request for proposal.

8.1015. 1. Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to:

(1) Demonstrated ability to perform projects comparable in design, scope and complexity;

(2) References of owners for whom design-build projects have been performed;

(3) Qualifications of personnel who will manage the design and construction aspects of the project;

(4) The names and qualifications of the primary design consultants and contractors with whom the design-builder proposes to subcontract. The design-builder may not replace an identified subcontractor or subconsultant without the written approval of the director.

2. The evaluation team shall evaluate the qualifications of all proposers in accordance with the instructions of the request for proposal. Designers on the project shall be evaluated in accordance with the requirements of section 8.285 to 8.291. Qualified proposers selected by the evaluation team may proceed to phase II of the selection process. Proposers lacking the necessary qualifications to perform the work shall be disqualified and shall not proceed to phase II of the process. Under no circumstances shall price or fee be a part of the prequalification criteria. Points assigned in the phase I evaluation process shall not carry forward to phase II of the process. All qualified proposers shall be ranked on points given in phases II and III only.

3. The director shall have discretion to disqualify any proposer, which in the director's opinion lacks the minimal qualifications required to perform the work.

4. Once a sufficient number of qualified proposers have been selected, the proposers shall have a specified amount of time with which to assemble phase II and phase III proposals.

8.1018. Phase II of the process shall be conducted as follows:

(1) The director shall invite the top five qualified proposers to participate in phase II of the process. If there are not five qualified proposers, then all qualified proposers will be invited to submit phase II. If three qualified proposers cannot be identified, the contracting process will cease;

(2) Proposers must submit their design for the project, to the level of detail required in the request for proposal. The design proposal should demonstrate compliance with the requirements set out in the request for proposal;

(3) The schedule for completing a project as designed by a proposer may be considered as an element of evaluation in phase II;

(4) Up to twenty percent of the points awarded to each proposer in phase II may be based on each proposers' qualifications and ability to design, construct and deliver the project on time and within budget;

(5) Under no circumstances should the design proposal contain any reference to the cost of the proposal;

(6) The design submittals will be evaluated and assigned points in accordance with the requirements of the request for proposal. Phase II shall account for no more than fifty percent of the total point score as specified in the request for proposal.

8.1021. Phase III shall be conducted as follows:

(1) The phase III proposal must provide a firm, fixed cost of construction. The proposal must be accompanied by bid security and any other required submittals, such as statements of minority participation as required by the request for proposal;

(2) Cost proposals must be submitted in accordance with the instructions of the request for proposal. Failure to submit a cost proposal on time shall be cause to reject the proposal. Phase III shall account for not less than fifty percent of the total point score as specified in the request for proposal;

(3) Proposals for phase II and phase III shall be submitted concurrently at the time and place specified in the request for proposal. The phase III cost proposals shall be opened only after the phase II design proposals have been evaluated and assigned points;

(4) Cost proposals will be opened and read aloud at the time and place specified in the request for proposal. At the same time and place, the evaluation team will make public its scoring of phase II. Cost proposals will be evaluated in accordance with the requirements of the request for proposal. In evaluating the cost proposals, the low bidder shall be awarded the total number of points assigned to be awarded in phase III. For all other bidders, cost points will be calculated by reducing the maximum points available in phase III by two percent or more for each percentage point of the low bid by which the bidder exceeds the low bid and the points assigned will be added to the points assigned for phase II for each proposer;

(5) The responsive proposer with the highest total number of points will be awarded the contract. If the director determines, however, that it is not in the best interest of the state to proceed with the project pursuant to the proposal offered by the proposer with the highest total number of points, the director shall reject all proposals. In such event, all qualified proposers with lower point totals shall receive a stipend pursuant to section 8.1024 and the proposer with the highest total number of points shall receive an amount equal to two times such stipend;

(6) If all proposals are rejected, the director may solicit new proposals using different design criteria, budget constraints or qualifications.

8.1024. As an inducement to qualified proposers, the division shall pay a reasonable stipend, the amount of which shall be established in the request for proposal, to each prequalified design-builder whose proposal is responsive but not accepted. Upon payment of the stipend to any unsuccessful design-build proposer, the state shall acquire a nonexclusive right to use the design submitted by the proposer, and the proposer shall have no further liability for its use by the state in any manner. If the design-build proposer desires to retain all rights and interest in the design proposed, the proposer shall forfeit the stipend.

8.1027. Any person or corporation that enters into a design-build contract with the division of design and construction does not violate the requirements of chapter 327, RSMo, so long as the architectural, engineering or land surveying services to be performed under the contract are performed by:

(1) Persons who are duly licensed in this state and who are employees of the design-build contractor which holds a certificate of authority from the board of registration; or

(2) Persons who are duly licensed in this state and who are under contract to the design-build contractor; or

(3) Corporations that hold current certificates of authority from the board for the appropriate profession which are under contract to the design-build contractor."; and

Further amend said bill, page 130, section 215.038, line 10, by inserting immediately after said line the following:

"**227.107. 1. Notwithstanding any provision of section 227.100 to the contrary, as an alternative to the requirements and procedures specified by sections 227.040 to 227.100, the state highways and transportation commission is authorized to enter into one interstate highway design-build pilot project contract within ten years of the effective date of this section. Authority for design-build authorized by this section shall expire upon completion of the project selected, unless reauthorized by law.**

2. For the purpose of this section a "design-builder" is defined as an individual,

corporation, partnership, joint venture or other entity, including combinations of such entities making a proposal to perform or performing a design-build highway project contract.

3. For the purpose of this section, "design-build highway project contract" is defined as the procurement of all materials and services necessary for the design, construction, reconstruction or improvement of a state highway project in a single contract with a design-builder capable of providing the necessary materials and services.

4. For the purpose of this section, "highway project" is defined as the design, construction, reconstruction or improvement of highways or bridges under contract with the state highways and transportation commission, which is funded by state, federal or local funds or any combination of such funds.

5. In using a design-build highway project contract, the commission shall establish a written procedure by rule for prequalifying design-builders before such design-builders will be allowed to make a proposal on the project.

6. In any design-build highway project contract, whether involving state or federal funds, the commission shall require that each person submitting a request for qualifications provide a detailed disadvantaged business enterprise participation plan. The plan shall provide information describing the experience of the person in meeting disadvantaged business enterprise participation goals, how the person will meet the department of transportation's disadvantaged business enterprise participation goal and such other qualifications that the commission considers to be in the best interest of the state.

7. The commission is authorized to issue a request for proposals to a maximum of five design-builders prequalified in accordance with subsection 5 of this section.

8. The commission may require approval of any person performing subcontract work on the design-build highway project.

9. The bid bond and performance bond requirements of section 227.100 and the payment bond requirements of section 107.170, RSMo, shall apply to the design-build highway project.

10. The commission is authorized to prescribe the form of the contracts for the work.

11. The commission is empowered to make all final decisions concerning the performance of the work under the design-build highway project contract, including claims for additional time and compensation.

12. The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the procurement of architectural, engineering or land surveying services for the design-build highway project, except that any person providing architectural, engineering or land surveying services for the design-builder on the design-build highway project must be licensed in Missouri to provide such services.

13. The commission shall pay a reasonable stipend to prequalified responsive design-builders who submit a proposal, but are not awarded the design-build highway project.

14. The commission shall comply with the provisions of any act of congress or any regulations of any federal administrative agency which provides and authorizes the use of federal funds for highway projects using the design-build process.

15. The commission shall promulgate administrative rules to implement this section or to secure federal funds. Such rules shall be published for comment in the Missouri Register and shall include prequalification criteria, the make-up of the prequalification review team, specifications for the design criteria package, the method of advertising, receiving and evaluating proposals from design-builders, the criteria for awarding the design-build highway project based on the design criteria package and a separate proposal stating the cost of construction, and other methods, procedures and criteria necessary to administer this section.

16. The commission shall make a status report to the members of the general assembly

and the governor following the award of the design-build project, as an individual component of the annual report submitted by the commission to the Joint Transportation Oversight Committee in accordance with the provisions of section 21.795, RSMo. The annual report prior to advertisement of the design-build highway project contract shall state the goals of the project in reducing costs and/or the time of completion for the project in comparison to the design-bid-build method of construction and objective measurements to be utilized in determining achievement of such goals. Subsequent annual reports shall include: the time estimated for design and construction of different phases or segments of the project and the actual time required to complete such work during the period; the amount of each progress payment to the design builder during the period and the percentage and a description of the portion of the project completed regarding such payment; the number and a description of design change orders issued during the period and the cost of each such change order; upon substantial and final completion, the total cost of the design-build highway project with a breakdown of costs for design and construction; and such other measurements as specified by rule. The annual report immediately after final completion of the project shall state an assessment of the advantages and disadvantages of the design-build method of contracting for highway and bridge projects in comparison to the design-bid-build method of contracting and an assessment of whether the goals of the project in reducing costs and/or the time of completion of the project were met.

17. The commission shall give public notice of a request for qualifications in at least two public newspapers that are distributed wholly or in part in this state and at least one construction industry trade publication that is distributed nationally.

18. The commission shall publish its cost estimates of the design-build highway project award and the project completion date along with its public notice of a request for qualifications of the design-build project.

19. If the commission fails to receive at least two responsive submissions from design-builders considered qualified, submissions shall not be opened and it shall readvertise the project.

20. The provisions of this section shall be applicable to one interstate pilot highway project which shall be selected by the commission and shall have a total maximum annual expenditure of one hundred twenty-five million dollars for the life of the design-build project.";and

Further amend said bill, Page 130, Section 348.300, Line 11 of said page, by inserting immediately before said line the following:

"**327.465. 1. As used in this section, the following terms shall mean:**

(1) "Design-build", a project for which the design and construction services are furnished under one contract;

(2) "Design-build contract", a contract between the owner, owner's agent, tenant or other party and a design-build contractor to furnish the architecture, engineering and related design services, and the labor, materials and other construction services required for a specific public or private construction project;

(3) "Design-build contractor", any individual, partnership, joint venture, corporation or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontracts.

2. Any design-build contractor that enters into a design-build contract for public or private construction shall be exempt from the requirement that such person or entity hold a certificate of registration or such corporation hold a certificate of authority if the architectural, engineering or land surveying services to be performed under the contract are performed by:

(1) Persons who hold a certificate of registration for the appropriate profession and who are not employees of the design-build

contractor; or

(2) Corporations that hold current certificates of authority from the board for the appropriate profession.

3. Any design-build contractor who performs the design work directly, or who practices architecture, professional engineering or professional land surveying through the contractor's employees, or who contracts to do so, shall hold a current certificate of registration or certificate of authority from the board for the professional so practiced.

4. Nothing in this chapter shall prohibit the enforcement of a design-build contract by an unregistered or unauthorized design-build contractor who only furnishes, but does not directly or through its employees perform the architectural, engineering or surveying required by the contract and who does not hold itself out as able to perform such services."; and

Further amend said bill, Page 156, Section B, line 24 of said page, by inserting immediately after said line the following:

"Section C. The enactment of sections 8.1000, 8.1003, 8.1006, 8.1009, 8.1012, 8.1015, 8.1018, 8.1021, 8.1024 and 8.1027 shall expire on December 31, 2004."; and

Further amend the title and enacting clause accordingly.

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

President Maxwell assumed the Chair.

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

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 125, Section 178.892, Line 19, of said page, by inserting after "industry" the following: "**, or a job retained as a result of the purchase of a bankrupt business with at least 5,000 employees, but**"; and further amend line 20 of said page by striking "or" as it appears the first time on said line.

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

Senator Jacob offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 124, Section 135.545, Line 12, by inserting immediately after said line 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 dues or fees paid to health and fitness centers solely for health-benefit activities if such dues or fees are separately stated and do not include dues or fees for any other activities or services. 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. Health-benefit activities do not include recreational activities including basketball, volleyball, racquetball, baseball, golf, tennis, karate, dancing, open swimming, diving, or any activity that is part of a game, contest or competition.

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.

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

Senator Scott offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 20, Section 67.1545, Line 6, by inserting immediately after said

line the following:

"71.794. A special business district may be established, enlarged or decreased in area as provided herein in the following manner:

(1) Upon petition by one or more owners of real property on which is paid the ad valorem real property taxes within the proposed district, the governing body of the city may adopt a resolution of intention to establish, enlarge or decrease in area a special business district. The resolution shall contain the following information:

(a) Description of the boundaries of the proposed area;

(b) The time and place of a hearing to be held by the governing body considering establishment of the district;

(c) The proposed uses to which the additional revenue shall be put and the initial tax rate to be levied.

(2) Whenever a hearing is held as provided hereunder, the governing body of the city shall publish notice of the hearing on two separate occasions in at least one newspaper of general circulation not more than fifteen days nor less than ten days before the hearing; and shall mail a notice by **[**registered or certified**]** United States mail **[**with a return receipt attached**]** of the hearing to all owners of record of real property and licensed businesses located in the proposed district; and shall hear all protests and receive evidence for or against the proposed action; rule upon all protests which determination shall be final; and continue the hearing from time to time.

(3) If the governing body decides to change the boundaries of the proposed area, the hearing shall be continued to a time at least fifteen days after the decision. Notice shall be given in at least one newspaper of general circulation at least ten days prior to the time of said hearing showing the boundary amendments.

(4) If the governing body following the hearing decides to establish the proposed district, it shall adopt an ordinance to that effect. The ordinance shall contain the following:

(a) The number, date and time of the resolution of intention pursuant to which it was adopted;

(b) The time and place the hearing was held concerning the formation of the area;

(c) The description of the boundaries of the district;

(d) A statement that the property in the area established by the ordinance shall be subject to the provisions of additional tax as provided herein;

(e) The initial rate of levy to be imposed upon the property lying within the boundaries of the district;

(f) A statement that a special business district has been established;

(g) The uses to which the additional revenue shall be put;

(h) In any city with a population of less than three hundred fifty thousand, the creation of an advisory board or commission and enumeration of its duties and responsibilities;

(i) In any city with a population of three hundred fifty thousand or more, provisions for a board of commissioners to administer the special business district, which board shall consist of seven members who shall be appointed by the mayor with the advice and consent of the governing body of the city. Five members shall be owners of real property within the district or their representatives and two members shall be renters of real property within the district or their representatives. The terms of the members shall be structured so that not more than two members' terms shall expire in any one year. Subject to the foregoing, the governing body of the city shall provide in such ordinance for the method of appointment, the qualifications, and terms of the members."; and

Further amend the title and enacting clause accordingly.

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

Senator Stoll offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Committee

Substitute for House Bill No. 780, Page 3, Section A, Line 9, by inserting immediately after said line the following:

"67.398. 1. The governing body of any city, town or village, or any county having a charter form of government, **or any county of the first classification with a population of at least one hundred seventy thousand but not more than two hundred twenty thousand inhabitants,** or any county of the first classification that contains part of a city with a population of at least three hundred thousand inhabitants, may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of debris of any kind including, but not limited to, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material which is unhealthy or unsafe and declared to be a public nuisance.

2. Any ordinance authorized by this section may provide that if the owner fails to begin removing the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the city clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.".

Senator Stoll 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 Committee Substitute for House Bill No. 780, Page 124, Section 135.545, Line 12, by inserting after all of said line the following:

"135.915. 1. As used in this section, the following terms shall mean:

(1) "Child-occupied facility", as defined in section 701.300, RSMo;

(2) "Dwelling", as defined in section 701.300, RSMo;

(3) "Owner", as defined in section 701.300, RSMo;

(4) "Qualified lead abatement project", lead abatement project as defined in section 701.300, RSMo, which conforms to the requirements of sections 701.300 to 701.338, RSMo;

(5) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo.

2. For tax years beginning on or after January 1, 2002, an owner of any individual parcel of real estate which contains a child-occupied facility or dwelling involved in a qualified lead abatement project shall, upon application to and issuance of a certificate of tax credit by the department of health, be allowed to claim, for not more than two consecutive tax

years, a credit against such owner's state tax liability, in an amount equal to fifty percent of costs paid during such owner's taxable year for such qualified lead abatement project. The credit shall be nonrefundable, but may be carried back to the preceding three years and carried forward to the next five succeeding taxable years until the full credit has been claimed. The department of health is authorized to adopt any rules or regulations deemed necessary for the effective administration of this section and is authorized to charge a reasonable processing fee for the issuance of certificates of tax credits pursuant to this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. The cumulative amount of tax credits which may be claimed by all taxpayers in any one fiscal year shall not exceed 500,000 dollars."; and

Further amend the title and enacting clause accordingly.

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

Senator Steelman offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend House Committee Substitute for House Bill No. 780, Page 72, Section 135.230, Line 10, by inserting immediately at the end of said line the following:

"**135.344. 1. As used in this section, the following terms shall mean:**

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities;

(2) "Director", the director of the department of economic development;

(3) "Economic opportunity scholarship charity", a charitable organization in this state that is exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code, as amended, and that allocates at least ninety percent of its annual revenue for educational scholarships to children to allow them to attend a qualified school. For purposes of this section, the phrase "qualified school" means any elementary or secondary school of a child's parents' choice which is situated in this state and does not discriminate on the basis of race, color, handicap, national origin or ancestry which a child may attend to meet the requirements of section 167.031, RSMo. To qualify as an economic opportunity scholarship charity the charitable organization shall provide educational scholarships to students without limiting availability to students attending a particular school and shall give preference to students of families who demonstrate financial need.

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo;

(5) "Taxpayer", a person, firm, a partner in a firm, corporation or shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. In order to promote economic

development and a well-trained workforce through the expansion of educational opportunities, for all taxable years beginning on or after January 1, 2002, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to an economic opportunity scholarship charity. However, the tax credit shall not be allowed if the taxpayer designates the taxpayer's donation for the direct benefit of any dependent of the taxpayer.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any amount of credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution to an economic opportunity scholarship charity in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which charities in this state may be classified as economic opportunity scholarship charities. The director may require a charity seeking to be classified as an economic opportunity scholarship charity to provide whatever information is reasonably necessary to make such a determination. The director shall classify a charity as an economic opportunity scholarship charity if such charity meets the definition set forth in subdivision (3) of subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a charity has been classified as an economic opportunity scholarship charity, and by which such taxpayer can then contribute to such economic opportunity scholarship charity and claim a tax credit. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to economic opportunity scholarship charities in any one fiscal year shall not exceed one million dollars.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all charities classified as economic opportunity scholarship charities. If an economic opportunity scholarship charity fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those economic opportunity scholarship charities that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year."; and

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

Senator Steelman moved that the above amendment be adopted, which motion prevailed on a standing division vote.

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

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 156, Section 1, Line 17 of said page, by inserting immediately after said line the following:

"**Section 2. No new tax credits pursuant to**

sections 135.400 to 135.430 shall be made available after June 30, 2002, for qualified investments in Missouri small businesses which are enterprises which consist of one or more establishment assigned a SIC code of 8731 and the results of the activities of which are designed to be used by establishments assigned a SIC code of 2834, engaged solely in pharmaceutical research and development."; and

Further amend the title and enacting clause accordingly.

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

Senator Mathewson offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 33, Section 135.100, Line 4, by striking all of said line; and

Further amend said page, lines 24-28, by striking all of said lines; and

Further amend said section, by re-numbering the remaining paragraphs accordingly; and

Further amend said bill, page 48, section 135.110, line 28, by striking the opening bracket, and further amend said section, page 49, line 1, by striking the closing bracket; and

Further amend said bill, page 57, section 135.200, line 28, by striking all of said line; and further amend said section, page 58, lines 1-4, by striking all of said lines; and further amend said section by re-numbering the remaining paragraphs accordingly; and

Further amend said bill, page 68, section 135.230, lines 21-25, by striking the opening and closing brackets.

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

Senator Loudon offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 124, Section 135.545, Line 12, by inserting after all of said line the following:

"**173.840. 1. In addition to any other tax credit available pursuant to sections 173.196 to 173.199, there is hereby authorized a tax credit equal to thirty-five percent of the amount of any donation to the Missouri higher education scholarship donation fund created by section 173.196, for graduate study in chemistry, life sciences, and agricultural sciences, except that tax credits shall be awarded each fiscal year in the order donations are received and the amount of tax credits authorized by this section shall total no more than two hundred fifty thousand dollars for each fiscal year.**

2. The department of revenue shall grant tax credits approved pursuant to this section which shall be applied in the order specified in subsection 1 of section 32.115, RSMo, until used. The tax credits provided pursuant to this section shall be refundable, and any tax credit not used in the fiscal year in which approved may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed.

3. No tax credit authorized pursuant to this section may be applied against any tax applied in a tax year beginning prior to January 1, 2002.

4. All revenues credited to the fund shall be used, subject to appropriations, to provide scholarships or fellowships authorized pursuant to sections 173.196 to 173.199, and for no other purpose.

5. Donations received by the Missouri higher education scholarship donation fund pursuant to this section shall be used for the purposes authorized pursuant to sections 173.196 to 173.199."; and

Further amend the title and enacting clause accordingly.

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

Senator Rohrbach offered **SA 12**, which was read:

SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Pages 113 and 114, Section 135.530, by striking the entire section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Schneider offered **SA 13**:

SENATE AMENDMENT NO. 13

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 124, Section 135.545, Line 12, by inserting after all of said line the following:

"**135.552. 1. As used in this section, the following terms shall mean:**

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Director", the director of the department of public safety;

(3) "Sexual violence crisis service center", a nonprofit organization having a primary function of serving sexual violence victims, or running a discrete, separate program that serves sexual violence victims, or two or more nonprofit organizations operating under a formal arrangement to provide sexual violence services to victims of rape, sexual assault and sexual abuse, their significant others, secondary victims and the community. For purposes of this section, eligible services of a sexual violence crisis service center, include, but shall not be limited to, the operation of a twenty-four-hour crisis hotline promoted as a service for sexual violence victims and the provision of information, referrals, medical and justice system advocacy, crisis intervention and support groups at no charge and community education and prevention education;

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148 and 153, RSMo, exclusive of the provisions relating to withholding tax contained in sections 143.191 to 143.265, RSMo, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, exclusive of the provisions relating to withholding tax contained in sections 143.191 to 143.265, RSMo;

(5) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, an insurance company paying an annual tax on its gross premium receipts in this state or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a sexual violence crisis service center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next three succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim

a tax credit unless the total amount of such taxpayer's contribution or contributions to a sexual violence crisis service center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which organizations and programs in this state may be classified as sexual violence crisis service centers. The director may require an organization or program seeking to be classified as a sexual violence crisis service center to submit any information which is reasonably necessary to make such a determination. The director shall classify an organization or program as a sexual violence crisis service center if such organization or program meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if an organization or program has been classified as a sexual violence crisis service center, and by which such taxpayer can then contribute to such centers and claim a tax credit. Sexual violence crisis service centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to sexual violence crisis service centers in any one fiscal year shall not exceed two million dollars. Tax credits shall be issued based on the order in which accepted contributions are received.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all organizations and programs classified as sexual violence crisis service centers. If a sexual violence crisis service center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those sexual violence crisis service centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each sexual violence crisis service center shall provide information to the director concerning the identity of each taxpayer making a contribution to the sexual violence crisis service center who is claiming a tax credit pursuant to this section and the amount of the contribution. The director shall provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section 32.057, RSMo, relating to the disclosure of tax information.

9. This section shall become effective January 1, 2002, and shall apply to tax years after December 31, 2001.

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

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Director", the director of the department of social services;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148 and 153, RSMo, exclusive of the provisions relating to withholding tax contained in sections 143.191 to 143.265, RSMo, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, exclusive of the provisions relating to withholding tax contained in sections 143.191 to 143.265, RSMo;

(4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax

imposed by the provisions of chapter 143, RSMo, a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, an insurance company paying an annual tax on its gross premium receipts in this state or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo;

(5) "Unplanned pregnancy resource center", a nonresidential facility located in this state:

(a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and

(b) Where childbirths are not performed; and

(c) Which does not perform or refer for abortions and which does not hold itself out as performing or referring for abortions; and

(d) Which provides direct client services, as opposed to merely providing counseling or referral services by telephone; and

(e) Which provides its services at no cost; and

(f) Which is exempt from income taxation pursuant to the United States Internal Revenue Code.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to an unplanned pregnancy resource center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next three succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to an unplanned pregnancy resource center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which facilities in this state may be classified as unplanned pregnancy resource centers. The director may require a facility seeking to be classified as an unplanned pregnancy resource center to submit any information which is reasonably necessary to make such a determination. The director shall classify a facility as an unplanned pregnancy resource center if such facility meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a facility has been classified as an unplanned pregnancy resource center, and by which such taxpayer can then contribute to such centers and claim a tax credit. Unplanned pregnancy resource centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to unplanned pregnancy resource centers in any one fiscal year shall not exceed two million dollars. Tax credits shall be issued based on the order in which accepted contributions are received.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned

among all facilities classified as unplanned pregnancy resource centers. If an unplanned pregnancy resource center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those unplanned pregnancy resource centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each unplanned pregnancy resource center shall provide information to the director concerning the identity of each taxpayer making a contribution to the unplanned pregnancy resource center who is claiming a tax credit pursuant to this section and the amount of the contribution. The director shall provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section 32.057, RSMo, relating to the disclosure of tax information.

9. This section shall become effective January 1, 2002, and shall apply to tax years after December 31, 2001."; and

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

Senator Schneider moved that the above amendment be adopted.

Senator Kenney requested a division of the question on **SA 13**, asking that a vote first be taken on the portion of the amendment dealing with section 135.552 and that a second vote be taken on the portion of the amendment dealing with 135.630, which request was granted.

Senator Schneider moved that Part 1 of **SA 13** be adopted, which motion failed.

Senator Schneider requested a roll call vote be taken on the adoption of Part 2 of **SA 13** and was joined in his request by Senators Cauthorn, Mathewson, Steelman and Stoll.

Part 2 of **SA 13** was adopted by the following vote:

YEAS—Senators

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

NAYS—Senators

Bentley	Bland	Caskey	DePasco
Goode	Jacob	Johnson	Mathewson
Quick	Sims	Staples	Stoll
Wiggins—13			

Absent—Senator Dougherty—1

Absent with leave—Senator Carter—1

Senator Klarich assumed the Chair.

Senator Bland offered **SA 14**:

SENATE AMENDMENT NO. 14

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 78, Section 135.411, Line 14, by inserting at the end of said line the following: "**A minimum of thirty percent of qualified investments made in Missouri small businesses in distressed communities shall be invested in pre-seed and seed ventures located in incubators funded, in whole or in part, by the department of economic development. A pre-seed or seed company which receives such an investment shall either maintain its corporate headquarters in the distressed community for a minimum of five years from the date of the original qualified investment, or the company shall maintain its primary customer base within the distressed community for a minimum of five years from the date of the original qualified investment. For purposes of this section, "maintaining its primary customer base within the distressed community" means that at least fifty-one percent of the customers of the pre-seed or seed company shall reside or be based**

within the boundaries of the distressed community. Failure to fulfill these requirements shall result in revocation of the tax credit, and repayment of any amounts of the tax credit already applied against the investor's state tax liability."; and

Further amend said bill, Page 105, Section 135.516, Line 28, by inserting after "investments" the following: "**, and at least one of the companies receiving such investments shall be a pre-seed company**"; and further amend page 106, line 3, by inserting after "investments" the following: "**, and at least one of the companies receiving such investments shall be a pre-seed company**"; and further amend said bill, section and page, line 7, by inserting after "investments" the following: "**, and at least one of the companies receiving such investments shall be a pre-seed company**".

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

Senator Gross offered **SA 15**:

SENATE AMENDMENT NO. 15

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 780, Page 154, Section 447.721, Line 28, by inserting after all of said line the following:

"516.097. 1. Any action to recover damages for **economic loss,** personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property, including any action for contribution or indemnity for damages sustained on account of the defect or unsafe condition, shall be commenced within ten years of the date on which **[**any**]** such improvement is **substantially** completed.

2. This section shall only apply to actions against any person whose sole connection with the improvement is performing or furnishing, in whole or in part, the design, planning or construction, including architectural, engineering or construction services, of the improvement.

3. If any action is commenced against any person specified by subsection 2**[**, any**] of this section,** such person may, within one year of the date of the filing of such **[**an**]** action, notwithstanding the provisions of subsection 1 **of this section**, commence an action or a third party action for contribution or indemnity for damages sustained or claimed in any action because of **economic loss,** personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property.

4. This section shall not apply **[**if**]**:

(1) **If** an action is barred by another provision of law;

(2) **If** a person conceals any defect or deficiency in the design, planning or construction, including architectural, engineering or construction services, in an improvement for real property, if the defect or deficiency so concealed directly results in the defective or unsafe condition for which the action is brought;

(3) **[**The**] To limit any** action **[**is**]** brought against any owner or possessor of real estate or improvements **[**thereon**] on such real estate**.

5. The statute of limitation for buildings completed on August 13, 1976, shall begin to run on August 13, 1976, and shall be for the time specified **[**herein**] in this section**.

6. For the purposes of this section, the term "substantially completed" means that construction has progressed to the point that the building, facility, structure or improvement can be put to the use for which it was intended, even though comparatively minor items remain to be furnished or performed in order to conform to the plans and specifications for the completed building, facility, structure or improvement, which minor items do not prevent occupancy or use of the building, facility, structure or improvement. Certificate of substantial completion issued by a design professional or a temporary certificate of occupancy by a public official shall be evidence of substantial completion.

537.800. 1. In any action against a licensed professional for damages or injuries due to the rendering of or failure to render professional services, the plaintiff or plaintiff's attorney shall

file an affidavit with the court stating that the plaintiff or plaintiff's attorney has obtained the written opinion of a legally qualified like licensed professional which states that the defendant licensed professional failed to use such care as a reasonably prudent and careful licensed professional would have under similar circumstances and that such failure to use such reasonable care directly caused or directly contributed to cause the damages claimed in the petition.

2. The affidavit shall state the qualifications of the like licensed professional to offer such opinion.

3. A separate affidavit shall be filed for each defendant named in the petition.

4. The affidavit shall be filed no later than ninety-five days after the filing of the petition unless the court, for good cause shown, orders that such time be extended.

5. If the plaintiff or his attorney fails to file the affidavit, the court may, upon motion of any party, dismiss the action against such moving party without prejudice.

6. For purposes of this act, the term "licensed professional" shall mean every licensed architect, professional engineer, land surveyor or any corporation authorized to render any of the aforementioned professional services. This section shall not apply to any "health care provider" as that term is defined in section 538.205, RSMo.

7. The provisions of this section shall not apply to actions filed in small claims court pursuant to chapter 482, RSMo."; and

Further amend the title and enacting clause accordingly.

Senator Gross moved that the above amendment be adopted, which motion failed on a standing division vote.

Senator Mathewson moved that **SS** for **SCS** for **HS** for **HCS** for **HB 780**, as amended, be adopted, which motion prevailed.

Senator Kenney was recognized to close.

President Pro Tem Kinder referred **SS** for **SCS** for **HCS** for **HB 780**, as amended, to the Committee on State Budget Control, which placed the bill on the Informal Calendar.

Senator Rohrbach assumed the Chair.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following Conference Committee to act with a like committee from the Senate on **SS** for **SCS** for **HS** for **HCS** for **HB 762**, as amended. Representatives: Barry, Bonner, Selby, Holand and Ostmann.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SCS** for **SB 10**, entitled:

An Act to repeal section 516.350, RSMo 2000, relating to division of benefits in dissolution of marriage judgments, and to enact in lieu thereof one new section relating to the same subject.

With House Amendments Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 10, Section 516.350, by inserting before said section the following:

"511.350. 1. Judgments and decrees rendered by the supreme court, by any United States district or circuit court held within this state, by any district of the court of appeals, by any circuit court and any probate division of the circuit court, except judgments and decrees rendered by associate, small claims and municipal divisions of the circuit courts, shall be liens on the real estate of the person against whom they are rendered, situate in the county for which or in which the court is held.

2. Judgments and decrees rendered by the associate divisions of the circuit courts shall not be

liens on the real estate of the person against whom they are rendered until such judgments or decrees are filed with the clerk of the circuit court pursuant to sections [517.770] "**517.141**" and [517.780] "**517.151**", RSMo.

3. Judgments and decrees rendered by the small claims and municipal divisions of the circuit court shall not constitute liens against the real estate of the person against whom they are rendered.

511.360. The lien of a judgment or decree shall extend as well to the real estate acquired after the rendition thereof, as to that which was owned when the judgment or decree was rendered. Such liens shall commence on the day of the rendition of the judgment, and shall continue for [three] "**ten** years, subject to be revived as herein provided; but when two or more judgments or decrees are rendered at the same term, as between the parties entitled to such judgments or decrees, the lien shall commence on the last day of the term at which they are rendered."; and

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

HOUSE AMENDMENT NO. 2

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 10, Page 2, Section 516.350, Line 13, by adding the following at the end of said line:

"An action to emancipate a child, and any personal service or order rendered thereon, shall not act to revive the support order.".

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SCS** for **SB 186**, entitled:

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.

With House Amendments Nos. 1, 3 and 4.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 186, Page 1, In the title, Line 9 of said page, by inserting after the following: "2000," the following: "and Section 367.100 as enacted by Senate Substitute for House Committee Substitute for House Bill No. 738, ninety-first general assembly, first regular session,"; and

Further amend said bill, Page 1, Section A, Line 20 of said page, by inserting after the following: "2000," the following: "and Section 367.100 as enacted by Senate Substitute for House Committee Substitute for House Bill No. 738, ninety-first general assembly, first regular session,"; and

Further amend said bill, Section 367.100, Page 49, Lines 31 to 39 of said page and Page 50, Lines 1 to 19 of said page, by deleting all of said section and inserting in lieu thereof the following:

"[367.100. As used in sections 367.100 to 367.200:

(1) "Consumer credit loans" shall mean loans for personal, family or household purposes in amounts of five hundred dollars or more;

(2) "Director" shall mean the director of the division of finance or such agency or agencies as may exercise the powers and duties now performed by such director;

(3) "Lender" shall mean any person engaged in the business of making consumer credit loans. A person who makes an occasional consumer credit loan or who occasionally makes loans but is not regularly engaged in the business of making consumer credit loans shall not be considered a lender subject to sections 367.100 to 367.200;

(4) "Person" shall include individuals,

partnerships, associations, trusts, corporations, and any other legal entities, excepting those corporations whose powers emanate from the laws of the United States and those which under other law are subject to the supervisory jurisdiction of the director or the director of the division of credit unions of Missouri;

(5) "Supervised business" shall mean the business of making consumer credit loans, as herein defined, of money, credit, goods, or things in action.

The provisions of section 367.100(1)(b) shall not be effective until January 1, 2002.]

367.100. As used in sections 367.100 to 367.200:

(1) "Consumer credit loans" shall mean**:**

(a) Prior to January 1, 2002, loans for the benefit of or use by an individual or individuals:

[(a)] **a.** Secured by a security agreement or any other lien on tangible personal property or by the assignment of wages, salary or other compensation; or

[(b)] **b.** Unsecured and whether with or without comakers, guarantors, endorsers or sureties;

(b) Beginning January 1, 2002 and thereafter, loans for personal, family or household purposes in amounts of five hundred dollars or more;

(2) "Director" shall mean the director of the division of finance or such agency or agencies as may exercise the powers and duties now performed by such director;

(3) "Lender" shall mean any person engaged in the business of making consumer credit loans. A person who makes an occasional consumer credit loan or who occasionally makes loans but is not regularly engaged in the business of making consumer credit loans shall not be considered a lender subject to sections 367.100 to 367.200;

(4) "Person" shall include individuals, partnerships, associations, trusts, corporations, and any other legal entities, excepting those corporations whose powers emanate from the laws of the United States and those which under other law are subject to the supervisory jurisdiction of the director [of the division of the finance of Missouri,] or the director of the division of credit unions of Missouri;

(5) "Supervised business" shall mean the business of making consumer credit loans, as herein defined, of money, credit, goods, or things in action.".

HOUSE AMENDMENT NO. 3

Amend House Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 186, Pages 8-9, Section 148.400, by deleting said section from the bill; and

Further amend the 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. 186, Page 74, Section 367.532, Line 2 of said page, by inserting after all of said line the following:

"379.316. 1. Section 379.017 and sections 379.316 to 379.361 apply to insurance companies incorporated pursuant to sections 379.035 to 379.355, section 379.080, sections 379.060 to 379.075, sections 379.085 to 379.095, sections 379.205 to 379.310, and to insurance companies of a similar type incorporated pursuant to the laws of any other state of the United States, and alien insurers licensed to do business in this state, which transact fire and allied lines, marine and inland marine insurance, to any and all combinations of the foregoing or parts thereof, and to the combination of fire insurance with other types of insurance within one policy form at a single premium, on risks or operations in this state, except:

(1) Reinsurance, other than joint reinsurance to the extent stated in section 379.331;

(2) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured pursuant to marine, as distinguished from inland marine, insurance policies;

(3) Insurance against loss or damage to aircraft;

(4) All forms of motor vehicle insurance; and

(5) All forms of life, accident and health, and workers' compensation insurance.

2. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the director, or as established by general custom of the business, as inland marine insurance.

3. Commercial property and commercial casualty insurance policies [which meet the exemption requirements of section 379.362 shall be exempt from those insurance laws of this state which concern the regulation by the director of the department of insurance of the policy language, policy provisions or the format of such policies, or the regulation of the rates used to calculate the amount of premium charged] **are subject to rate and form filing requirements as provided in section 379.321**.

379.321. 1. Every insurer shall file with the director, except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section [and as to inland marine risks which by regulation or general custom of the business are not written according to manual rates or rating plans], every manual of classifications, rules, underwriting rules and rates, every rating plan and every modification of the foregoing which it uses and the policies and forms to which such rates are applied. Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the director to accept such filings on its behalf, provided that nothing contained in section 379.017 and sections 379.316 to 379.361 shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the director to accept such filings on its behalf. Filing with the director by such insurer or licensed rating organization within ten days after such manuals, rating plans or modifications thereof or policies or forms are effective shall be sufficient compliance with this section.

2. Except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section and [as to contracts or policies for] inland marine risks [as to which filings are not required] **as provided in subsection 1 of this section**, no insurer shall make or issue a policy or contract except pursuant to filings which are in effect for that insurer or pursuant to section 379.017 and sections 379.316 to 379.361. Any rates, rating plans, rules, classifications or systems, in effect on August 13, 1972, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

3. Upon the written application of the insured, stating his or her reasons therefor, filed with the insurer, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

4. Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the director to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) That any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the director and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) That any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the director:

(a) Requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty days

after receipt of such request, either:

a. To make such filing as a rating organization filing;

b. To make such filing on an agency basis solely on behalf of the requesting member; or

c. To decline the request of such member; and

(b) Excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

5. Any change in a filing made pursuant to this section during the first six months of the date such filing becomes effective shall be approved or disapproved by the director within ten days following the director's receipt of notice of such proposed change.

6. [Commercial property and commercial casualty insurance policies which meet the exemption requirements of section 379.362 shall adhere to the filing requirements of this section, provided however, that the filings for such policies shall be for informational purposes only. Therefore, all manuals of classifications, rules, underwriting rules, rates, rate plans and modifications, policy forms and other forms to which such rates are applied, shall be filed with the director for policies which meet the exemption requirements of section 379.362. Such filings shall be made with the director within thirty days after such materials are used by the insurer, but such policies and rates need not be reviewed or approved by the department of insurance as a condition of their use. Nothing in this subsection shall require the filing of individual policies or the rates related thereto where the original policy forms, manuals, rates and rules for the insurance plan or program to which such individual policies conform have already been filed with the director.] **Commercial property and commercial casualty requirements differ as follows:**

(1) All commercial property and commercial casualty insurance rates, rate plans, modifications, and manuals of classifications, where appropriate, shall be filed with the director for informational purposes only. Such rates are not to be reviewed or approved by the department of insurance as a condition of their use. Nothing in this subsection shall require the filing of individual rates where the original manuals, rates and rules for the insurance plan or program to which such individual policies conform have already been filed with the director;

(2) If an insurer will only renew a commercial casualty or commercial property insurance policy with an increase in premium of twenty-five percent or more, a "premium alteration requiring notification" notice must be mailed or delivered by the insurer at least sixty days prior to the expiration date of the policy, except in the case of an umbrella or excess policy the coverage of which is contingent on the coverage of an underlying policy of commercial property or casualty insurance, in which case notice of an increase in premium of twenty-five percent or more shall be mailed or delivered at least thirty days prior to the expiration date of the policy. Such notice shall be mailed or delivered to the agent of record and to the named insured at the address shown in the policy. If the insurer fails to meet this notice requirement, the insured shall have the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. This provision does not apply if the insurer has offered to renew a policy without such an increase in premium or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. For purposes of this section, "premium alteration requiring notification" means an annual increase in premium of twenty-five percent or more, exclusive of premium increases due to a change in the operations of the insured which increases either the hazard insured against or the individual loss characteristics, or due to a change in the magnitude of the exposure basis, including, without limitation, increases in payroll or sales. For commercial multiperil policies, no "premium alteration requiring notification" shall be required unless the increase in premium for all of a policyholder's policies taken together amounts to a twenty-five percent or more annual increase

in premium;

(3) Commercial property and commercial casualty policy forms shall be filed with the director as provided pursuant to subsection 1 of this section. However, if after review, it is determined that corrective action must be taken to modify the filed forms, the director shall impose such corrective action on a prospective basis for new policies. All policies previously issued which are of a type that is subject to such corrective action shall be deemed to have been modified to conform to such corrective action retroactive to their inception date;

(4) For purposes of this section, "commercial casualty" means "commercial casualty insurance" as defined in section 379.882. For purposes of this section, "commercial property" means property insurance, which is for business and professional interests, whether for profit, nonprofit or public in nature which is not for personal, family or household purposes, but does not include title insurance;

(5) Nothing in this subsection shall limit the director's authority over excessive, inadequate or unfairly discriminatory rates.

379.356. **1.** No insurer, broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the provisions of section 379.017 and sections 379.316 to 379.361. No insurer or employee thereof, and no broker or agent shall pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filings. No insured named in any policy of insurance shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of, nor permitting the regulation of the payment of, commissions or other compensation to duly licensed agents and brokers; nor as prohibiting, or permitting the regulation of, any insurer from allowing or returning to its participating policyholders or members, dividends or savings.

2. An insurer or insurance producer, agent or broker may charge additional incidental fees for premium installments, late payments, policy reinstatements, or other similar services specifically provided for by law or regulation. Such fees shall be disclosed to the applicant or insured in writing.

379.425. 1. Sections 379.420 to 379.510 apply to casualty insurance, including fidelity, surety and guaranty bonds, and to all forms of motor vehicle insurance, on risks or operations in this state, except**:**

(1) Reinsurance, other than joint reinsurance to the extent stated in section 379.460 and subsection 2 of section 379.430;

(2) Insurance against workers' compensation liability;

(3) Accident and health insurance;

(4) Insurance against loss of or damage to aircraft, or against liability, other than employers' liability, arising out of the ownership, maintenance or use of aircraft.

2. Commercial casualty insurance policies [which meet the exemption requirements of section 379.362] shall be exempt from [those insurance laws of this state which concern the regulation by the director of insurance of the policy language, policy provisions or the format of such policies, or regulation of the rates used to calculate the amount of premium charged] **the provisions of sections 379.420 to 379.510 to the extent permitted pursuant to subsection 6 of section 379.321**.

379.888. 1. As used in sections 379.888 to 379.893, the following terms mean:

(1) "'A' rated risk", any insurance coverage for which rates are individually determined based upon judgment because neither a rate service organization nor the insurer has yet established a manual rate based upon experience, except that if

a rate service organization or the insurer acquires sufficient experience to establish, or if the insurer itself has, a manual rate for such coverage, then such coverage shall no longer be considered an "A" rated risk for each insurer;

(2) "Base rate", the rate designed to reflect the average aggregate experience of a particular market, prior to adjustment for individual risk characteristics resulting from application of any rating plan;

(3) "Classification", a grouping of insurance risks according to a classification system used by an insurer;

(4) "Classification system", a schedule of classifications and a rule or set of rules used by an insurer for determining the classification applicable to an insured;

(5) "Commercial casualty insurance", casualty insurance for business or nonprofit interests which is not for personal, family, or household purposes;

(6) "Director", the director of the department of insurance;

(7) "Rate", a monetary amount applied to the units of exposure basis assigned to a classification and used by an insurer to determine the premium for an insured;

(8) "Rating plan", a rule or set of rules used by an insurer to calculate premium for an insured, and the parameter values used in such calculation, after application of classification premium rates to units of exposure; and

(9) "Rating system", a collection of rating plans to be used by an insurer, rules for determining which rating plans are applicable to an insured, a classification system, and other rules used by an insurer for determining contractual consideration for insured.

2. [Every filing of commercial casualty insurance premium rates, rating plans or rating systems by an insurer or rating organization shall be submitted to the director for review prior to becoming effective if it produces an increase or decrease exceeding twenty-five percent annually from changes in any:

(1) Base rates;

(2) Rating basis;

(3) Rating plans;

(4) Manual rules;

(5) Territorial definitions; or

(6) Combination of such rating system components of subdivisions (1) to (5) of this subsection.

3.] Nothing in this section applies to premium increases or decreases from:

(1) Change in hazard of the insured's operation;

(2) Change in magnitude of the exposure basis for the insured, including, without limitation, changes in payroll or sales;

(3) "A" rated risks[; or

(4) Commercial casualty insurance that is exempt pursuant to section 379.362].

[4.] **3.** Any renewal notice of a commercial casualty insurance policy as defined in section 379.882 for any Missouri risk or portion thereof which would have the effect of increasing the premium charged to the insured due to a change in any scheduled rating factor applied to the policy during the previous policy period shall contain or be accompanied by a notice to the insured informing the insured that any inquiry by the insured concerning the change may be directed to the agent of record or directly to the insurer. When any insured makes a request for information pursuant to this subsection, the insurer, directly or through the insurer's agent, shall inform the insured in writing in terms sufficiently clear and specific of the basis for any reduction in a scheduled rating credit or increase in a scheduled rating debit which is applied to the policy. Evidence supporting the basis for any scheduled rating credit or debit shall be retained by the insurer for the policy term plus two calendar years pursuant to section 374.205, RSMo. The department of insurance shall notify commercial casualty insurers of the requirements of this section by bulletin.

4. Any renewal involving a "premium alteration requiring notification" as defined in

subsection 6 of section 379.321, shall be handled pursuant to the requirements of that subsection."; and

Further amend said bill, Page 92, Section 513.430, Line 14 of said page, by inserting after all of said line the following:

"**Section 1. No insurer or its agent or representative shall require any applicant or policyholder to divulge if any insurer has denied any claim of that applicant or policyholder.**"; and

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

PRIVILEGED MOTIONS

Senator Klarich moved that **SCS** for **SB 186**, with **HS** for **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HS for **HCS** for **SCS** for **SB 186**, as amended, entitled:

HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 186

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.

Was taken up.

Senator Klarich moved that **HS** for **HCS** for **SCS** for **SB 186**, as amended, be adopted, which motion prevailed 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	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senator Jacob—1

Absent—Senators

Childers	Schneider	Scott	Staples—4

Absent with leave—Senator Carter—1

On motion of Senator Klarich, **HS** for **HCS** for **SCS** for **SB 186**, 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	Quick
Rohrbach	Russell	Scott	Sims
Singleton	Steelman	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senators—None

Absent—Senators

Childers	Schneider	Staples—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.

Bill ordered enrolled.

RESOLUTIONS

Senator DePasco offered Senate Resolution No. 839, regarding Chris Acosta, Kansas City, which was adopted.

Senator DePasco offered Senate Resolution No. 840, regarding Bradley M. Boman, Kansas City, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Johnson introduced to the Senate, the Physician of the Day, Dr. Robert Schaaf, M.D., St. Joseph.

On motion of Senator Kenney, the Senate adjourned until 9:00 a.m., Friday, May 18, 2001.

SENATE CALENDAR

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SEVENTY-SIXTH DAY–FRIDAY, MAY 18, 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

HCS for HBs 754, 29, 300 & 505 (Bentley)
(In Budget Control)
HS for HCS for HB 824-Abel (Mathewson)
(In Budget Control)
HS for HB 612-Ladd Baker, with SCS (Sims)
(In Budget Control)

HS for HB 736-Liese, with SCS (Yeckel)
(In Budget Control)
HCS for HJR 7, with SCS (Staples)
(In Budget Control)
HS for HB 555-Foley, with SCS (Scott)
(In Budget Control)

HS for HB 349-Hosmer, with SCS (Sims) (In Budget Control)

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 593-Klindt, with SCS
SJR 11-Yeckel

HOUSE BILLS ON THIRD READING

HCS for HB 50, with SCS (Stoll)
HB 70-Koller, with SCA 1 (Staples)
HB 133-Gambaro, with SCS (Yeckel)
HB 185-Legan, et al, with SCS (Gross)
HS for HCS for HBs 237, 270, 403 & 442-Smith, with SCA 1 (Yeckel)

HB 249-Treadway, with SCS (Kinder)
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)
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)
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)
SCS for HB 662-Green (73) and St. Onge (Foster) (In Budget Control)
HB 678-Seigfreid, with SCS (pending) (Mathewson)
SS for SCS for HCS for HB 780 (Kenney) (In Budget Control)
HS for HCS for HBs 835, 90, 707, 373, 641, 510, 516 & 572-Britt, with SCS (Caskey)
HS for HB 882-Crump, with SCS (Singleton)
HS for HCS for HBs 924, 714, 685, 756, 734 & 518-Wiggins, with SCS & SS for SCS (pending) (Mathewson)
HB 949-Barry, with SCS, SS#2 for SCS, SA 1 & point of order (pending) (Sims)
HB 954-Hosmer (Westfall)
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

SCS for SB 10-Caskey, with HS for HCS, as amended

SB 125-Bentley, with HS for HCS, as amended

SS for SCS for SB 226-Goode, with HS for HCS, as amended

SB 307-Jacob, with HCS

SB 470-Goode, et al, with HCA 1, HA 1 & HA 2

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SS for SCS for SB 48-Sims, with HS for HCS, as amended

SB 72-Loudon, with HS for HCS, as amended

SCS for SB 151-Childers, with HCS (Senate adopted CCR#2 and passed CCS#2)

SS for SB 193-Rohrbach, with HCS, as amended (Senate adopted CCR and passed bill)

SCS for SB 236-Sims, with HS for HCS, as amended

SS for SB 244-Staples, with HCS, as amended (Senate adopted CCR and passed CCS)

SCS for SB 266-Bland, et al, with HS for HCS, as amended

SB 274-Caskey, with HCS (Senate adopted CCR and passed CCS)

SB 304-Klarich, with HCS

SB 365-Steelman, with HS for HCS, as amended

SS for SCS for SB 369-Steelman, with HS for HCS, as amended (Senate adopted CCR and passed CCS)

SCS for SB 393-Sims, with HS, as amended (Senate adopted CCR and passed CCS)
SB 460-Klarich, with HS for HCS, as amended
SB 610-Westfall, with HCS (Senate adopted CCR and passed CCS)
SCS for SB 617-Steelman, with HS for HCS, as amended
HB 80-Ross, with SCS, as amended (Kenney)
HB 157-Hosmer, with SCS (Bentley)
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) (House adopted CCR and passed CCS)
HB 453-Ransdall, et al, with SS for SCS, as amended (Steelman) (Further conference granted)
HB 471-Jolly, et al, with SCS, as amended (Wiggins)
HS for HCS for HB 762-Barry, with SS for SCS, as amended (Sims and Stoll)

Requests to Recede or Grant Conference

SS for SCS for SB 351-Singleton, with HS, as amended (Senate requests House recede or grant conference)
SCS for SB 591-Kenney, 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 34-Sims, with SCA 1

Requests to Recede or Grant Conference

SS for SCR 2-Singleton,
with HCS
(Senate requests House
recede or grant conference)

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