Journal of the Senate

FIRST REGULAR SESSION

SIXTY-FOURTH DAY—THURSDAY, MAY 1, 2003

The Senate met pursuant to adjournment.

President Pro Tem Kinder in the Chair.

Pastor Douglas J. Crader, Jefferson City National Day of Prayer Task Force Chairman, offered the following prayers:

Prayer for the Nation

By Dr. Luis Palau

Our Father and our God, we thank You for the many blessings You have poured out on America and we praise You for Your mercy. You have said: "Righteousness exalts a nation, but sin is a disgrace to any people." We confess, O Lord, our national and personal sins. We repent and ask forgiveness for all actions that dishonor You. O God, bless our President and other leaders. Provide them with wisdom and move them to honor You. Deliver this great nation from all our enemies as we recommit ourselves to trust, serve and obey Your commands. We pray in the name of our Lord and Savior, Jesus Christ, Amen.

Heavenly Father, we thank You for this great nation that You have given us and for the grace to serve You in it. We humbly ask for continued direction and leadership as we face the challenges that lay before us. As Your Word says, we should "pray for all men, for kings and those in authority that we may lead a quiet and peaceable life in Godliness and honesty". Father, we pray for all our leaders because of the great burdens and responsibilities on them as they serve us, the people. We ask for healing of division in our state and national governments and the nation as a whole; because Your Word says "a house divided against itself cannot stand." We understand that our differences in life, education, backgrounds and understanding can be a problem; but we thank You that these differences can be the sources of diverse ideas that bring answers. We call out for Your wisdom and guidance as these men and women deal with these things. You have helped and guided us through many storms throughout our history as a nation and as a state and we know You will continue as we yield ourselves to Your counsel. Father, I speak blessing on the men and women in this chamber for as Your Word says they are "ministers for our good". I pray that You take care of them and their families and provide everything they need. I also take authority over any forces of darkness that would be set against them, their families, and their offices. Inscribed upon the very walls of this building are the words "righteousness exalts a nation". I pray for the courage and strength for every man, woman and child to walk in righteousness and honesty before You that we may continue to walk as a nation blessed by You and be a beacon to the world. In Jesus mighty Name we pray, Amen.

The Pledge of Allegiance to the Flag was recited.

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

The President requested that the Journal be read.

Senator Gibbons moved that further reading of the Journal be dispensed with and the same be approved as though having been fully read.

Senator Caskey rose to object to the

dispensing of the full reading of the Journal and raised the point of order that the motion made by Senator Gibbons is out of order, as it is not an appropriate motion under the provisions of Senate Rule 97, as it does not include a request to suspend Senate Rule 3.

Senator Gross assumed the Chair.

The point of order was referred to the President Pro Tem, who took it under advisement.

At the request of Senator Caskey, his point of order and objection were withdrawn.

Senator Jacob rose to object to the dispensing of the full reading of the Journal and raised the point of order that it would require a two-thirds vote under the provisions of Senate Rule 97, to suspend Senate Rule 3.

The point of order was referred to the President Pro Tem.

At the request of Senator Jacob, his point of order and his objection were withdrawn.

Senator Gibbons renewed his motion that further reading of the Journal be dispensed with and the same be approved as though having been fully read, which motion prevailed.

Photographers from KRCG-TV, the Associated Press, KTVO-TV and the News Tribune were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Clemens
Coleman	Days	Dolan	Dougherty
Foster	Gibbons	Goode	Griesheimer
Gross	Jacob	Kennedy	Kinder
Klindt	Loudon	Mathewson	Nodler
Quick	Russell	Scott	Shields
Steelman	Stoll	Vogel	Wheeler

Yeckel—33

Absent with leave—Senator DePasco—1

The Lieutenant Governor was present.

RESOLUTIONS

Senator Mathewson offered Senate Resolution No. 838, regarding Bertha Mullins, Miami, which was adopted.

Senator Mathewson offered Senate Resolution No. 839, regarding the Honorable Norwood A. Creason, Braymer, which was adopted.

Senator Loudon offered Senate Resolution No. 840, regarding Kiara Lackey, which was adopted.

Senator Loudon offered Senate Resolution No. 841, regarding June Kay, which was adopted.

Senator Loudon offered Senate Resolution No. 842, regarding Cathy Thurwachter, which was adopted.

Senator Childers offered Senate Resolution No. 843, regarding Clinton Wesley Miles, Branson, which was adopted.

Senator Shields offered Senate Resolution No. 844, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Al Rohr, Parkville, which was adopted.

Senator Stoll offered Senate Resolution No. 845, regarding the Reverend Ivan Charles Horn, Dittmer, which was adopted.

REPORTS OF STANDING COMMITTEES

Senator Kinder, Chairman of the Committee on Gubernatorial Appointments, submitted the following reports:

Mr. President: Your Committee on Gubernatorial Appointments, to which were referred the following appointments and reappointments, begs leave to report that it has considered the same and recommends that the Senate do give its advice and consent to the following:

Randall Stephen Jotte, M.D., as a member of

the Advisory Committee for 911 Service Oversight;

Also,

Randall B. Miltenberger, as a member of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects;

Also,

David K. Tan, as a member of the State Advisory Council on Emergency Medical Services;

Also,

Jerald A. Pelker, as a member of the Missouri Training and Employment Council;

Also,

Scott M. Olson, as a member of the Seismic Safety Commission;

Also,

Jason W. Ware, as a member of the Harris-Stowe State College Board of Regents;

Also,

Thomas J. Carlson, Michael J. Duggan and Phyllis A. Washington, as members of the Southwest Missouri State University Board of Governors;

Also,

Catherine Lorine Davis, as a member of the Missouri Health Facilities Review Committee;

Also,

Robert J. Saunders, as a member of the Hazardous Waste Mangement Commission;

Also,

Jack E. Gant, as a member of the Missouri Gaming Commission;

Also,

Elson S. Floyd, as a member of the Midwestern Higher Education Commission;

Also,

Darwin A. Hindman, as a member of the Environmental Improvement and Energy Resources Authority;

Also,

Karen L. Berding, Catheryn M. Smith and Linda W. Hancik, as members of the Child Abuse and Neglect Review Board;

Also,

Lydia C. Hurst and Rita B. Hanks, as members of the Northwest Missouri State University Board of Regents;

Also,

Ken H. Keesaman, as a member of the State Fair Commission;

Also,

Mark R. Tucker, as a public member and John C. Lucio, D.O., as a member of the State Board of Registration for the Healing Arts;

Also,

Thomas G. Kolb, as a member of the Petroleum Storage Tank Insurance Fund Board of Trustees;

Also,

Cynthia O. Blosser, as a member of the Lincoln University Board of Curators;

Also,

Dubart (Nip) J. Neidert, Deanne Lynn Hackman, John F. Morrison and Mark Kelley, as members of the Citizens' Advisory Commission for Marketing Missouri Agricultural Products;

Also,

Jack D. Rushin, as a member of the Missouri State Board of Chiropractic Examiners;

Also,

Douglas D. Morgan, as a member of the Missouri State Public Employees Deferred

Compensation Commission;

Also,

Gretchen G. Davis, as a member of the Missouri Community Service Commission;

Also,

William B. Siebenborn, as a member of the State Milk Board;

Also,

Raeanne E. Presley, as a member of the Tourism Commission;

Also,

Wilson James Winn, as a member of the Elevator Safety Board;

Also,

Kevin W. Snedden, as a member of the Board of Therapeutic Massage;

Also,

Mike Morado, Sr., as a member of the Special Health, Psychological and Social Needs of Minority Older Individuals Commission;

Also,

Joseph M. Yasso, as a member of the Drug Utilization Review Board.

Senator Kinder requested unanimous consent of the Senate to vote on the above reports in one motion. There being no objection, the request was granted.

Senator Kinder moved that the committee reports be adopted, and the Senate do give its advice and consent to the above appointments and reappointments, which motion prevailed.

President Pro Tem Kinder assumed the Chair.

Senator Childers, Chairman of the Committee on Economic Development, Tourism and Local Government, submitted the following report:

Mr. President: Your Committee on Economic Development, Tourism and Local Government, to which was referred **HS** for **HB 197**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Yeckel, Chairman of the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, submitted the following reports:

Mr. President: Your Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, to which was referred **SB 434**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, to which was referred **HS** for **HCS** for **HB 564**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Steelman, Chairman of the Committee on Commerce and the Environment, submitted the following report:

Mr. President: Your Committee on Commerce and the Environment, to which was referred **HS** for **HCS** for **HB 228**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Dolan, Chairman of the Committee on Transportation, submitted the following reports:

Mr. President: Your Committee on Transportation, to which was referred **HB 598**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Trans-

portation, to which was referred **HB 327**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Scott, Chairman of the Committee on Pensions and General Laws, submitted the following reports:

Mr. President: Your Committee on Pensions and General Laws, to which was referred **HCS** for **HB 185**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Pensions and General Laws, to which was referred **HB 91**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Pensions and General Laws, to which was referred **SB 449**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Cauthorn, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, submitted the following reports:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which were referred **HS** for **HCS** for **HBs 517**, **94**, **149**, **150** and **342**, with **SCS**; **HS** for **HB 668,** with **SCS**; **SS No. 2** for **SB 695**; and **SB 236**, begs leave to report that it has considered the same and recommends that the bills do pass.

THIRD READING OF SENATE BILLS

SB 236 was placed on the Informal Calendar.

SS for **SB 242**, introduced by Senator Yeckel, entitled:

An Act to amend chapter 512, RSMo, by adding thereto one new section relating to supersedeas bond requirements, with an emergency clause.

Was taken up.

On motion of Senator Yeckel, **SS** for **SB 242** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bray	Caskey	Cauthorn
Champion	Childers	Clemens	Coleman
Days	Dolan	Foster	Gibbons
Goode	Griesheimer	Gross	Jacob
Kennedy	Kinder	Klindt	Loudon
Mathewson	Nodler	Russell	Scott
Shields	Steelman	Stoll	Vogel
Yeckel—29			

NAYS—Senators

Bland	Dougherty	Wheeler—3

Absent—Senator Quick—1

Absent with leave—Senator DePasco—1

The President Pro Tem declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bartle	Bray	Caskey	Cauthorn
Champion	Childers	Clemens	Coleman
Days	Dolan	Foster	Gibbons
Goode	Griesheimer	Gross	Jacob
Kennedy	Kinder	Klindt	Loudon
Mathewson	Nodler	Scott	Shields
Steelman	Stoll	Vogel	Wheeler
Yeckel—29			

NAYS—Senators

Bland	Dougherty—2

Absent—Senators

Quick	Russell—2

Absent with leave—Senator DePasco—1

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

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

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

SS No. 2 for **SB 695**, introduced by Senators Goode and Russell, entitled:

An Act to repeal sections 208.010, 208.015, 208.151, 208.152, 208.153, 208.154, 208.156, 208.162, 208.565, 338.501, 338.515, 338.520, 338.525, 338.545, and 338.550, RSMo, and to enact in lieu thereof eleven new sections relating to medical services and eligibility, with an emergency clause.

Was taken up by Senator Goode.

Senator Goode requested unanimous consent of the Senate to offer a perfecting amendment, which request was granted.

Senator Goode offered **SPA 1**, which was read:

SENATE PERFECTING AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Bill No. 695, Page 1, In the Title, Line 2, by striking the following: "208.153,"; and

Further amend said bill and page, Section A, Line 1, by striking the following: "208.153,".

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

President Maxwell assumed the Chair.

On motion of Senator Goode, **SS No. 2** for **SB 695**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Cauthorn	Champion	Childers
Clemens	Dolan	Gibbons	Goode
Griesheimer	Gross	Kinder	Klindt
Loudon	Mathewson	Nodler	Russell
Scott	Shields	Vogel	Yeckel—20

NAYS—Senators

Bland	Bray	Caskey	Coleman
Days	Dougherty	Foster	Jacob
Kennedy	Quick	Steelman	Stoll
Wheeler—13			

Absent—Senators—None

Absent with leave—Senator DePasco—1

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Bartle	Cauthorn	Champion	Childers
Clemens	Dolan	Foster	Gibbons
Goode	Griesheimer	Gross	Kinder
Klindt	Loudon	Mathewson	Nodler
Russell	Scott	Shields	Steelman
Stoll	Vogel	Yeckel—23	

NAYS—Senators

Bland	Bray	Caskey	Coleman
Days	Dougherty	Jacob	Kennedy—8

Absent—Senators

Quick	Wheeler—2

Absent with leave—Senator DePasco—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 Gibbons moved that motion lay on the table, which motion prevailed.

HOUSE BILLS ON SECOND READING

The following Bills were read the 2nd time and referred to the Committees indicated:

HCS for **HB 688**—Pensions and General Laws.

HS for **HB 481**—Financial and Governmental Organization, Veterans' Affairs and Elections.

HS for **HCS** for **HB 121**—Aging, Families, Mental and Public Health.

HCS for **HB 138**—Financial and Governmental Organization, Veterans' Affairs and Elections.

HB 593—Small Business, Insurance and Industrial Relations.

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 **HCR 32**.

HOUSE CONCURRENT RESOLUTION NO. 32

WHEREAS, Section 21.760 of the Missouri Revised Statutes provides that during the regular legislative session which convenes in an odd-numbered year, the General Assembly shall, by concurrent resolution, employ an independent certified public accountant or certified public accounting firm to conduct an audit examination of the accounts, functions, programs, and management of the State Auditor's office:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-second General Assembly, First Regular Session, the Senate concurring therein, hereby authorize the employment of an independent certified public accountant or certified public accounting firm pursuant to the aforestated provisions of Section 21.760; and

BE IT FURTHER RESOLVED that the audit examination be made in accordance with generally accepted auditing standards, including such reviews and inspections of books, records and other underlying data and documents as are necessary to enable the independent certified public accountant performing the audit to reach an informed opinion on the condition and performance of the accounts, functions, programs, and management of the State Auditor's Office; and

BE IT FURTHER RESOLVED that upon completion of the audit, the independent certified public accountant make a written report of his or her findings and conclusions, and supply each member of the General Assembly, the Governor, and the State Auditor with a copy of the report; and

BE IT FURTHER RESOLVED that the cost of the audit and report be paid out of the joint contingent fund of the General Assembly; and

BE IT FURTHER RESOLVED that the Commissioner of Administration bid these services, at the direction of the General Assembly, pursuant to state purchasing laws; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for the Commissioner of Administration.

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 **HB 60** and has taken up and passed **SCS** for **HB 60**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 57** and has taken up and passed **SCS** for **HB 57**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS**, as amended, for **HCS** for **HBs 59** and **269** and has taken up and passed **SCS** for **HCS** for **HBs 59** and **269**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HCS** for **HBs 152** and **180** and has taken up and passed **SCS** for **HCS** for **HBs 152** and **180**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 16**, entitled:

An Act to appropriate money for capital

improvement and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds herein designated for the period beginning July 1, 2003 and ending June 30, 2005.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 17**, entitled:

An Act to appropriate money for expenses, grants, refunds, distributions and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds designated herein.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 18**, entitled:

An Act to appropriate money for capital improvement projects involving the maintenance, repair, replacement, and improvement of state buildings and facilities, including installation, modification, and renovation of facility components, equipment or systems, and to transfer money among certain funds.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 19**, entitled:

An Act to appropriate money for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions, and to transfer money among certain funds.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 20**, entitled:

An Act to appropriate money for capital improvement and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds herein designated for the period beginning July 1, 2003 and ending June 30, 2005.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **HCS** for **SCS No. 2** for **SB 52**: Senators Shields, Childers, Foster, Coleman and Bray.

President Pro Tem Kinder appointed the following conference committee to act with a like

committee from the House on **HCS** for **SB 394**, as amended: Senators Bartle, Yeckel, Clemens, Coleman and Kennedy.

President Pro Tem Kinder appointed the following conference committee to act with a like committee from the House on **HCS** for **SB 448**: Senators Bartle, Klindt, Loudon, Jacob and Caskey.

On motion of Senator Gibbons, the Senate recessed until 2:15 p.m.

RECESS

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

THIRD READING OF SENATE BILLS

SB 236, introduced by Senators DePasco and Loudon, entitled:

An Act to amend chapter 8, RSMo, by adding thereto one new section relating to memorial for workers.

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

On motion of Senator Loudon, **SB 236** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Clemens
Coleman	Days	Dougherty	Foster
Gibbons	Goode	Griesheimer	Gross
Kennedy	Kinder	Loudon	Mathewson
Nodler	Quick	Russell	Scott
Shields	Steelman	Stoll	Wheeler
Yeckel—29			

NAYS—Senators—None

Absent—Senators

Dolan	Jacob	Klindt	Vogel—4

Absent with leave—Senator DePasco—1

The President declared the bill passed.

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

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

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

HOUSE BILLS ON THIRD READING

HCS for **HBs 122** and **80**, entitled:

An Act to repeal sections 92.402 and 92.418, RSMo, and to enact in lieu thereof two new sections relating to a public mass transportation system sales tax.

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

On motion of Senator Bland, **HCS** for **HBs 122** and **80** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bland	Bray	Caskey
Cauthorn	Champion	Childers	Clemens
Coleman	Days	Dougherty	Foster
Gibbons	Goode	Griesheimer	Gross
Kennedy	Kinder	Loudon	Mathewson
Nodler	Quick	Russell	Scott
Shields	Steelman	Stoll	Wheeler
Yeckel—29			

NAYS—Senators—None

Absent—Senators

Dolan	Jacob	Klindt	Vogel—4

Absent with leave—Senator DePasco—1

The President declared the bill passed.

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

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

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

President Pro Tem Kinder assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Aging, Families, Mental and Public Health, submitted the following report:

Mr. President: Your Committee on Aging, Families, Mental and Public Health, to which was referred **HS** for **HCS** for **HBs 679** and **396**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Bartle assumed the Chair.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS** for **SCS** for **HCS** for **HB 390** and has taken up and passed **SS** for **SCS** for **HCS** for **HB 390**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has concurred in **SA 5** to **HS** for **HCS** for **HB 156** and has taken up and passed **HS** for **HCS** for **HB 156**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SCS** for **SB 36**, entitled:

An Act to repeal sections 260.273, 260.475, 260.479, 260.830, 260.831, 444.770, 444.772, 444.778, 640.010, and 643.078, RSMo, and to enact in lieu thereof seventeen new sections relating to environmental regulation.

With House Amendments Nos. 1, 2, 3, 4, House Amendment No. 1 to House Amendment No. 5, House Amendment No. 3 to House Amendment No. 5, House Amendment No. 5, as amended, House Amendments Nos. 6, 7, 9, 10, House Substitute Amendment No. 1 for House Amendment No. 11, and House Amendment No. 12.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 23, Section 643.078, Line 89, by inserting immediately after all of said line the following:

"**Section 1. In letting contracts for the performance of any job or service for the removal or clean up of waste tires pursuant to chapter 260, RSMo, the department of natural resources shall, in addition to the requirements of sections 34.073 and 34.076, RSMo, and any other points awarded during the evaluation process, give to any vendor that meets one or more of the following factors a five percent preference and ten bonus points for each factor met:**

(1) The bid is submitted by an individual, partnership, association, or corporation vendor that has resided or maintained its headquarters or principal place of business in Missouri continuously for the four years immediately preceding the date on which the bid is submitted;

(2) The bid is submitted by a nonresident corporation vendor that has an affiliate or subsidiary that employs at least twenty state residents and has maintained its headquarters or principal place of business in Missouri continuously for the four years immediately preceding the date on which the bid is submitted;

(3) The bid is submitted by an individual, partnership, association, or corporation vendor that resides or maintains its headquarters or principal place of business in Missouri and, for

the purposes of completing the bid project and continuously over the entire term of the project, an average of at least seventy-five percent of such vendor's employees are Missouri residents who have resided in the state continuously for at least two years immediately preceding the date on which the bid is submitted. Such vendor must certify the residency requirements of this subdivision and submit a written claim for preference at the time the bid is submitted;

(4) The bid is submitted by a nonresident vendor that has an affiliate or subsidiary that employs at least twenty state residents and has maintained its headquarters or principal place of business in Missouri and, for the purposes of completing the bid project and continuously over the entire term of the project, an average of at least seventy-five percent of such vendor's employees are Missouri residents who have resided in the state continuously for at least two years immediately preceding the date on which the bid is submitted. Such vendor must certify the residency requirements of this subdivision and submit a written claim for preference at the time the bid is submitted;

(5) The bid is submitted by any vendor that provides written certification that the end use of the tires collected during the project will be for fuel purposes or for the manufacture of a useable good or product." ; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 13, Section 640.010, Line 10, by deleting the word "**property**" ; and

Further amend said bill, said page, said section, Line 11, by deleting the word, "**property**".

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 23, Section 643.078, Line 89, by inserting after all of said line the following:

"**Section 1. Notwithstanding any other provision of law to the contrary, no rule or regulation proposed, promulgated, adopted, or amended by the department of agriculture, division of weights and measures, shall be applied retroactively to existing facilities or construction unless the department or the division establishes by clear and convincing evidence that the rule or regulation shall be applied retroactively to protect the health and safety of the public.**

Section 2. No city, county, or other political subdivision of the state of Missouri shall impose a requirement for financial responsibility on owners or operators of underground or above ground petroleum storage tanks. This provision shall fully preempt any such local financial responsibility requirements which are in effect on August 28, 2003."; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 1, In the Title, Line 3, by deleting the word "seventeen" and inserting in lieu thereof the word "twenty-four"; and

Further amend said bill, Page 1, In the Title, Line 4, by inserting after the word "regulation" the phrase ", with penalty provisions"; and

Further amend said bill, Page 1, Section A, Line 2, by deleting the word "seventeen" and inserting in lieu thereof the word "twenty-four"; and

Further amend said bill, Page 1, Section A, Line 4, by deleting the word "and"; and

Further amend said bill, Page 1, Section A, Line 4, by inserting after the number "444.778,"

the numbers "490.750, 490.753, 490.755, 490.757, 490.759, 490.762, 490.765,"; and

Further amend said bill, Page 12, Section 444.778, Line 50, by inserting after all of said line the following:

"**490.750. 1. An environmental audit privilege as provided in sections 490.750 to 490.765 is hereby created to protect the confidentiality of communications relating to voluntary internal environmental audits.**

2. Except as provided in section 490.755, an environmental audit and an environmental audit report, as defined in section 490.753, shall be privileged and shall not be admissible as evidence in any legal action in any civil, criminal or administrative proceeding, nor shall such information be required to be disclosed in response to a regulatory inspection or inquiry.

490.753. As used in sections 490.750 to 490.765, the following terms mean:

(1) "Environmental audit", a voluntary internal evaluation of one or more facilities, processes or activities regulated under the environmental laws of the United States, this state or a political subdivision thereof, or of management systems related to such facility, process or activity, that is designed to determine compliance with such laws. An environmental audit may be conducted by the owner or operator, by the owner's or operator's employees or by independent contractors;

(2) "Environmental audit report", a set of documents prepared as a result of an environmental audit, including all information and documents generated and collected by the auditor which may be based upon and may include, but shall not be limited to field notes and records of observations, samples, analytical results, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs and surveys, interviews, discussions, correspondence and communications related to the environmental audit; provided that such supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, may have three components:

(a) An audit report prepared by the auditor, which may include the scope of the audit, the information gained in the audit, conclusions and recommendations, together with exhibits and appendices;

(b) Memoranda and documents analyzing portions or all of the audit report and discussing potential implementation issues; and

(c) An implementation plan that addresses correcting past noncompliance, improving current compliance or preventing future noncompliance;

(3) "Waive" or "waiver", disseminating the environmental audit or environmental audit report in whole or in part to someone other than the owner or operator of the facility and its employees, agents, affiliates and successors in interest, the auditor and its employees, agents, subcontractors and successors in interest, current or prospective lending institutions of the owner or operator where disclosure is required as a condition of lending, and a prospective purchaser where disclosure is made under a confidentiality agreement. Waiver does not occur when:

(a) The facility owner or operator or the auditor is compelled by an administrative body or court of competent jurisdiction to disclose all or part of the environmental audit or environmental audit report;

(b) Dissemination of the environmental audit or environmental audit report, in whole or in part, is done to prevent noncompliance or

improve compliance with federal, state or local environmental laws.

490.755. 1. The privilege described in subsection 2 of section 490.750 does not apply to the extent that it is waived by the owner or operator of a facility at which an environmental audit was conducted and such owner or operator prepared or caused to be prepared the environmental audit report as a result of the audit.

2. In any proceeding before a court or administrative body, after in camera review consistent with rules of procedure, the court or administrative body may require disclosure of material for which the privilege described in subsection 2 of section 490.750 is asserted, if the court or administrative body determines that:

(1) The privilege is asserted for a fraudulent purpose;

(2) The material is not subject to the privilege; or

(3) Even if subject to the privilege, the material reasonably tends to show noncompliance with the environmental laws of the United States, the state of Missouri or a political subdivision thereof, and the party asserting the privilege did not exercise ordinary care to initiate and pursue compliance upon discovery of noncompliance. Such a determination shall not constitute a final judgment regarding compliance.

3. A party asserting the environmental audit privilege described in subsection 2 of section 490.750 has the burden of demonstrating the applicability of the privilege, including if there is evidence of noncompliance with applicable environmental laws, proof that the party exercised ordinary care to initiate and pursue compliance upon discovery of noncompliance; provided, however, that a party seeking disclosure pursuant to subdivision (1) of subsection 2 of this section has the burden of proving that the privilege is asserted for a fraudulent purpose and, in a criminal proceeding, the state has the burden of proving the conditions for disclosure set forth in subdivision (2) of subsection 2 of this section.

490.757. 1. The state, having probable cause to believe a criminal offense has been committed under the environmental laws of the state of Missouri based upon information obtained from a source independent of an environmental audit report, may obtain an environmental audit report for which a privilege is asserted pursuant to subsection 2 of section 490.750 pursuant to discovery as allowed by the Missouri supreme court rules. The state shall immediately place the report under seal and shall not review or disclose the contents of the report until ordered by a court or until the privilege is waived. The burden shall be on the state to show the information came from a source independent of an environmental audit report.

2. Within thirty days of the state obtaining an environmental audit report, the owner or operator who prepared or caused to be prepared the report may file with the appropriate court a petition requesting an in camera review in accordance with subsection 4 of this section on whether the environmental audit report or portions thereof are privileged or subject to disclosure pursuant to sections 490.750 to 490.765.

3. In a civil or administrative proceeding, the existence of an environmental audit report is subject to disclosure to the inquiring litigant. The party in possession of such report may assert the privilege in any response made. The party in possession is not required to provide the inquiring party with a copy of such report. The inquiring party may file, with the appropriate court or administrative body, a petition requesting an in camera review in accordance with subsection 4 of this section on

whether the environmental audit report or portions thereof are privileged or subject to disclosure pursuant to sections 490.750 to 490.765. Failure by the inquiring party to file such petition shall forfeit the party's argument that the report is not privileged.

4. Upon filing of a petition for in camera review, the court or administrative body shall issue an order scheduling an in camera review within forty-five days of the filing of the petition to determine whether the environmental audit report or portions thereof are privileged or subject to disclosure pursuant to sections 490.750 to 490.765. In the case of a criminal proceeding, such order shall allow the prosecuting attorney, circuit attorney or attorney general to remove the seal from the report to review the report and shall place appropriate limitations on the distribution and review of the report to protect against unnecessary disclosure. The prosecuting attorney, circuit attorney or attorney general may consult with law enforcement agencies regarding the contents of the report as necessary to prepare for the in camera review. The information used in preparation for the in camera review shall not be used in any investigation or in any legal proceeding and shall otherwise be kept confidential, unless and until such information is found by the court or administrative body to be subject to disclosure.

5. In the case of a civil or administrative proceeding, the court or administrative body shall issue such order as is appropriate regarding whether the information in the report is subject to disclosure. The court or administrative body may place appropriate limitations on the distribution and review of the report to protect against unnecessary disclosure.

6. In any civil, criminal or administrative proceeding, failure to comply with the review, disclosure or use prohibitions of this section shall be the basis for suppression of any evidence arising or derived from the unauthorized review, disclosure or use. The party failing to comply with this section shall have the burden of proving that proffered evidence did not arise and was not derived from the unauthorized activity.

7. The parties may at any time stipulate to entry of an order directing that specific information contained in an environmental audit report is or is not subject to the privilege provided in subsection 2 of section 490.750.

8. Upon making a disclosure determination pursuant to subsection 2 of section 490.755, the court or administrative body may compel the disclosure only of those portions of an environmental audit report relevant to issues in dispute in the proceeding.

9. If the order requiring disclosure is made by an administrative body, the aggrieved party may seek an immediate appeal to a court of competent jurisdiction. Such appeal shall be filed within ten days after receipt of the order requiring disclosure and shall serve as an immediate stay of the order requiring disclosure.

10. Any public entity, public employee, or public official who divulges all or any part of the information contained in an environmental audit report in violation of the provisions of this section or knowingly divulges or disseminates all or any part of the information contained in an environmental audit report that was provided to such public entity, public employee or public official in violation of the provisions of this section is guilty of a class A misdemeanor.

11. Any disclosure or dissemination described in this section shall not abrogate the privilege afforded by section 490.750, provided the environmental audit report otherwise meets the requirements of sections 490.750 to 490.765.

490.759. The privilege described in subsection 2 of section 490.750 shall not extend

to:

(1) Documents, communications, data, reports, or other information required to be collected, developed, maintained, reported or otherwise made available to a regulatory agency pursuant to the environmental laws, ordinances, regulations, permits or orders of the United States, this state, or a political subdivision thereof. This subsection shall not exclude from the privilege any observations, findings, opinions, suggestions or conclusions derived from the above by the state auditor;

(2) Information obtained by observation, sampling or monitoring by any regulatory agency; or

(3) Information obtained from a source independent of the environmental audit or the environmental audit report.

490.762. 1. For the purposes of this section, a disclosure of information by a person or entity to any division or agency within the department of natural resources regarding any information related to an environmental law is voluntary if all of the following are true:

(1) The disclosure is made promptly after knowledge of the information disclosed is obtained by the person or entity;

(2) The disclosure arises out of an environmental audit;

(3) The person or entity making the disclosure initiates an appropriate effort to achieve compliance, pursues compliance with due diligence and corrects the noncompliance within two years after the completion of the environmental audit. Where such evidence shows the noncompliance is the failure to obtain a permit, appropriate efforts to correct the noncompliance may be demonstrated by the submittal of a complete permit application within a reasonable time; and

(4) The person or entity making the disclosure cooperates with the appropriate division or agency in the department of natural resources regarding investigation of the issues identified in the disclosure.

2. For the purposes of subdivision (3) of subsection 1 of this section, upon application to the department of natural resources, the time period within which the noncompliance is required to be corrected may be extended by the department if it is not practicable to correct the noncompliance within the two-year period. A request for a de novo review of the decision of the department of natural resources may be made to the appropriate court.

3. If a person or entity is required to make a disclosure to a division or program within the department of natural resources under a specific permit condition or under an order issued by the division or program, the disclosure is not voluntary with respect to that division or program.

4. If any person or entity makes a voluntary disclosure of an environmental violation to a division or program within the department of natural resources, the department shall not seek any administrative or civil penalties associated with the issues disclosed from the person or entity nor shall the department seek any criminal penalties for negligent acts associated with the issues disclosed. The person or entity shall provide information supporting its claim that the disclosure is voluntary at the time that the disclosure is made to the division or program; in so doing, the person or entity creates a rebuttable presumption that the disclosure is voluntary.

5. To rebut the presumption that a disclosure is voluntary, the appropriate division or program shall show to the satisfaction of the respective commission in the department of natural resources, or to the department if the program is not under a commission, that the

disclosure was not voluntary based upon the factors set forth in subdivisions (1), (2) and (3) of subsection 1 of this section. A decision by the commission regarding the voluntary nature of a disclosure is final agency action. The division or program shall not include any administrative penalty or seek a civil penalty or a criminal conviction for negligent acts on any underlying environmental violation that is alleged absent a finding by the respective commission that the division or program has rebutted the presumption of voluntariness of the disclosure. The burden to rebut the presumption of voluntariness is on the division or program. A commission decision, or a department decision for a program not under a commission, regarding voluntariness may be appealed to a court of competent jurisdiction by the person or entity making the initial disclosure. Such an appeal shall be filed within ten days after receipt of the order regarding voluntariness and shall serve as an immediate stay of the order regarding voluntariness.

6. The prohibition against administrative, civil, or criminal penalties pursuant to this section does not apply if a person or entity has been found by a court or administrative body to have committed serious violations that constitute a pattern of continuous or repeated violations of environmental laws, rules, regulations, permit conditions, settlement agreements or orders on consent and that were due to separate and distinct events giving rise to the violations, within the three-year period prior to the date of the disclosure. Such a pattern of continuous or repeated violations may also be demonstrated by multiple settlement agreements related to substantially the same alleged violations concerning serious instances of noncompliance with environmental laws that occurred within the three-year period immediately prior to the date of the voluntary disclosure.

7. Except as specifically provided in this section, this section does not affect any authority the department of natural resources has to require any action associated with the information disclosed in any voluntary disclosure of an environmental violation.

490.765. Nothing in sections 490.750 to 490.765 shall limit, forfeit or abrogate the scope or nature of any statutory or common law privilege, including the critical self-analysis or self-evaluative privilege, the work product doctrine, and the attorney-client privilege."; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 5

Amend House Amendment No. 5 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 52, Section 644.051, Line 14 of said page, by inserting immediately after the word "**property**" the words "**,does not reach waters of the state,**".

HOUSE AMENDMENT NO. 3 TO
HOUSE AMENDMENT NO. 5

Amend House Amendment No. 5 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 2, Section 204.600, Line 3, by inserting immediately after the word "**RSMo,**" the words "**except sewer districts subject to section 204.472, RSMo,**".

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 1, In the Title, Line 3, by deleting all of said line and inserting in lieu thereof the following: "640.010, 643,078, and 644.051, RSMo, and to enact in lieu thereof fifty-five new sections relating"; and

Further amend said bill, Page 1, Section A, Line 2, by deleting all of said line and inserting in

lieu thereof the following: "444.778, 640.010, 643.078, and 644.051, RSMo, are repealed and fifty-five new sections enacted in lieu"; and

Further amend said bill, Page 1, Section A, Line 3, by inserting before the number "260.217" the following:

"204.600, 204.605, 204.610, 204.615, 204.620, 204.625, 204.630, 204.635, 204.640, 204.645, 204.650, 204.655, 204.660, 204.665, 204.670, 204.675, 204.680, 204.685, 204.690, 204.695, 204.700, 204.705, 204.710, 204.715, 204.720, 204.725, 204.730, 204.735, 204.740, 204.745, 204.750, 204.755, 204.760,"; and

Further amend said bill, Page 1, Section A, Lines 4 and 5, by deleting all of said lines and inserting in lieu thereof the following: "260.831, 444.770, 444.772, 444.778, 640.010, 640.014, 640.016, 640.018, 640.020, 640.037, 643.078, 644.051, 644.581, 644.582, 644.583, and 1, to read as follows:

204.600. Any common sewer district organized and existing pursuant to sections 204.250 to 204.270, and any sewer district organized and existing pursuant to chapter 249, RSMo, may be converted to a reorganized common sewer district pursuant to sections 204.600 to 204.700. In addition, a reorganized common sewer district may be established as provided for in sections 204.600 to 204.700. Once established, a reorganized common sewer district shall have all powers and authority of and applicable to a common sewer district organized and existing pursuant to sections 204.250 to 204.270 and applicable to a sewer district established pursuant to chapter 249, RSMo, which are not inconsistent or in conflict with sections 204.600 to 204.700.

204.605. 1. Proceedings for the new formation of a reorganized common sewer district pursuant to sections 204.600 to 204.700 shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the reorganized district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situated or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of acquiring or constructing sanitary sewer improvements with the district, if appropriate, an approximation of the assessed valuation of taxable property within the district, whether the board of trustees shall be elected or appointed by the county commission, and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters or property owners within the proposed district and shall pray for the incorporation of the territory therein described into a reorganized common sewer district. The petition shall be verified by at least one of the signers thereof.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in a newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of

the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in a daily paper once a week for three consecutive weeks.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter or property owner within the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as the court may deem proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court under the hearing. The decree shall further contain an appointment of five voters from the district, to constitute the first board of trustees of the district. The court shall designate such trustees to staggered terms from one to five years such that one director is appointed or elected each year. The trustees thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as provided in section 204.625. The decree shall further designate the name of the district by which it shall be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If a majority of the voters of the district voting on such proposition approve of the proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority required above, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of

incorporation and of such final order with the secretary of state, and with the recorder of deeds of the county or counties in which the district is situated and with the clerk of the county commission of the county or counties in which the district is situated.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a reorganized common sewer district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decree relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

10. Once a reorganized sewer district is established, the boundaries of any reorganized sewer district may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, a petition by either:

(1) The board of trustees of the reorganized sewer district and five or more voters within the territory proposed to be added to the district; or

(2) A majority of the landowners within the territory which is proposed to be added to the reorganized sewer district.

If the petition is filed by a majority of the landowners within the territory proposed to be added to the reorganized sewer district, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be added to the reorganized sewer district at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be added to the reorganized sewer district, or a majority of the landowners, if the total landowners in the area are fewer than ten. Otherwise the procedures for notice shall substantially follow those set out in this section, for formation. Territory proposed to be added to the reorganized sewer district may either be contiguous or reasonably close to the boundaries of the existing district. Upon the entry of a final judgment declaring the court's decree of territory proposed to be added to the reorganized sewer district to be final and conclusive, the court shall modify or rearrange the boundary lines of the reorganized sewer district as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the trustees of the district.

11. Should any property owner or property owners who own real estate that is not within another sewer district organized pursuant to this chapter, chapters 247 and 249, RSMo, or pursuant to the state constitution, but that is contiguous or reasonably close to the existing boundaries of the reorganized sewer district, desire to have such real estate incorporated in the district, the property owner shall first petition the board of trustees thereof for its approval. If such approval be granted, the secretary of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the reorganized sewer district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this amended decree including the real estate in the district shall then be filed

in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

12. The board of trustees of any reorganized common sewer district may petition the circuit court of the county containing the majority of the acreage in the district for an amended decree of incorporation to allow that district to engage in the construction, maintenance and operation of water supply and distribution facilities which serve ten or more separate properties which are located wholly within the district and are not served by another political subdivision or are not located within the certificated area of a water corporation as defined in chapter 386, RSMo, or within a public water supply district as defined in chapter 247, RSMo, and the operation and maintenance of all such existing water supply facilities. The petition shall be filed by the board of trustees and all proceedings shall be in substantially the same manner as in action for initial formation of a reorganized common sewer district except that no vote of the residents of the district shall be required. All applicable provisions of this chapter shall apply to the construction, operation and maintenance of water supply facilities in the same manner as they apply to like functions relating to sewer treatment facilities.

204.610. 1. Any existing common sewer district organized and existing pursuant to sections 204.250 to 204.270 and any sewer district organized and existing pursuant to chapter 249, RSMo, may establish itself as a reorganized common sewer district pursuant to sections 204.600 to 204.700 by petitioning the circuit court of the county in which it was established to approve its reorganization pursuant to sections 204.600 to 204.700 if the governing body of the district has by resolution determined that it is in the best interest of the district to reorganize pursuant to sections 204.600 to 204.700. Such petition shall also specify whether the board of trustees shall be appointed by the governing body of the county, or elected by the voters of the district. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by the trustees of the district and shall pray for the conversion of the district into a reorganized common sewer district.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in a newspaper of general circulation within the existing district or closest to the existing district if there is no newspaper of general circulation within the existing district and if the existing district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the boundary lines of the existing district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in a daily paper once a week for three consecutive weeks.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the conversion of an existing district to a reorganized common sewer

district, may be made by any voter or property owner within the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that it would not be in the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If the court finds that the conversion of the district to a reorganized common sewer district pursuant to sections 204.600 to 204.700 is in the best interests of the persons served by the existing district, then the court shall order the district's decree of incorporation amended to permit reorganization pursuant to sections 204.600 to 204.700 and the existing board of trustees for such district shall continue to serve the reorganized common sewer district until such time as new trustees shall be appointed or elected as provided for in the court's decree. If their original terms of office are not so designated, the court shall designate such trustees to staggered terms from one to five years such that one trustee is appointed or elected each year. The trustees thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as provided in section 204.625. The decree shall further designate the name of the district by which it shall be officially known.

204.615. The bonded indebtedness or security interest of any creditor of any common sewer district originally organized and existing pursuant to sections 204.250 to 204.270 and any sewer district originally organized and existing pursuant to chapter 249, RSMo, which convert to a reorganized common sewer district shall not be impaired or affected by such conversion and all covenants and obligations of such indebtedness shall remain in full force and effect payable pursuant to the terms and conditions which existed without conversion.

204.620. 1. When a decree or amended decree of incorporation is issued as provided for in sections 204.600 to 204.700, a reorganized common sewer district shall be considered in law and equity a body corporate and politic and political subdivision of this state, known by the name specified in the court's decree, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real estate and personal property necessary for corporate purposes, and adopt a common seal. A reorganized common sewer district also shall have exclusive jurisdiction and authority to provide wastewater collection and treatment services within the boundaries of the district with respect to any wastewater service provider authorized to provide sewer services pursuant to the laws of this state.

2. All courts in this state shall take judicial notice of the existence of any district organized pursuant to sections 204.600 to 204.700.

204.625. 1. There shall be five trustees, appointed or elected as provided for in the circuit court decree or amended decree of incorporation for a reorganized common sewer district, who shall reside within the boundaries of the district. Each trustee shall be a voter of the district and shall have resided in said district one whole year immediately prior to his/her election or appointment. A trustee shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of his or her election or appointment. Regardless of whether or not the trustees are elected or appointed, in the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive

officer of the adjoining county shall be an additional member of the board of trustees, or the governing body of such bordering county may appoint a citizen from such county to serve as an additional member of the board of trustees. Said additional trustee shall meet the qualifications set forth above for a trustee.

2. The trustees shall receive no compensation for their services, but may be compensated for their reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district.

3. Except as provided in subsection 1 of this section, the term of office of a trustee shall be five years. The remaining trustees shall appoint a person qualified pursuant to this section to fill any vacancy on the board. The initial trustees appointed by the circuit court shall serve until the immediately following first Tuesday after the first Monday in June or until the immediately following first Tuesday after the first Monday in April, depending upon the resolution of the trustees. In the event that the trustees are elected, said elections shall be conducted by the appropriate election authority pursuant to chapter 115, RSMo. Otherwise, trustees shall be appointed by the county commission in accordance with the qualifications set forth in subsection 1 of this section.

4. Notwithstanding any other provision of law, if there is only one candidate for the post of trustee, then no election shall be held, and the candidate shall assume the responsibilities of office at the same time and in the same manner as if elected. If there is no candidate for the post of trustee, then no election shall be held for that post and it shall be considered vacant, to be filled pursuant to the provisions of subsection 3 of this section.

204.630. The board of trustees of a reorganized common sewer district shall have no power to levy or collect any taxes for the payment of any general obligation bond indebtedness incurred by the reorganized common sewer district unless and until the voters of the reorganized common sewer district shall have authorized the incurring of indebtedness at an election. All expenses and indebtedness incurred by the reorganized common sewer district may be paid out of funds which may be received by the reorganized common sewer district from the sale of bonds authorized by the voters of the reorganized common sewer district.

204.635. 1. The total amount of any general obligation bonds issued by the reorganized common sewer district shall not exceed ten percent of the assessed valuation of all taxable tangible property, as shown by the last completed property assessment for state or local purposes, within the reorganized common sewer district.

2. Such bonds shall be signed by the president of the board of trustees and attested by the signature of the secretary of the board of trustees with the seal of the district affixed thereto, if there be a seal. The interest coupons may be executed by affixing thereon the facsimile signature of the secretary of the district. The bonds may be sold under the same

conditions as are provided for the sale of county road bonds.

3. All general obligation bonds issued pursuant to sections 204.600 to 204.700 shall be registered in the office of the state auditor as provided by law for the registration of bonds of cities and in the office of the secretary of the board of trustees of the district in a book kept for that purpose for registry, shall show the number, date, amount, date of sale, name of the purchaser, and the amount for which the bond was sold. The moneys of the reorganized common sewer district shall be deposited by the treasurer of the reorganized common sewer district in such bank or banks as shall be designated by order of the board of trustees and the secretary of the reorganized common sewer district shall charge the treasurer therewith and the moneys shall be drawn from the treasury upon checks or warrants issued by the reorganized common sewer district for the purposes for which the bonds were issued.

204.640. 1. The board of trustees of any reorganized common sewer district shall have power to pass all necessary rules and regulations for the proper management and conduct of the business of the board of trustees, and of the district, and for carrying into effect the objects for which the reorganized common sewer district is formed.

2. The board of trustees of a reorganized common sewer district, subject to compliance with the exercise of lawful authority granted to or rules adopted by the clean water commission pursuant to section 644.026, RSMo, may exercise primary authority to adopt, modify, and repeal, and to administer and enforce rules and regulations with respect to:

(1) The establishment, construction, reconstruction, improvement, repair, operation, and maintenance of its sewer systems and treatment facilities;

(2) Industrial users discharging into its sewer systems or treatment facilities;

(3) The establishment, operation, administration, and enforcement of a publicly owned treatment works pretreatment program consistent with state and federal pretreatment standards, including inspection, monitoring, sampling, permitting, and reporting programs and activities.

The board of trustees may, in addition to any pretreatment standards imposed pursuant to this section, require of any user of its treatment facilities such other pretreatment of industrial wastes as it deems necessary to adequately treat such wastes.

3. The rules and regulations adopted by the board of trustees pursuant to subsection 2 of this section shall be applicable, and enforceable by civil, administrative or other actions within any territory served by its sewer systems or treatment facilities and against any municipality, subdistrict, district, or industrial user who shall directly or indirectly discharge sewage or permit discharge of sewage into the district's sewer system or treatment facilities.

4. The authority granted to the board by this section is in addition to and not in derogation of any other authority granted pursuant to the constitution and laws of Missouri, any federal water pollution control act, or the rules of any agency of federal or state government.

5. The term "industrial user", as used in this section shall mean any nondomestic source of discharge or indirect discharge into the district's wastewater system which is regulated pursuant to section 307(b), (c), or (d) of the Clean Water Act, or any source listed in division A, B, D, E, or I of the Standard Industrial Classification Manual, or any solid waste disposal operation such as, but not limited to, landfills, recycling facilities, solid or

hazardous waste handling or disposal facilities, and facilities which store or treat aqueous wastes as generated by facilities not located on site and which dispose of these wastes by discharging them into the district's wastewater system.

204.645. 1. It shall be the duty of the board of trustees of a reorganized common sewer district to make the necessary surveys, and to lay out and define the general plan for the construction and acquisition of land, rights-of-way and necessary sewers and treatment facilities and of any extensions, expansions, or improvements thereof within the district.

2. The board of trustees of a reorganized common sewer district may enter into agreements with each municipality, subdistrict, private district, or any industrial user which discharges sewage into trunk sewers, streams, or the treatment facilities of the reorganized common sewer district concerning the locations and the manner in which sewage may be discharged into the district system or streams within the district and concerning the permissible content of acid wastes, alkaline wastes, poisonous wastes, oils, grit, or other wastes which might be hazardous or detrimental to the system. If no agreement is obtained with regard to any such matter the trustees shall refer the dispute to the clean water commission and the determination of the commission shall be binding upon the district, municipality, subdistrict, or private district. Each municipality, subdistrict, or private district shall control the discharge of wastes into its collection sewers to the extent necessary to comply with the agreement or the determination of the clean water commission. The board of trustees of a reorganized common sewer district or the governing body of any municipality, subdistrict, private district, or industrial user discharging sewage into the stream or the system may petition the circuit court which decreed the incorporation of the district for an order enforcing compliance with any provision of such an agreement or determination, and that circuit court shall have jurisdiction in all cases or questions arising out of the organization or operations of the district, or from the acts of the board of trustees.

3. The board of trustees may contract with each participating community for the payment of its proportionate share of treatment costs.

4. The board of trustees may contract with public agencies, individuals, private corporations, and political subdivisions, inside and outside the reorganized common sewer district to permit them to connect with and use the district's facilities according to such terms, conditions, and rates as the board determines are in the interest of the district and regardless of whether such agencies, individuals, corporations, and subdivisions are in the same natural drainage area or basins as the district. However, if such an area is located within the boundaries of an existing common sewer district or reorganized common sewer district organized and existing pursuant to this chapter, a sewer district organized and existing pursuant to chapter 249, RSMo, or a public water supply district organized pursuant to chapter 247, RSMo, the board of trustees must give written notice to said district before such a contract is entered into, and the district must consent to said contract.

5. The board of trustees may refuse to receive any wastes into the sewage system which do not meet relevant state or federal water pollution, solid waste, or pretreatment standards.

6. The board of trustees shall have all of the powers necessary and convenient to provide for the operation, maintenance, administration, and regulation, including the adoption of rules and regulations, of any individual home sewage or business treatment systems within the jurisdiction of the common sewer district. The

board of trustees shall have the authority to declare the violation of any of its rules and regulations to be a misdemeanor punishable as provided by law, or to declare violation of any of its rules and regulations punishable by imposition of a civil fine not to exceed one thousand dollars per day payable to the common sewer district, in addition to any other civil remedy which may be available at law or in equity.

7. The board of trustees shall have all of the powers necessary and convenient to provide for the operation and maintenance of its treatment facilities and the administration, regulation, and enforcement of its pretreatment program, including the adoption of rules and regulations, to carry out its powers with respect to all municipalities, subdistricts, districts, and industrial users which discharge into the collection system of the district's sewer system or treatment facilities. These powers include, but are not limited to:

(1) The promulgation of any rule, regulation, or ordinance;

(2) The issuance, modification, or revocation of any order;

(3) The issuance, modification, or revocation of any permit;

(4) The levying of a civil administrative fine upon any industrial user in violation of the district's rules, regulations, and ordinances, or any permit or order issued thereunder, in an amount not to exceed one thousand dollars per violation per day;

(5) Commencing an action through counsel for appropriate legal or equitable relief in the circuit court which decreed the district's incorporation against any industrial user in violation of the district's rules, regulations, and ordinances or any permit or order issued thereunder; and

(6) Petitioning the prosecutor for the county in which any criminal violation of the district's rules, regulations, ordinances, or any permit or order issued thereunder has occurred to institute criminal proceedings.

8. The board of trustees may adopt rules and regulations creating procedural remedies for all persons affected by any order or permit issued, modified, or revoked or any fine or penalty levied by the board including but not limited to the grant of reasonable time periods for such persons to respond, to show cause, and to request reconsideration of fines or penalties levied.

9. Any person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to the district's rules, regulations, ordinances, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the district's rules, regulations, or ordinances shall be fined not more than one thousand dollars per violation per day. In the event of a second violation, the person shall be fined not to exceed three thousand dollars per violation per day. Third or subsequent violations of this subsection are punishable as a class D felony.

10. Whenever any reference is made in this section to any action that may be taken by the board of trustees, such reference includes such action by its executive officer pursuant to powers and duties delegated to such executive officer by the board of trustees.

204.650. 1. The board of trustees may acquire by purchase, gift, or condemnation or may lease or rent any real or personal property and when condemnation is used shall follow the procedure that is provided by chapter 523, RSMo. All the powers may be exercised both within or without the district as may be necessary for the exercise of its powers or the

accomplishment of its purposes. The board of trustees shall also have the same authority to enter upon private lands to survey land or other property before exercise of the above condemnation powers as is granted pursuant to section 388.210, RSMo, to railroad corporations.

2. The board of trustees of the reorganized common sewer district, if it is necessary to cross, follow, or traverse public streets, roads, or alleys, or grounds held or used as public parks or places, shall have the right to do so upon the following conditions: The board of trustees shall file with the county commission or mayor of the municipality having immediate jurisdiction over the street, road, alley, or public park or place, a map showing the location and extent of the proposed occupancy for sewerage purposes and a plan of the proposed facilities, which plan shall be so made and arranged as not to interfere with the ordinary and lawful use of the street, road, alley, public park, or place, except during a reasonable time for the construction of the necessary works.

3. The entire expense of the works and restoration of the ground occupied to its former condition, as near as may be, shall be borne by the reorganized common sewer district.

204.655. 1. The board of trustees for the reorganized common sewer district shall let contracts for all work to be done, excepting in case of repairs or emergencies requiring prompt attention, in the construction of sewers and sewage treatment plants, the expense of which will exceed twenty-five thousand dollars, to the lowest responsible bidder therefor, upon not less than twenty days' notice of the letting, given by publication in a newspaper of general circulation in the district. The board shall have the power and authority to reject any and all bids and readvertise the work.

2. The board of trustees shall also have the power to enter into agreements with persons, firms for providing professional services required of the board and the board shall adopt policies for procuring the services of such professionals. The provisions of sections 8.285 to 8.291, RSMo, shall be applicable to the services of architects, engineers and land surveyors unless the board of trustees adopts a formal procedure for the procurement of such services.

204.660. The cost of any reorganized common sewer district of acquiring, constructing, improving or extending a sewerage system may be met:

(1) Through the expenditures by the common sewer district of any funds available for that purpose, including temporary or interim financing funds obtained through any federal or state loan program or from a local lending institution;

(2) From any other funds which may be obtained pursuant to any law of the state or of the United States or from any county or municipality for that purpose; or

(3) From the proceeds of revenue bonds of the common sewer district, payable solely from the revenues to be derived from the operation of such sewerage system or from any combination of all the methods of providing funds.

(4) From the proceeds of general obligation bonds of the reorganized common sewer district, payable solely from voter approved property taxes as provided for by law.

(5) From the proceeds of special obligation bonds of the reorganized common sewer district, payable solely from special fees or other revenues received by the district pledged for the purposes of payment of such bonds.

(6) From the proceeds of user fees, charges, or other imposition for facilities and services provided by the district to its customers and users or the availability of services provided to persons, users, and customers within the district or who otherwise benefit from services provided

by the district.

204.665. 1. A reorganized common sewer district may issue general or special revenue bonds authorized by authority of a resolution adopted by the board of trustees of the reorganized common sewer district unless in addition thereto the decree or amended decree of incorporation shall require any such bonds to be approved by the voters of the district after election called for that purpose. The resolution shall recite that an estimate of the cost of the proposed acquisition, construction, improvement, extension or other project has been made and shall set out the estimated cost; it shall set out the amount of the bonds proposed to be issued, their purposes, their dates, denominations, rates of interest, times of payment, both of principal and of interest, places of payment, and all other details in connection with the bonds.

2. The bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the board of trustees of the common sewer district.

3. The bonds shall bear interest at a rate in accordance with section 108.170, RSMo, and shall mature over a period not exceeding thirty-five years from the date thereof.

4. The bonds may be payable to bearer, may be registered or coupon bonds, and if payable to bearer may contain such registration privileges as to either principal and interest, or principal only, as may be provided in the resolution authorizing the bonds.

5. The bonds and the coupons to be attached thereto, if any, shall be signed in such manner and by such officers as may be directed by resolution. Bonds signed by an officer who shall hold the office at the time the bonds are signed shall be deemed validly and effectually signed for all purposes, regardless of whether or not any officer shall cease to hold his office prior to the delivery of the bonds and regardless of whether or not any officer shall have held or shall not have held such office on the date ascribed to the bonds.

6. The bonds shall be sold in such manner and upon such terms as the board of trustees of the reorganized common sewer district shall determine, but the bonds shall not be sold for less than ninety cents on the dollar nor shall they be sold at such a price that the interest cost upon the actual proceeds of the bonds from the date thereof to their maturity shall exceed a rate in accordance with section 108.170, RSMo. The resolution may provide that certain bonds authorized thereby shall be junior or subordinate in any or all respects to other revenue bonds authorized concurrently therewith or prior to or after such bonds.

204.670. Any user fees or charges, connection fees, or other charges levied by the reorganized common sewer district for purposes of funding its general or special operations, maintenance, or payment of bonded indebtedness or other indebtedness shall be due at such time or times as specified by the reorganized common sewer district, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. In addition to and consistent with any other provision of applicable law, if such fees or charges or other amounts due become delinquent, they shall be a lien upon the land charged, upon the reorganized common sewer district filing with the recorder of deeds in the county where the land is situated a notice of delinquency. The reorganized common sewer district shall file with the recorder of deeds a similar notice of satisfaction of debt when the delinquent amounts, plus interest and any recording fees or attorneys' fees, have been paid in full. The lien hereby created may be enforced by foreclosure by power of sale hereby vested in the

reorganized common district if the reorganized common sewer district adopts written rules for the exercise of power of sale consistent with the provisions of sections 443.290 to 443.325, RSMo, which are recorded in the land records of the office of the recorder of deeds in each county in which the district is located; otherwise such lien shall be enforced by suit in the circuit court having jurisdiction against the property subject to the lien for judicial foreclosure and sale by special execution; such suit may include a request for judgment against the persons responsible for payment of such delinquency as well as the person or persons owning the property to which services were provided, if different, including post-sale deficiency, and as a part of the relief, may include award of the district's reasonable attorney's fees, court costs and other expenses reasonably incurred by the district for collection.

204.675. It shall be the mandatory duty of any reorganized common sewer district which shall issue any general or special revenue bonds pursuant to sections 204.600 to 204.700:

(1) To fix and maintain rates and make and collect charges for the use and services of the system, for the benefit of which revenue bonds were issued, sufficient to pay the cost of maintenance and operation thereof;

(2) To pay the principal of and the interest on all revenue bonds issued by the reorganized common sewer district chargeable to the revenues of the system; and

(3) To provide funds ample to meet all valid and reasonable requirements of the resolution by which the revenue bonds have been issued.

The rates shall be from time to time revised so as fully to meet the requirements of sections 204.600 to 204.700. As long as any bond so issued or the interest thereon shall remain outstanding and unpaid, rates and charges sufficient to meet the requirements of this section shall be maintained and collected by the reorganized common sewer district which issued the bonds.

204.680. 1. Whenever any reorganized common sewer district authorizes and issues revenue bonds pursuant to sections 204.600 to 204.700, an amount sufficient for the purpose of the net revenues of the sewerage system for the benefit of which the bonds are issued shall, by operation of sections 204.600 to 204.700, be pledged to the payment of the principal of and the interest on the bonds as the same shall mature and accrue.

2. The term "net revenues" shall be construed to mean all income and revenues derived from the ownership and operation of the system less the actual and necessary expenses of operation and maintenance of the system.

3. It shall be the mandatory duty of the treasurer of the reorganized common sewer district to provide for the prompt payment of the principal and interest on any revenue bonds as they mature and accrue.

204.685. 1. The resolution of the board of trustees of the reorganized common sewer district authorizing the issuance of revenue bonds pursuant to the authority of sections 204.600 to 204.700 may provide that periodic allocations of the revenues to be derived from the operation of the system for the benefit of which the bonds are issued shall be made into such accounts, separate and apart from any other accounts of the district, as shall be deemed to be advisable to assure the proper operation and maintenance of the system and the prompt payment of the indebtedness chargeable to the revenues of the system. The accounts may include, but shall not be limited to:

(1) An account for the purpose of providing funds for the operation and maintenance of the system;

(2) An account to provide funds for the payment of the bonds as to principal and interest as they come due;

(3) An account to provide an adequate reserve for depreciation, to be expended for replacements of the system;

(4) An account for the accumulation of a reserve to assure the prompt payment of the bonds and the interest thereon whenever and to the extent that other funds are not available for the purpose;

(5) An account to provide funds for contingent expenses in the operation of the system;

(6) An account to provide for the accumulation of funds for the construction of extensions and improvements to the system; and

(7) Such other accounts as may be desirable in the judgment of the board of trustees.

2. The resolution may also establish such limitations as may be expedient upon the issuance of additional bonds, payable from the revenues of the system, or upon the rights of the holders of such additional bonds. Such resolution may include other agreements with the holders of the bonds or covenants or restrictions necessary or desirable to safeguard the interests of the bondholder and to secure the payment of the bonds and the interest thereon.

204.690. For the purpose of refunding, extending and unifying the whole or any part of any valid outstanding bonded indebtedness payable from the revenues of a sewerage system, any reorganized common sewer district may issue refunding bonds not exceeding in amount the principal of the outstanding indebtedness to be refunded and the accrued interest to the date of the refunding bonds. The board of trustees of the reorganized common sewer district shall provide for the payment of interest at not to exceed the same rate and the principal of the refunding bonds in the same manner and from the same source as was provided for the payment of interest on and principal of the bonds to be refunded.

204.695. The board of trustees of the reorganized common sewer district may apply for and accept grants or funds, material or labor, from the state and federal government, or any departments thereof, in the construction of a sewerage system as provided by sections 204.600 to 204.700, and may enter into such agreements as may be required of the state or federal laws, or the rules and regulations of any federal or state department, to which the application is made, and where the assistance is granted.

204.700. It is hereby made the duty of the mayors of cities, the circuit court, the governing bodies of counties, all political subdivisions and all assessors, sheriffs, collectors, treasurers and other officials in the state of Missouri to do and perform all the acts and to render all the services necessary to carry out the purposes of sections 204.600 to 204.700.

204.705. Sections 204.705 to 204.755 shall be known and may be cited as the "Sanitary Sewer Improvement Area Act", and the following words and terms, as used in these sections, mean:

(1) "Acquire", the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means and may include the acquisition of existing property and improvements already owned by the district;

(2) "Assess" or "assessment", a unit of measure to allocate the cost of an improvement among property or properties within a sanitary sewer improvement area based upon an equitable method of determining benefits to any such property resulting from an improvement;

(3) "Consultant", engineers, architects, planners, attorneys, financial advisors, accountants, investment bankers and other

persons deemed competent to advise and assist the governing body of the district in planning and making improvements;

(4) "Cost", all costs incurred in connection with an improvement, including, but not limited to, costs incurred for the preparation of preliminary reports, preparation of plans and specifications, preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, fees and expenses of consultants, interest accrued on borrowed money during the period of construction, underwriting costs and other costs incurred in connection with the issuance of bonds or notes, establishment of reasonably required reserve funds for bonds or notes, the cost of land, materials, labor and other lawful expenses incurred in planning, acquiring and doing any improvement, reasonable construction contingencies, and work done or services performed by the district in the administration and supervision of the improvement;

(5) "District" or "common sewer district", any public sanitary sewer district or reorganized common sewer district established and existing pursuant to this chapter or chapter 249, RSMo, and any metropolitan sewer district organized pursuant to the constitution of this state;

(6) "Improve", to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend or to otherwise perform any work which will provide a new sanitary sewer facility or enhance, extend or restore the value or utility of an existing sanitary sewer facility;

(7) "Improvement", any one or more sanitary sewer facilities or improvements which confer a benefit on property within a definable area and may include or consist of a reimprovement of a prior improvement; improvements include, but are not limited to, the following activities:

(a) To acquire property or interests in property when necessary or desirable for any purpose authorized by sections 204.705 to 204.755;

(b) To improve sanitary sewers, wastewater treatment plants, lagoons, septic tanks and systems and any and all other sanitary sewer and waste water collection and treatments systems of any type, whether located on improved or unimproved public or private property, the general object and nature of which will either preserve, maintain, improve or promote the general public health, safety and welfare, or the environment, regardless of technology used;

(8) "Sanitary sewer improvement area", an area of a district with defined limits and boundaries which is created by petition pursuant to sections 204.705 to 204.755 and which is benefited by an improvement and subject to assessments against the real property therein for the cost of the improvement;

(9) "User fee", a fee established and imposed by a district for payment of an assessment in periodic installments to pay for improvements made in a sanitary sewer improvement area which benefit the property within such area that is subject to the assessment.

204.710. As an alternative to all other methods provided by law or charter, the board of trustees of any sewer district or reorganized sewer district organized and operated pursuant to this chapter or chapter 249, RSMo, or any metropolitan sewer district organized pursuant to the constitution of this state, may make, or cause to be made, improvements which confer a benefit upon property within a sanitary sewer improvement area pursuant to sections 204.705 to 204.755. The board of trustees of such district may incur indebtedness and issue temporary notes and general or special revenue bonds pursuant to sections 204.705 to 204.755 to pay

for all or part of the cost of such improvements. An improvement may be combined with one or more other improvements for the purpose of issuing a single series of general or special revenue bonds to pay all or part of the cost of said area's improvements, but separate funds or accounts shall be established within the records of the district for each improvement project as provided in sections 204.705 to 204.755. Such district shall make assessments and may impose user fees on the property deemed by the board of trustees to be benefited by each such improvement project pursuant to in addition to any other fees or charges imposed by the district for provision of services or payment of debt. The district shall use the moneys collected from such assessments and user fees to reimburse the district for all amounts paid or to be paid by it as principal of and interest on its temporary notes and general or special revenue bonds issued for such improvements.

204.715. 1. To establish a sanitary sewer improvement area, the governing body of the sewer district shall comply with the following procedure: the governing body of the district may create a sanitary sewer improvement area when a proper petition has been signed by four-sevenths of the owners of record within such proposed area. The petition, in order to become effective, shall be filed with the district. A proper petition for the creation of a sanitary sewer improvement area shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed sanitary sewer subdistrict, the proposed method or methods of financing the project including the estimated amount of and method for imposing user fees against the real property within the district to pay for the cost of the improvements and any bonds issued therefor, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the district, and a notice that the final cost of such improvement and the amount of revenue bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such petition, by more than twenty-five percent.

2. Upon the filing of a proper petition with the district, the governing body may by resolution or ordinance determine the advisability of the improvement and may order that the area be established and that preliminary plans and specifications for the improvement be made. Such resolution or ordinance shall state and make findings as to the project name for the proposed improvement, the nature of the improvement, the estimated cost of such improvement, the boundaries of the sanitary sewer improvement area, the proposed method or methods of imposing assessments and, if known, proposed estimated user fees within the district, and shall also state that the final cost of such improvement within the sanitary sewer improvement area and the amount of general or special revenue bonds issued therefor shall not, without a new petition, exceed the estimated cost of such improvement by more than twenty-five percent.

3. The boundaries of the proposed area shall be described by metes and bounds, streets or other sufficiently specific description.

204.720. The portion of the cost of any improvement to be assessed or imposed against the real property in a sanitary sewer improvement area shall be apportioned against such property in accordance with the benefits accruing thereto by reason of such improvement. Subject to the provisions of the Farmland Protection Act, sections 262.800 to 262.810, RSMo, the cost may be assessed equally by lot or tract, against property within the area, or by any other reasonable assessment plan determined by the board of trustees of the

district which results in imposing substantially equal burdens or share of the cost upon property similarly benefited. The board of trustees of the district may from time to time determine and establish by ordinance or resolution reasonable general classifications and formula for the methods of assessing or determining the benefits.

204.725. 1. After the board of trustees has made the findings specified in sections 204.705 to 204.755 and plans and specifications for the proposed improvements have been prepared, the board of trustees shall by ordinance or resolution order assessments to be made against each parcel of real property deemed to be benefited by an improvement based on the revised estimated cost of the improvement or, if available, the final cost thereof, and shall order a proposed assessment roll to be prepared.

2. The plans and specifications for the improvement and the proposed assessment roll shall be filed with the district and shall be open for public inspection. Such district shall thereupon, at the direction of the board of trustees, publish notice that the board of trustees will conduct a hearing to consider the proposed improvement and proposed assessments. Such notice shall be published in a newspaper of general circulation at least once not more than twenty days before the hearing and shall state the project name for the improvement, the date, time and place of such hearing, the general nature of the improvement, the revised estimated cost or, if available, the final cost of the improvement, the boundaries of the sanitary sewer improvement area to be assessed, and that written or oral objections will be considered at the hearing. At the same time, the district shall mail to the owners of record of the real property made liable to pay the assessments, at their last known post office address, a notice of the hearing and a statement of the cost proposed to be assessed against the real property so owned and assessed. The failure of any owner to receive such notice shall not invalidate the proceedings.

204.730. 1. At the hearing to consider the proposed improvements and assessments, the board of trustees or their designated representative shall hear and pass upon all objections to the proposed improvements and proposed assessments, if any, and may amend the proposed improvements, and the plans and specifications therefor, or assessments as to any property, and thereupon by ordinance or resolution the board of trustees shall order that the improvement be made and direct that financing for the cost thereof be obtained as provided in sections 204.705 to 204.755.

2. After the improvement has been completed in accordance with the plans and specifications therefor, the board of trustees shall compute the final costs of the improvement and apportion the costs among the property benefited by such improvement in such equitable manner as the board of trustees shall determine, charging each tract, lot or parcel of property with its proportionate share of the costs, and by resolution or ordinance, assess the final cost of the improvement, or the amount of general or special revenue bonds issued or to be issued to pay for the improvement, as special assessments against the property described in the assessment roll.

3. After the passage or adoption of the ordinance or resolution assessing the special assessments, the district shall mail a notice to each property owner within the district which sets forth a description of each tract, lot or parcel of real property to be assessed which is owned by such owner, the assessment assigned to such property, and a statement that the property owner may pay such assessment in full, together with interest accrued thereon from the effective date of such ordinance or resolution, on or before a specified date determined by the effective date of the

ordinance or resolution, or may pay such assessment in the form of user fees in periodic installments as provided in subsection 4 of this section. Notice of each assessment and imposition of the assessment lien together with a legal description for each property assessed within the area shall be filed with the recorder of deeds upon the effective date of the ordinance or resolution, but failure to timely record any such notice shall not affect the validity of the assessments or liens thereunder. The district shall record written notice of release of lien whenever an assessment is paid in full; the cost of recording assessment notices and release of liens shall be included in the assessment.

4. The special assessments shall be assessed upon the property within the area and those not paid in full as provided in subsection 3 of this section shall be payable in the form of user fees payable in periodic and substantially equal installments as determined by the district for a duration prescribed by the resolution or ordinance establishing the special assessments. All assessments shall bear interest at such rate as the board of trustees determines, not to exceed the rate permitted for bonds by section 108.170, RSMo. Interest on the assessment between the effective date of the ordinance or resolution assessing the special assessments and the date the first installment of a user fee is payable shall be added to the first installment or prorated among all scheduled installments.

5. Assessments not paid in full shall be collected and paid over to the district in the form of user fees in the same manner as other district fees and charges are collected and paid, or by any other reasonable method determined by the district.

204.735. No suit to set aside the assessments made pursuant to sections 204.705 to 204.755 or to otherwise question the validity of the proceedings relating thereto shall be brought after the expiration of ninety days from the date of mailing of notice to the last known owners of record of the assessments required by sections 204.705 to 204.755.

204.740. 1. To correct omissions, errors or mistakes in the original assessment which relate to the total cost of an improvement, the board of trustees of the district may, without a notice or hearing, make supplemental or additional assessments on property within a sanitary sewer improvement area, except that such supplemental or additional assessments shall not, without a new petition as provided in sections 204.705 to 204.755, exceed twenty-five percent of the estimated cost of the improvement as set forth in the petition pursuant to the provisions of sections 204.705 to 204.755.

2. When an assessment is, for any reason whatever, set aside by a court of competent jurisdiction as to any property, or in the event the board of trustees finds that the assessment or any part thereof is excessive or determines on advice of counsel in writing that it is or may be invalid for any reason, the board of trustees may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to such property.

204.745. An assessment authorized pursuant to sections 204.705 to 204.755, once determined and imposed, shall constitute a lien against such property until paid in full and shall not be affected by the existence or enforcement of any other liens or encumbrances, nor shall enforcement of an assessment lien have any effect on the validity or enforcement of any tax lien or lien established by mortgage or deed of trust. An assessment lien becomes delinquent when an assessment is not paid in full as prescribed by sections 204.705 to 204.755 or when one or more periodic installments imposed by the district for an assessment remain unpaid for a period of thirty days or more after notice of delinquency in payment is mailed to the last

known owners of the property subject to assessment by regular United States mail and by certified mail, return receipt requested, at their last known address provided by such owners to the district and to the occupant of property which is subject to assessment, if different from that of the owners. In the event any such user fee remains unpaid after thirty days of the mailing of any such notice, and in addition to any other remedy the district may have by statute or duly enacted regulation for the collection of delinquent amounts owed to the district, the district shall be entitled to petition the circuit court having jurisdiction to foreclose upon the assessment lien by special execution sale of the property subject to the assessment for the unpaid assessment plus reasonable attorney's fees, court costs and other reasonable costs incurred by the district in collection. In any such suit, the district shall name all parties appearing of record to have or claim an interest in the property subject to the unpaid assessment and shall file a notice of lis pendens in connection with said action; in addition, the district may obtain a judgment against last known owners of the property for any deficiency in payment of the assessment and costs and fees made a part of the court's judgment.

204.750. After an improvement has been authorized pursuant to sections 204.705 to 204.755, the board of trustees of the district may issue temporary notes of the district to pay the costs of such improvement in an amount not to exceed the estimated cost of such improvement, and such temporary notes may be issued in anticipation of issuance of general or special revenue bonds of the district. The district may participate in any governmentally sponsored bond pooling program or other bond program. Bonds may be issued and made payable from general revenues of the area or district, or from special revenues from designated properties within an area.

204.755. A separate fund or account shall be created by the district for each improvement project and each such fund or account shall be identified by a suitable title. The proceeds from the sale of bonds and temporary notes and any other moneys appropriated thereto by the board of trustees of the district shall be credited to such funds or accounts. Such funds or accounts shall be used solely to pay the costs incurred in making each respective improvement. Upon completion of an improvement, the balance remaining in the fund or account established for such improvement, if any, may be held as contingent funds for future improvements or may be credited against the amount of the original assessment of each parcel of property, on a pro rata basis based on the amount of the original assessment, and with respect to property owners that have prepaid their assessments in accordance with sections 204.705 to 204.755, the amount of each such credit shall be refunded to the appropriate property owner, and with respect to all other property owners, the amount of each such credit shall be transferred and credited to the district bond and interest fund to be used solely to pay the principal of and interest on the bonds or temporary notes and the assessments shall be reduced accordingly by the amount of such credit.

204.760. Any public sanitary sewer district or reorganized sewer district organized and operated pursuant to this chapter or chapter 249, RSMo, and any metropolitan sewer district organized pursuant to the constitution of this state, may enter into a cooperative agreement with a city or county for the purpose of constructing sanitary sewer system improvements pursuant to the provisions of the neighborhood improvement district act, sections 67.453 to 67.475, RSMo. Any such cooperative agreement, if approved by the governing bodies of the district and city or county, may include provisions for joint administration of projects,

for the issuance of temporary notes and general obligation bonds by district, city or county, separately or jointly, and for the payment of such bonds by any source of funds or user fees in addition to funds from special assessments as provided for in sections 67.453 to 67.475, RSMo, and general ad valorem taxes, so long as all terms, conditions and covenants of any applicable bond indenture are complied with and so long as said notes and bonds are issued in compliance with general applicable law."; and

Further amend said bill, Page 23, Section 643.078, Line 89, by inserting after said line the following:

"644.051. 1. It is unlawful for any person:

(1) To cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state;

(2) To discharge any water contaminants into any waters of the state which reduce the quality of such waters below the water quality standards established by the commission;

(3) To violate any pretreatment and toxic material control regulations, or to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the commission or required by any federal water pollution control act;

(4) To discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the state.

2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds a permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. Every proposed water contaminant or point source which, when constructed or installed or established, will be subject to any federal water pollution control act or sections 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make application to the director for a permit at least thirty days prior to the initiation of construction or installation or establishment. Every water contaminant or point source in existence when regulations or sections 644.006 to 644.141 become effective shall make application to the director for a permit within sixty days after the regulations or sections 644.006 to 644.141 become effective, whichever shall be earlier. The director shall promptly investigate each application, which investigation shall include such hearings and notice, and consideration of such comments and recommendations as required by sections 644.006 to 644.141 and any federal water pollution control act. If the director determines that the source meets or will meet the requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto, the director shall issue a permit with such conditions as he or she deems necessary to ensure that the source will meet the requirements of sections 644.006 to 644.141 and any federal water pollution control act as it applies to sources in this state. If the director determines that the source does not meet or will not meet the requirements of either act and the regulations pursuant thereto, the director shall deny the permit pursuant to the applicable act and issue any notices required by sections 644.006 to 644.141 and any federal water pollution control act. **Notwithstanding the provisions of subsections 1 and 2 of this section to the contrary, it shall not be unlawful to emit or discharge a water contaminant that is totally confined on the owner's property and subject to clean up and remediation as soon as practical.**

4. Before issuing a permit to build or enlarge a water contaminant or point source or reissuing any permit, the director shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The director shall determine if any state or any provisions of any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality-related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall determine the impact on such water quality standards from the source. The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule. Prior to the development or renewal of a general permit or permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit holders and applicants to evaluate the impacts of permits and to discuss any terms and conditions that may be necessary to protect waters of the state. Following the discussions, the director shall finalize a draft permit that considers the comments of the meeting participants and post the draft permit on notice for public comment. The director shall concurrently post with the draft permit an explanation of the draft permit and shall identify types of facilities which are subject to the permit conditions. Affected public or applicants for new general permits, renewed general permits or permits by rule may request a hearing with respect to the new requirements in accordance with this section. If a request for a hearing is received, the commission shall hold a hearing to receive comments on issues of significant technical merit and concerns related to the responsibilities of the Missouri clean water law. The commission shall conduct such hearings in accordance with this section. After consideration of such comments, a final action on the permit shall be rendered. The time between the date of the hearing request and the hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13 of this section.

5. The director shall grant or deny the permit within sixty days after all requirements of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless the application does not require any permit pursuant to any federal water pollution control act. The director or the commission may require the applicant to provide and maintain such facilities or to conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or degree of water contaminant discharged or released from the source, establish and maintain records and make reports regarding such determination.

6. The director shall promptly notify the applicant in writing of his or her action and if the permit is denied state the reasons therefor. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit by filing notice of appeal with the commission within thirty days of the notice of denial or issuance of the permit. The commission shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.

7. In any hearing held pursuant to this section the burden of proof is on the applicant for a permit. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in section 644.071.

8. In any event, no permit issued pursuant to

this section shall be issued if properly objected to by the federal government or any agency authorized to object pursuant to any federal water pollution control act unless the application does not require any permit pursuant to any federal water pollution control act.

9. Unless a site-specific permit is requested by the applicant, aquaculture facilities shall be governed by a general permit issued pursuant to this section with a fee not to exceed two hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section 644.052. However, any aquaculture facility which materially violates the conditions and requirements of such permit may be required to obtain a site-specific permit.

10. No manufacturing or processing plant or operating location shall be required to pay more than one operating fee. Operating permits shall be issued for a period not to exceed five years after date of issuance, except that general permits shall be issued for a five-year period, and also except that neither a construction nor an annual permit shall be required for a single residence's waste treatment facilities. Applications for renewal of an operating permit shall be filed at least one hundred eighty days prior to the expiration of the existing permit.

11. Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

12. The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

13. (1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department shall issue or deny the requested permits within sixty days of the department's receipt of an application.

(2) If the department fails to issue or deny with good cause a construction or operating permit application within the time frames established in subdivision (1) of this subsection, the department shall refund the full amount of the initial application fee within forty-five days of failure to

meet the established time frame. If the department fails to refund the application fee within forty-five days, the refund amount shall accrue interest at a rate established pursuant to section 32.065, RSMo.

(3) Permit fee disputes may be appealed to the commission within thirty days of the date established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute appealed to the commission, the commission may order the director to refund the applicant's permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and 536.087, RSMo. A refund of the initial application or annual fee does not waive the applicant's responsibility to pay any annual fees due each year following issuance of a permit.

(4) No later than December 31, 2001, the commission shall promulgate regulations defining shorter review time periods than the time frames established in subdivision (1) of this subsection, when appropriate, for different classes of construction and operating permits. In no case shall commission regulations adopt permit review times that exceed the time frames established in subdivision (1) of this subsection. The department's failure to comply with the commission's permit review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the commission a report which describes the different classes of permits and reports on the number of days it took the department to issue each permit from the date of receipt of the application and show averages for each different class of permits.

(5) During the department's technical review of the application, the department may request the applicant submit supplemental or additional information necessary for adequate permit review. The department's technical review letter shall contain a sufficient description of the type of additional information needed to comply with the application requirements.

(6) Nothing in this subsection shall be interpreted to mean that inaction on a permit application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to 644.141.

14. The department shall respond to all requests for individual certification under Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period established pursuant to applicable federal regulations without request for an extension period unless such extension is determined by the commission to be necessary to evaluate significant impacts on water quality standards and the commission establishes a timetable for completion of such evaluation in a period of no more than one hundred eighty days.

15. All permit fees generated pursuant to this chapter shall not be used for the development or expansion of total maximum daily loads studies on either the Missouri or Mississippi rivers.

644.581. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.

644.582. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

644.583. In addition to those sums authorized prior to August 28, 2004, the board

of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMO, and in this chapter.

Section 1. 1. In any home rule city with more than eighty-four thousand five hundred but less than eighty-four thousand six hundred inhabitants, the governing body of such city shall allow owners of real property located beyond the corporate limits of such city to connect sanitary sewer lines serving improvements constructed or to be constructed in accordance with applicable county ordinances on the respective parcel of real property to any sanitary sewer line of such city located within an easement on the respective parcel of real property provided that the following conditions are met:

(1) The easement is located on a tract of real estate adjacent to a state highway;

(2) The tract of real estate across which the easement is located constitutes a tract of real property containing more than thirty acres and is located within two miles of karst topography;

(3) The easement and sanitary sewer line located therein have been in existence for more than ten years; and

(4) The owner of the respective parcel of real property pays the normal and customary connection fees associated with such connection.

2. In no event shall the annexation of the respective parcel of real property by such city constitute a condition precedent to the owner's right to connect with any sanitary sewer line of such city."; and

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

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 1, In the Title, Line 2, by inserting after the number "260.831," the number "278.258,"; and

Further amend said bill, Page 1, In the Title, Line 3, by deleting the word "seventeen" and inserting in lieu thereof the word "eighteen"; and

Further amend said bill, Page 1, Section A, Line 1, by inserting after the number "260.831," the number "278.258,", and

Further amend said bill, Page 1, Section A, Line 2, by deleting the word "seventeen" and inserting in lieu thereof the word "eighteen"; and

Further amend said bill, Page 1, Section A, Line 4, by inserting after the number "260.831," the number "278.258,"; and

Further amend said bill, Page 7, Section 260.831, Line 25, by inserting after all of said line the following:

"278.258. 1. After a watershed subdistrict has been organized and the organization tax pursuant to section 278.250 has been levied, any county in the subdistrict which has not adopted the annual tax pursuant to section 278.250 may detach from the subdistrict upon approval of such detachment of a majority of the qualified voters **[**residing**]** **voting on the proposed detachment** within such subdistrict in such county; however, before such detachment the watershed district trustees shall make arrangements for the county to pay any outstanding indebtedness for services or works of improvement rendered by the subdistrict in such county.

2. Following the entry in the official minutes of the trustees of the watershed district of the detachment of the county, the watershed district trustees shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds in each county in which any

portion of the watershed subdistrict lies and with the state soil and water districts commission."; and

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

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 1, In the Title, Line 3, by deleting the word "seventeen" and inserting in lieu thereof the word "twenty-one"; and

Further amend said bill, Page 1, Section A, Line 2, by deleting the word "seventeen" and inserting in lieu thereof the word "twenty-one"; and

Further amend said bill, Page 1, Section A, Line 4, by deleting the word "and"; and

Further amend said bill, Page 1, Section A, Line 5, by inserting the after "643.078," the phrase "and 1, 2, 3, and 4,"; and

Further amend said bill, Page 23, Section 643.078, Line 89, by inserting after all of said line the following:

"**Section 1. The air conservation commission, clean water commission, hazardous waste management commission, petroleum storage tank insurance fund board and land reclamation commission assigned to the department of natural resources are hereby granted and shall have the authority to exercise all powers necessary or appropriate to carry out and effectuate their purposes pursuant to the provisions of chapters 260, 319, 444, 643 and 644, RSMo, as amended, including, but not limited to, the following:**

(1) To sue and be sued;

(2) To employ managers and other employees and retain or contract with engineers, architects, accountants, financial consultants, attorneys and such other persons, firms, or corporations who are necessary in its judgment to carry out its duties, and to fix the compensation thereof, consistent with available appropriations; and

(3) To settle and compromise any claim or cause of action brought by, on behalf of, or against the board or commission.

Section 2. 1. Each commission in section 1 of this act shall adopt, and may amend, promulgate, or repeal after due notice and hearing in accordance with chapter 536, RSMo, rules and regulations establishing rules of practice and procedure, including but not limited to the establishment of filing fees and assessment of hearing costs, applicable to any appeal or hearing heard by the commission pursuant to chapter 536, RSMo.

2. Until such time that each commission listed in section 1 of this act adopts rules of practice, the general procedures in the following rules adopted by the Missouri Bar shall control in all appeals heard by any commission: rules 56, 57, 58, 59, 61 and 74.04, as amended.

Section 3. 1. There is hereby created an "Office of Commission Support" within the department of natural resources. The office of commission support shall be managed by a director appointed by a majority vote of the chairs of the commissions listed in section 1 of this act. One full time equivalent employee with a classification of planner and one full time equivalent employee with the classification of clerk or typist are hereby transferred from the department of natural resources to serve as staff for the office of commission support. For fiscal years 2003 to 2008, ten thousand dollars from the air pollution control fund, hazardous waste fund, water pollution control fund, solid waste management fund, natural resources protection fund, natural resources protection fund-water pollution permit fees subaccount, natural resources protection fund-air pollution permit fees subaccount, soil and water sales tax fund, the mined land reclamation fund, and natural

resources revolving services fund, respectively, shall be made available annually, upon appropriation, for personal service and expense and equipment.

2. The director of the office of commission support shall, in his or her discretion, institute such procedures, set such policies, and organize such structures in order to maintain neutrality and independence in all functions of the boards and commissions. The director shall provide advice and assistance to the board and commissions assigned to the department of natural resources in all administrative, budget, fiscal, personnel and related matters. The director shall serve as a clearinghouse for all notices of proposed rules as described in subsections 3 and 4 of section 4 of this act. The director shall supervise all work groups appointed by any board or commission.

Section 4. 1. At least sixty days prior to transmitting a notice of proposed rulemaking to the secretary of state for any rule to be considered by the department of natural resources or by the air conservation commission, clean water commission, hazardous waste management commission, petroleum storage tank insurance fund board or land reclamation commission, the department of natural resources shall provide a copy of the notice of proposed rulemaking to the members of the board or commission having jurisdiction over the notice of proposed rulemaking and to all persons or entities that participated in the underlying proceeding concerning the development of the proposed rule.

2. The department of natural resources may transmit the notice of proposed rulemaking to the secretary of state only after the board or commission having jurisdiction over the proposed rulemaking has approved the form and content of the notice of proposed rulemaking. Where no board or commission is involved in the adoption of the proposed rule, the department of natural resources may transmit the notice of proposed rulemaking sixty days after the issuance of the notice required in subsection 1 of this section to persons or entities that participated in the underlying proceeding.

3. Any board or commission may in its discretion appoint a work group comprised of interested parties to consider whether particular rules should be adopted or amended. Any such work group shall attempt to develop a consensus which shall be reported to the commission that appointed the work group.

4. Any notice of proposed rulemaking transmitted by the department of natural resources to the secretary of state without complying with the notice and approval requirements in subsections 1 and 2 of this section is void."; and

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

HOUSE AMENDMENT NO. 9

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 23, Section 643.078, Line 89, by inserting after all of said line the following:

"644.016. When used in sections 644.006 to 644.141 and in standards, rules and regulations promulgated pursuant to sections 644.006 to 644.141, the following words and phrases mean:

(1) "Aquaculture facility", a hatchery, fish farm, or other facility used for the production of aquatic animals that is required to have a permit pursuant to the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;

(2) "Commission", the clean water commission of the state of Missouri created in section 644.021;

(3) "Conference, conciliation and persuasion", a process of verbal or written communications

consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(4) "Department", the department of natural resources;

(5) "Director", the director of the department of natural resources;

(6) "Discharge", the causing or permitting of one or more water contaminants to enter the waters of the state;

(7) "Effluent control regulations", limitations on the discharge of water contaminants;

(8) "General permit", a permit written with a standard group of conditions and with applicability intended for a designated category of water contaminant sources that have the same or similar operations, discharges and geographical locations, and that require the same or similar monitoring, and that would be more appropriately controlled pursuant to a general permit rather than pursuant to a site-specific permit;

(9) "Human sewage", human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances;

(10) "Income" includes retirement benefits, consultant fees, and stock dividends;

(11) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

(12) "Permit by rule", a permit granted by rule, not by a paper certificate, and conditioned by the permit holder's compliance with commission rules;

(13) "Permit holders or applicants for a permit" shall not include officials or employees who work full time for any department or agency of the state of Missouri;

(14) "Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

(15) "Point source", any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged**. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture**;

(16) "Pollution", such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is reasonably certain to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds, fish or other aquatic life;

(17) "Pretreatment regulations", limitations on the introduction of pollutants or water contaminants into publicly owned treatment works or facilities which the commission determines are

not susceptible to treatment by such works or facilities or which would interfere with their operation, except that wastes as determined compatible for treatment pursuant to any federal water pollution control act or guidelines shall be limited or treated pursuant to this chapter only as required by such act or guidelines;

(18) "Residential housing development", any land which is divided or proposed to be divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan for residential housing;

(19) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or handling;

(20) "Significant portion of his or her income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant to retirement, pension, or similar arrangement;

(21) "Site-specific permit", a permit written for discharges emitted from a single water contaminant source and containing specific conditions, monitoring requirements and effluent limits to control such discharges;

(22) "Treatment facilities", any method, process, or equipment which removes, reduces, or renders less obnoxious water contaminants released from any source;

(23) "Water contaminant", any particulate matter or solid matter or liquid or any gas or vapor or any combination thereof, or any temperature change which is in or enters any waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause pollution upon entering waters of the state, or which violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant in such federal act;

(24) "Water contaminant source", the point or points of discharge from a single tract of property on which is located any installation, operation or condition which includes any point source defined in sections 644.006 to 644.141 **[**and nonpoint source pursuant to any federal water pollution control act**]**, which causes or permits a water contaminant therefrom to enter waters of the state either directly or indirectly**. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture**;

(25) "Water quality standards", specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects;

(26) "Waters of the state", all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common and includes waters of the United States lying within the state."; and

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

HOUSE AMENDMENT NO. 10

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 7, Section 260.831, Line 25, by inserting after all of said line the following:

"**319.115. 1. No person shall undertake the installation, repair, or removal, of an underground storage tank unless he or she has on file with the department of agriculture, weights and measures division the following:**

(1) Documentation showing that the person has general liability insurance, pollution liability insurance, and professional liability insurance, or net worth of not less than one million dollars; and

(2) Documentation showing that the person complies with the applicable sections of Title 29 of the Code of Federal Regulations general labor, safety, and health standards, which include Hazardous Waste Operations Training, Emergency Response Training, Confined Space Training, Protective Equipment Training, and Respiratory Protection Training.

2. No person shall undertake site assessment or corrective action in response to a release from an underground storage tank unless he or she has on file with the department of agriculture, weights and measures division the following:

(1) Documentation showing that the person has general liability insurance, pollution liability insurance, and professional liability insurance, or net worth of not less than one million dollars; and

(2) Documentation showing that the person complies with the applicable sections of Title 29 of the Code of Federal Regulations general labor, safety, and health standards, which include Hazardous Waste Operations Training, Emergency Response Training, Confined Space Training, Protective Equipment Training, and Respiratory Protection Training.

3. No person shall be entitled to receive any payments, reimbursements, or remuneration of any kind from the petroleum storage tank insurance fund unless the work for which payment is requested was performed by a person who has met the requirements of subsections 1 and 2 of this section."; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1
FOR HOUSE AMENDMENT NO. 11

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 1, Section 260.219, Lines 1 and 2, by deleting all of said section and inserting lieu thereof the following:

"**260.219. No local government or political subdivision shall provide commercial solid waste collection services in the unincorporated areas outside its boundaries unless no other service is available.**

260.247. 1. Any **[**city**]** **local government or political subdivision** which annexes an area or enters into or expands solid waste collection services into an area where the collection of solid waste is presently being provided by one or more private entities shall notify the private entity or entities of its intent to provide solid waste collection services in the area by certified mail.

2. A **[**city**]** **local government or political subdivision** shall not commence solid waste collection in such area for at least two years from the effective date of the annexation or at least two years from the effective date of the notice that the **[**city**]** **local government or political subdivision** intends to enter into the business of solid waste collection or to expand existing solid waste collection services into the area, unless the city contracts with the private entity or entities to continue such services for that period. **If the local government or political subdivision has not engaged in or started the process to engage in the business of solid waste collection services or expand existing solid waste collection services in the area within the two years of notification, then the political subdivision shall again notify private entity or entities pursuant to subsection 1 of this section.**

3. If the services to be provided under a contract with the **[**city**]** **local government or political subdivision** pursuant to subsection 2 of this section are substantially the same as the

services rendered in the area prior to the decision of the **[**city**]** **local government or political subdivision** to annex the area or to enter into or expand its solid waste collection services into the area, the amount paid by the **[**city**]** **local government or political subdivision** shall be at least equal to the amount the private entity or entities would have received for providing such services during that period.

4. Any private entity or entities which provide collection service in the area which the **[**city**]** **local government or political subdivision** has decided to annex or enter into or expand its solid waste collection services into shall make available upon written request by the **[**city**]** **local government or political subdivision** not later than thirty days following such request, all information in its possession or control which pertains to its activity in the area necessary for the **[**city**]** **local government or political subdivision** to determine the nature and scope of the potential contract.

5. The provisions of this section shall apply to private entities that service fifty or more residential accounts or fifteen or more commercial accounts in the area in question."; and

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

HOUSE AMENDMENT NO. 12

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 36, Page 1, In the Title, Line 3, by deleting the word "seventeen" and inserting in lieu thereof the word "eighteen"; and

Further amend said bill, Page 1, Section A, Line 2, by deleting the word "seventeen" and inserting in lieu thereof the word "eighteen"; and

Further amend said bill, Page 1, Section A, Line 4, by deleting the word "and"; and

Further amend said bill, Page 1, Section A, Line 5, by inserting the after "643.078," the phrase "and 1,"; and

Further amend said bill, Page 23, Section 643.078, Line 89, by inserting after all of said line the following:

"**Section 1. 1. Notwithstanding other provisions of law, any aggrieved person or entity that participated in the underlying proceeding shall have the right to appeal to the air conservation commission, clean water commission, hazardous waste management commission, petroleum storage tank insurance fund board, or land reclamation commission from any finding, order, decision, or assessment made by such board or commission or the department. An aggrieved party seeking relief shall demonstrate that he or she has a specific and legally cognizable interest in the subject matter of the administrative action and that he or she has been directly and substantially affected thereby.**

2. Participation in the underlying proceeding means an affirmative act involving the submission of comments or information concerning the underlying subject matter, and includes but is not limited to, filing comments on a proposed action or making comments at a public meeting. The board or commission may excuse the participation requirement only for good cause shown by the aggrieved party.

3. Notice of such decision shall be sent by the board or commission to all persons or entities that participated in the underlying proceeding. Any such aggrieved person or entity may file an appeal with the commission within thirty days after valid service and receipt of any such finding, order, decision, or assessment."; and

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

In which the concurrence of the Senate is respectfully requested.

HOUSE BILLS ON THIRD READING

HCS for **HB 289**, with **SCS**, entitled:

An Act to amend chapter 99, RSMo, by adding thereto twenty-two new sections relating to Missouri downtown economic stimulus act.

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

SCS for **HCS** for **HB 289**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 289

An Act to repeal sections 99.845 and 135.207, RSMo, and to enact in lieu thereof forty-four new sections relating to tax increment financing.

Was taken up.

Senator Steelman moved that **SCS** for **HCS** for **HB 289** be adopted.

Senator Steelman offered **SS** for **SCS** for **HCS** for **HB 289**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 289

An Act to repeal sections 99.845, 100.710, 100.840, 100.850, 135.207, and 178.892, RSMo, and to enact in lieu thereof fifty-five new sections relating to tax incentives for economic development, with an expiration date for certain sections and an emergency clause for certain sections.

Senator Steelman moved that **SS** for **SCS** for **HCS** for **HB 289** be adopted.

Senator Steelman offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 142, Section B, Line 1 of said page, by striking the numerals "100.840, 100.850,"; and further amend line 8 of said page, by striking the numerals "99.845, 100.840, 100.850,"; and

Further amend said bill, Page 142, Section C, Line 19 of said page, by striking the following: "99.845,".

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 21, Section 99.918, Lines 6-9, by striking all of said lines and inserting in lieu thereof the following:

"**(19) "Other net new revenues", up to fifty percent of the state sales tax increment and up to fifty percent of the state income tax increment as determined pursuant to section 99.960;**".

Senator Gross moved that the above amendment be adopted.

At the request of Senator Gross, **SA 2** was withdrawn.

Senator Goode offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 56, Section 99.960, Line 28 of said page, by inserting at the end of said line the following: "**the department of economic development for review and submission of an analysis and recommendation to**"; and further amend line 29 of said page, by inserting after the word "for" the following: "**a determination as to**"; and

Further amend said bill, Page 57, Section 99.960, Line 7 of said page, by striking the words "Missouri development finance board" and inserting in lieu thereof the following:

"**department of economic development**"; and

Further amend said bill, Page 58, Section 99.960, Line 18 of said page, by inserting at the end of said line the following: "**department of economic development and**"; and further amend line 20 of said page, by striking the words "Missouri development finance board" and inserting in lieu thereof the following: "**department of economic development**"; and

Further amend said bill, Page 60, Section 99.960, Lines 17-19 of said page, by striking all of said lines and inserting in lieu thereof the following:

"**9. The department of economic development, in conjunction with the Missouri development finance board, may establish the procedures and standards for the determination and approval of applications by the promulgation of rules and regulations and publish forms to implement the provisions of this section and section 99.963.**"; and

Further amend said bill, Page 61, Section 99.960, Line 2 of said page, by inserting after all of said line the following:

"**11. The Missouri development finance board shall consider parity based on population and geography of the state among the regions of the state in making determinations on applications pursuant to this section.**".

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

Senator Dolan offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 138, Section 135.283, Line 26, 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 percent or more of the outstanding voting securities or other ownership interests of the Missouri certified capital company;

(b) Any person ten 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 **or a qualified investing entity** as a result of a transfer of cash to a business**[**. Capital in a qualified Missouri business shall not include secured debt instruments**]**;

(4) "Certified capital", an investment of cash by an investor in a Missouri certified capital

company;

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

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

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

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

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

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

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

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

(b) Management fees for managing and operating the certified capital company; and

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

(12) "Qualified investing entity", any partnership, corporation, trust, or limited liability company, whether organized on a for profit or not-for-profit basis, that:

(a) Is registered to do business in this state;

(b) Is a wholly owned subsidiary of a certified capital company or otherwise affiliated with and under common control with a certified capital company; and

(c) Has been designated as a qualified investing entity by such certified capital company.

Such designation shall be effective upon delivery by the certified capital company of written notice of the designation to the department. A qualified investing entity may raise debt or equity capital for investment, but such capital shall not be considered certified capital. Any qualified investment made by a qualified investing entity after the effective date of this act shall be deemed to have been made by a certified capital company that designated the qualified investing entity as such; provided that no qualified investment may be deemed to have been made by more than one certified capital company.

[(12)**]** **(13)** "Qualified investment", the investment of cash by a Missouri certified capital company **or a qualified investing entity** in such a manner as to acquire capital in a qualified Missouri business;

[(13)**]** **(14)** "Qualified Missouri business", an independently owned and operated business, which is headquartered and located in Missouri and which is in need of venture capital and cannot obtain conventional financing. Such business shall have no more than two hundred employees, eighty percent of which are employed in Missouri. Such business shall be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, real estate development, insurance and professional services provided by accountants, lawyers or

physicians. **[**If such business has been in existence for three years or less, its gross sales during its most recent complete fiscal years shall not have exceeded four million dollars. If such business has been in existence for longer than three years, its gross sales during its most recent complete fiscal year shall not have exceeded three million dollars.**]** **At the time a certified capital company or qualified investing entity makes an initial investment in a business, such business shall be a small business concern that meets the requirements of the United States Small Business Administration's qualification size standards for its venture capital program, as defined in Section 13 CFR 121.301 (c) of the Small Business Investment Act of 1958, as amended.** 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 **or qualified investing entity** 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 **or qualified investing entity** and such follow-on investments shall be qualified investments even though such business may not meet the other qualifications of this subsection at the time of such follow-on investments;

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

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

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

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

4. Except as provided in subsection 5 of this section, the aggregate amount of certified capital for which earned and vested credits against state premium tax liability are allowed for all persons pursuant to sections 135.500 to 135.529 shall not exceed the following amounts: for calendar year 1996, $0.00; for calendar year 1997, an amount which would entitle all Missouri certified capital company investors to take aggregate credits of five million dollars; and for any year thereafter, an additional amount to be determined by the director but not to exceed aggregate credits of ten million dollars for any year with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of

section 33.282, RSMo, provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years to take them, pursuant to subsection 1 of this section. 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 with the approval of the commissioner of administration and reported to the general assembly as provided in subsection 2 of section 33.282, RSMo, provided that the amount so determined shall not impair the ability of an investor with earned and vested credits which have been allowed in previous years or pursuant to the provisions of subsection 4 of this section to take them, pursuant to subsection 1 of this section. For purposes of any requirement regarding the schedule of qualified investments for certified capital for which earned and vested credits against state premium tax liability are allowed pursuant to this subsection only, the definition of a "qualified Missouri business" as set forth in subdivision **[**(13)**] (14)** of subsection 2 of section 135.500 means a Missouri business that is located in a distressed community as defined in section 135.530, and meets all of the requirements of subdivision **[**(13)**] (14)** of subsection 2 of section 135.500**[**, except that its gross sales during its most recent complete fiscal year shall not have exceeded five million dollars**]**. During any calendar year in which the limitation described in this subsection limits the amount of additional certified capital for which earned and vested credits against state premium tax liability are allowed, additional certified capital for which credits are allowed shall be allocated in order of priority based upon the date of filing of information described in subdivision (1) of subsection 5 of section 135.516 with respect to such additional certified capital. The department shall make separate allocations of certified capital for which credits are allowed under the limitations described in this subsection and under the limitations described in subsection 4 of this section. No limitation applicable to any certified capital company with respect to certified capital for which credits are allowed pursuant to subsection 4 of this section shall limit the amount of certified capital for which credits are allowed pursuant to this subsection. No limitation applicable to any certified capital company with respect to certified capital for which credits are allowed pursuant to this subsection shall limit the amount of certified capital for which credits are allowed pursuant to subsection 4 of this section.

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

135.516. 1. To continue to be certified, a

Missouri certified capital company shall make qualified investments according to the following schedule:

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

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

(3) Within four years after the date on which a Missouri certified capital company is designated 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 **or a qualified investing entity** proposes to invest **[**meets the definition of**] is** 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 **or a qualified investing entity** intends to invest and the name of the business in which it **or a qualified investing entity** 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 **or a qualified investing entity** 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 **or a qualified investing entity** invested was not a qualified Missouri business even though the business, at the time of the investment, met the requirements of subdivision **[**(14)**]** **(15)** 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. The proceeds of all certified capital which is received by a certified capital company after it was originally placed in qualified investments may be placed again in qualified investments and shall count toward any requirement in sections 135.500 to 135.529 with respect to placing certified capital in qualified investments.

2. A certified capital company may make qualified distributions at any time. In order to make distributions, other than qualified distributions, a certified capital company must have **[**placed**] made cumulative qualified investments, including those made through a qualified investing entity, in** an amount cumulatively equal to **at least** one hundred percent of its certified capital **[**in qualified investments**]**. 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.

3. No qualified investment may be made at a cost to a Missouri certified capital company greater than fifteen percent of the total certified capital under management of the Missouri certified capital company at the time of investment.

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

5. Each Missouri certified capital company shall report the following to the department:

(1) As soon as practicable after the receipt of certified capital, the name of each investor from which the certified capital was received, the amount of each investor's investment of certified capital and tax credits computed without regard to any limitations under subsection 3 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**, together with any investments made by a qualified investing entity that are deemed to have been made by the certified capital company,** 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 **or has been deemed to have been made through a qualified investing entity**;

(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. **At the same time, the certified capital company shall also provide audited financial statements for any qualified investing entity that has made qualified investments on its behalf, unless the financial results of such qualified investing entity are included in the consolidated financial statements of the certified capital company.** 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.

135.520. 1. The division of finance of the

department of economic development shall conduct an annual review of each Missouri certified capital company **and any qualified investing entities designated by it** to determine if the Missouri certified capital company is abiding by the requirements of certifications, to advise the Missouri certified capital company as to the certification status of its qualified investments and to ensure that no investment has been made in violation of sections 135.500 to 135.529. The cost of the annual review shall be paid by each Missouri certified capital company according to a reasonable fee schedule adopted by the department. The division of finance shall report its findings to the department as soon as practicable following completion of the audit.

2. Any material violation of sections 135.500 to 135.529 shall be grounds for decertification under this section. If the department determines that a company is not in compliance with any requirements for continuing in certification, it shall, by written notice, inform the officers of the company and the board of directors, managers, trustees or general partners that they may be decertified in one hundred twenty days from the date of mailing of the notice, unless they correct the deficiencies and are again in compliance with the requirements for certification.

3. At the end of the one hundred twenty-day grace period, if the Missouri certified capital company is still not in compliance, the department may send a notice of decertification to the company and to the directors of the department of revenue and department of insurance. Decertification of a Missouri certified capital company prior to the certified capital company meeting all requirements of subdivisions (1) to (3) of subsection 1 of section 135.516 shall cause the recapture of all premium tax credits previously claimed by an investor and the forfeiture of all future credits to be claimed by an investor with respect to its investment in the certified capital company. Decertification of a Missouri certified capital company after it has met all requirements of subdivisions (1) to (3) of subsection 1 of section 135.516 shall cause the forfeiture of premium tax credits for the taxable year of the investor in which the decertification arose and for future taxable years with no recapture of tax credits obtained by an investor with respect to the investor's tax years which ended before the decertification occurred. Once a certified capital company has **[**invested**]** **made cumulative qualified investments, including those made through a qualified investing entity and deemed to have been made by the certified capital company, in an amount equal to at least** one hundred percent of its certified capital **[**in qualified Missouri businesses**]**, all future premium tax credits to be claimed by investors with respect to said certified capital company pursuant to sections 135.500 to 135.529 shall be nonforfeitable. Once a certified capital company has **[**invested**]** **made cumulative qualified investments, including those made through a qualified investing entity and deemed to have been made by the certified capital company, in an amount equal to at least** one hundred percent of its certified capital **[**in qualified Missouri businesses**]** and has met all other requirements under sections 135.500 to 135.529, it shall no longer be subject to regulation by the department except with respect to the payment of distributions to the Missouri development finance board."; and

Further amend the title and enacting clause accordingly.

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

Senator Wheeler offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, page 1, Section A, Line 11 of said page, by inserting after all of said line the following:

"71.620. 1. Hereafter no person following for a livelihood the profession or calling of minister of

the gospel, duly accredited Christian Science practitioner, teacher, professor in a college, priest, lawyer, certified public accountant, dentist, chiropractor, optometrist, chiropodist, or physician or surgeon in this state, shall be taxed or made liable to pay any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on such profession or calling, **and, after December 31, 2003, no investment funds service corporation as defined in section 143.451, RSMo, may be required to pay any such license fee in excess of twenty-five thousand dollars annually,** any law, ordinance or charter to the contrary notwithstanding.

2. No person following for a livelihood the profession of insurance agent or broker, veterinarian, architect, professional engineer, land surveyor, auctioneer, or real estate broker or salesman in this state, shall be taxed or made liable to pay any municipal or other corporation tax or license fee for the privilege of following or carrying on his profession by a municipality unless that person maintains a business office within that municipality.

3. Notwithstanding any other provision of law to the contrary, no village or city of the fourth classification shall impose a license tax in excess of ten thousand dollars per license."; and

Further amend the title and enacting clause accordingly.

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

Senator Wheeler offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 12, Section 99.845, Line 28 of said page, by inserting after all of said line the following:

"**14. For redevelopment plans or projects approved by ordinance that result in net new jobs from the relocation of a national headquarters from another state to the area of the redevelopment project, the economic activity taxes and new state tax revenues shall not be based on a calculation of the incremental increase in taxes as compared to the base year or prior calendar year for such redevelopment project, rather the incremental increase shall be the amount of total taxes generated from the net new jobs brought in by the national headquarters from another state. In no event shall this subsection be construed to allow a redevelopment project to receive an appropriation in excess of up to fifty percent of the new state revenues.**".

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

Senator Gross offered **SA 7**, which was read:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 22, Section 99.915, Line 5, by inserting after the words "tax increment", the following: "**fifty percent of**"; and

Further amend said page, lines 12 and 13, by striking all of said lines and inserting in lieu thereof "overall taxable income."; and

Further amend said page, line 14, by inserting after the words "tax increment", the following: "**one-half of**".

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

Senator Childers assumed the Chair.

Senator Bartle offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 126, Section 135.207, Line 15 of said page, by inserting after all of said line the following:

"**(5) In addition to all other satellite zones**

authorized in this section, any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants, which includes an existing state designated enterprise zone within the corporate limits of the city, may, upon approval of the local governing authority of the city and director of the department of economic development, designate a satellite zone within its corporate limits along the south-west corner of any intersection of two United States interstate highways. A prerequisite for the designation of a satellite zone pursuant to this subdivision shall be the approval by the director of the department of economic development of a plan submitted by the local governing authority of such city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.".

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

Senator Klindt offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 141, Section 178.892, Line 28 of said page, by inserting immediately after said line the following:

"348.015. As used in sections 348.005 to 348.225, the following terms shall mean:

(1) "Agricultural development loan", a loan for the acquisition, construction, improvement, or rehabilitation of agricultural property;

(2) "Agricultural property", any land and easements and real and personal property, including, but not limited to, buildings, structures, improvements, equipment, and livestock, which is used or is to be used in Missouri by Missouri residents for:

(a) The operation of a farm or ranch;

(b) Planting, cultivating, or harvesting cereals, natural fibers, fruits, vegetables, or trees;

(c) Grazing, feeding, or the care of livestock, poultry, or fish;

(d) Dairy production;

(e) Storing, transporting, or processing farm and ranch products, including, without limitation, facilities such as grain elevators, cotton gins, shipping heads, livestock pens, warehouses, wharfs, docks, creameries, or feed plants; and

(f) Supplying and conserving water, draining or irrigating land, collecting, treating, and disposing of liquid and solid waste, or controlling pollution, as needed for the operations set out in this subdivision;

(3) "Authority", the Missouri agricultural and small business development authority organized pursuant to the provisions of sections 348.005 to 348.180;

(4) "Bonds", any bonds, notes, debentures, interim certificates, bond, grant, or revenue anticipation notes, or any other evidences of indebtedness;

(5) "Borrower", any individual, partnership, corporation, including a corporation or other entity organized pursuant to section 274.220, RSMo, firm, cooperative, association, trust, estate, political subdivision, state agency, or other legal entity or its representative executing a note or other evidence of a loan;

(6) "Eligible borrower", a borrower qualifying for an agricultural development loan, a small business development loan, or a small business pollution control facility loan under such criteria and priorities as may be established in rules of the authority or in procedural manuals issued thereunder for the purpose of directing the use of available loan funds on the basis of need for and value of each loan for the maintenance of the agricultural economy or small business and on the meeting of pollution control objectives and assuring conformity with conditions established by

insurers or guarantors of loans and the preservation of the security of bonds or notes issued to finance the loan;

(7) "Insurer" or "guarantor", the Farmers Home Administration of the Department of Agriculture of the United States, the United States Small Business Administration, or any other or successor agency or instrumentality of the United States having power, or any insurance company qualified under Missouri law, to insure or guarantee the payment of agricultural development loans, small business development loans, or small business pollution control facility loans and interest thereon, or any portion thereof;

(8) "Lender", any state or national bank, federal land bank, production credit association, bank for cooperatives, federal or state- chartered savings and loan association or building and loan association or small business investment company that is subject to credit examination by an agency of the state or federal government, or any other lending institution approved by the insurer or guarantor of an agricultural development loan, small business development loan, or small business pollution control facility loan which undertakes to make or service such a loan;

(9) "Pollution", any form of environmental pollution including, but not limited to, water pollution, air pollution, land pollution, solid waste pollution, thermal pollution, radiation contamination, or noise pollution;

(10) "Pollution control facility" or "facilities", any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination thereof, and all real and personal property deemed necessary therewith, having to do with, or the end purpose of which is, reducing, controlling, or preventing pollution;

(11) "Small business", those enterprises which, at the time of their application to the authority, meet the criteria, as interpreted and applied by the authority, for definition as a "small business" established for the Small Business Administration and set forth in Section 121.301 of Part 121 of Title 13 of the Code of Federal Regulations;

(12) "Small business development loan", a loan for the acquisition, construction, improvement, or rehabilitation of property owned or to be acquired by a small business as defined herein;

(13) "Small business pollution control facility loan", a loan for the acquisition, construction, improvement, or rehabilitation of a pollution control facility or facilities by a small business**;**

(14) "Value added agricultural products", any product or products that are the result of:

(a) Using an agricultural product grown in this state to produce a meat or dairy product in this state;

(b) A change in the physical state or form of the original agricultural product;

(c) An agricultural product grown in this state whose value has been enhanced by special production methods such as organically-grown products; or

(d) A physical segregation of a commodity or agricultural product grown in this state that enhances its value such as identity preserved marketing systems."; and

Further amend the title and enacting clause accordingly.

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

Senator Bartle assumed the Chair.

Senator Shields offered **SA 10**:

SENATE AMENDMENT NO. 10

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

House Bill No. 289, Page 117, Section 99.1060, Line 4, by inserting after all of said line the following:

"100.010. As used in sections 100.010 to 100.200, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

(1) "Division", an appropriate division of the department of economic development of the state of Missouri, or any agency which succeeded to the functions of the division of commerce and industrial development;

(2) "Facility", an industrial plant purchased, constructed, extended or improved pursuant to sections 100.010 to 100.200, including the real estate, buildings, fixtures and machinery;

(3) "Governing body", bodies and boards, by whatever names they may be known, charged with the governing of a municipality as herein defined;

(4) "Municipality", any county, city, incorporated town or village of the state;

(5) "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company or a credit card billing and processing center;

(6) "Project for industrial development" or "project", the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities which provide interstate commerce, and industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures, and machinery; except that any project of a municipality having fewer than eight hundred inhabitants shall be located wholly within the limits of the municipality**;**

(7) "Revenue bonds", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a municipality and secured by revenues of a project for industrial development.

100.050. **1.** Any municipality proposing to carry out a project for industrial development shall first, by majority vote of the governing body of the municipality, approve the plan for the project. The plan shall include the following information pertaining to the proposed project:

(1) A description of the project;

(2) An estimate of the cost of the project;

(3) A statement of the source of funds to be expended for the project;

(4) A statement of the terms upon which the facilities to be provided by the project are to be leased or otherwise disposed of by the municipality; and

(5) Such other information necessary to meet the requirements of sections 100.010 to 100.200.

2. If the plan for the project is approved after August 28, 2003, and the project plan involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality, the project plan shall additionally include the following information:

(1) A statement identifying each school district, county, or city affected by such project except property assessed by the state tax commission pursuant to chapters 151 and 153, RSMo;

(2) The most recent equalized assessed valuation of the real property and personal property included in the project, and an estimate as to the equalized assessed valuation of real property and personal property included in the project after development;

(3) An analysis of the costs and benefits of the project on each school district, county, or city; and

(4) Identification of any payments in lieu of

taxes expected to be made by any lessee of the project, and the disposition of any such payments by the municipality.

3. If the plan for the project is approved after August 28, 2003, any payments in lieu of taxes expected to be made by any lessee of the project shall be applied in accordance with this section. The lessee may reimburse the municipality for its actual costs of issuing the bonds and administering the plan. All amounts paid in excess of such actual costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer or other financial officer to each school district, county, or city in proportion to the current ad valorem tax levy of each school district, county, or city.

100.060. 1. The governing body of any municipality proposing a project for industrial development which involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality shall, not less than twenty days before approving the plan for a project as required by section 100.050, provide notice of the proposed project to the county in which the municipality is located and any school district that is a school district, county, or city. Such notice shall include the information required in section 100.050, shall state the date on which the governing body of the municipality will first consider approval of the plan, and shall invite such school districts, counties, or cities to submit comments to the governing body and the comments shall be fairly and duly considered.

2. Projects of a county must be located within an unincorporated area of such county except that such projects may be located within the incorporated limits of a city, town, or village within such county when approved by the governing body of such city, town, or village.

3. Notwithstanding any other provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to section 26(b), article VI, Constitution of Missouri, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes.

4. The county assessor shall include the current assessed value of all property within the school district, county, or city in the aggregate valuation of assessed property entered upon the assessor's book and verified pursuant to section 137.245, RSMo, and such value shall be utilized for the purpose of the debt limitation on local government pursuant to section 26(b), article VI, Constitution of Missouri.

5. This section is applicable only if the plan for the project is approved after August 28, 2003.

100.105. No later than January thirty-first of each year, the municipality shall file a report with the department of economic development on the previous year's revenue bond issuances and general obligation bond issuances, which report shall contain only the following information:

(1) The name, address, spokesperson, and telephone number of the issuing entity;

(2) The name, address, age, and type of business of the beneficiary firm;

(3) The amount, term, interest rate or rates, and date of issuance of the bonds issued;

(4) The name and address of the underwriter, if any, of such bonds;

(5) The name and address of the guarantor, if any;

(6) The size, by assets and previous year's sales, and the current number of employees, of the beneficiary firm;

(7) A copy of the preliminary official statement used when offering the bonds for sale;

(8) The estimated number of new jobs to be generated by the proposed project;

(9) A list of the use of bond proceeds, including whether the purpose of the project and the funds generated by the issuance of such bonds is to open a new business, build a branch plant, expand an existing facility, or acquire an existing business**[**;**]** **together with a general description of the real property or personal property purchased by or on behalf of the municipality with such proceeds; and**

(10) The estimated total cost of the project.

100.180. The municipality shall have the authority to enter into loan agreements, sell, lease, or mortgage to private persons, partnerships or corporations the facilities purchased, constructed or extended by the municipality for manufacturing and industrial development purposes. In the event that the facility has been financed by revenue bonds, the installments of charges or rents shall be sufficient to meet the interest and sinking fund requirements on the bonds. The loan agreement, installment sale agreement, **[**or**]** lease**, or other such document** shall contain such other terms as are agreed upon between the municipality and the obligor, provided that such terms shall be consistent with the other provisions of sections 100.010 to 100.200."; and

Further amend the title and enacting clause accordingly.

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

Senator Goode offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 10, Section 99.845, Line 17 of said page, by inserting after all of said line the following:

"**(h) The name, street and mailing address, and phone number of the mayor or chief executive officer of the municipality;**

(i) The street address of the development site;

(j) The three-digit North American Industry Classification System number or numbers characterizing the development project;

(k) The estimated development project costs;

(l) The anticipated sources of funds to pay such development project costs;

(m) Evidence of the commitments to finance such development project costs;

(n) The anticipated type and term of the sources of funds to pay such development project costs;

(o) The anticipated type and terms of the obligations to be issued;

(p) The most recent equalized assessed valuation of the property within the development project area;

(q) An estimate as to the equalized assessed valuation after the development project area is developed in accordance with a development plan;

(r) The general land uses to apply in the development area;

(s) The total number of individuals employed in the development area, broken down by full-time, part-time, and temporary positions;

(t) The total number of full-time equivalent positions in the development area;

(u) The current gross wages, state income tax withholdings, and federal income tax withholdings for individuals employed in the development area;

(v) The total number of individuals employed in this state by the corporate parent of any business benefitting from public expenditures in the development area, and all subsidiaries thereof, as of December thirty-first of the prior fiscal year, broken down by full-time, part-time, and temporary positions;

(w) The number of new jobs to be created by any business benefitting from public expenditures in the development area, broken down by full-time, part-time, and temporary positions;

(x) The average hourly wage to be paid to all current and new employees at the project site, broken down by full-time, part-time, and temporary positions;

(y) For project sites located in a metropolitan statistical area, as defined by the federal Office of Management and Budget, the average hourly wage paid to nonmanagerial employees in this state for the industries involved at the project, as established by the United States Bureau of Labor Statistics;

(z) For project sites located outside of metropolitan statistical areas, the average weekly wage paid to nonmanagerial employees in the county for industries involved at the project, as established by the United States Department of Commerce;

(aa) A list of other community and economic benefits to result from the project;

(bb) A list of all development subsidies that any business benefitting from public expenditures in the development area has previously received for the project, and the name of any other granting body from which such subsidies are sought;

(cc) A list of all other public investments made or to be made by this state or units of local government to support infrastructure or other needs generated by the project for which the funding pursuant to this act is being sought;

(dd) A statement as to whether the development project may reduce employment at any other site, within or without of the State, resulting from automation, merger, acquisition, corporate restructuring, relocation, or other business activity;

(ee) A statement as to whether or not the project involves the relocation of work from another address and if so, the number of jobs to be relocated and the address from which they are to be relocated;

(ff) A list of competing businesses in the county containing the development area and in each contiguous county;

(gg) A market study for the development area;

(hh) A certification by the chief officer of the applicant as to the accuracy of the development plan.".

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

Senator Steelman offered **SA 12**:

SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 57, Section 99.960, Line 2, by inserting at the end of sad line the following: "The department of economic development shall forward the application to the Missouri development finance board with the analysis and recommendation."

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

Senator Coleman offered **SA 13**:

SENATE AMENDMENT NO. 13

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 138, Section 135.283, Line 26 of said page, by inserting after all of said line the following:

"162.1100. 1. There is hereby established within each city not within a county a school district to be known as the "Transitional School District of (name of city)", which shall be a body corporate and politic and a subdivision of the state. The transitional school district shall be coterminous with the boundaries of the city in which the district is located. Except as otherwise provided in this section and section 162.621, the transitional school district shall be subject to all laws pertaining to "seven-director districts", as defined in section 160.011, RSMo. The transitional school district shall have the responsibility for educational programs and policies determined by a final judgment of a federal school desegregation case to be needed in providing for a transition of the educational system of the city from control and jurisdiction of a federal court school desegregation order, decree or agreement and such other programs and policies as designated by the governing body of the school district.

2. (1) The governing board of the transitional school district shall consist of three residents of the district: one shall be appointed by the governing body of the district, one shall be appointed by the mayor of the city not within a county and one shall be appointed by the president of the board of aldermen of the city not within a county. The members of the governing board shall serve without compensation for a term of three years, or until their successors have been appointed, or until the transitional district is dissolved or terminated. Any tax approved for the transitional district shall be assigned to the governing body of the school district in a city not within a county after dissolution or termination of the transitional district.

(2) In the event that the state board of education shall declare the school district of a city not within a county to be unaccredited, the member of the governing board of the transitional district appointed by the governing body of the district as provided in subdivision (1) of this subsection shall, within ninety days, be replaced by a chief executive officer nominated by the state board of education and appointed by the governor with the advice and consent of the senate. The chief executive officer need not be a resident of the district but shall be a person of recognized administrative ability, shall be paid in whole or in part with funds from the district, and shall have all other powers and duties of any other general superintendent of schools, including appointment of staff. The chief executive officer shall serve for a term of three years or until his successor is appointed or until the transitional district is dissolved or terminated. His salary shall be set by the state board of education.

3. In the event that the school district loses its accreditation, upon the appointment of a chief executive officer, any powers granted to any existing school board in a city not within a county on or before August 28, 1998, shall be vested with the special administrative board of the transitional school district containing such school district so long as the transitional school district exists, except as otherwise provided in section 162.621.

4. The special administrative board's powers and duties shall include:

(1) Creating an academic accountability plan, taking corrective action in underperforming schools, and seeking relief from state-mandated programs;

(2) Exploration of alternative forms of governance for the district;

(3) Authority to contract with nonprofit corporations to provide for the operation of schools;

(4) Oversight of facility planning, construction, improvement, repair, maintenance and rehabilitation;

(5) Authority to establish school site councils to facilitate site-based school management and to improve the responsiveness of the schools to the needs of the local geographic attendance region of the school;

(6) Authority to submit a proposal to district voters pursuant to section 162.666 regarding establishment of neighborhood schools.

5. **(1)** The provisions of a final judgment as to the state of Missouri and its officials in a school desegregation case which subjects a district in which a transitional district is located in this state to a federal court's jurisdiction may authorize or require the governing body of a transitional school district established under this section to establish the transitional district's operating levy for school purposes, as defined pursuant to section 163.011, RSMo, at a level not to exceed eighty-five cents per one hundred dollars assessed valuation in the district or a sales tax equivalent amount as determined by the department of elementary and secondary education which may be substituted for all or part of such property tax. **[**The transitional school district,**]**

(2) Any other statute to the contrary notwithstanding, **no tax authorized pursuant to this subsection** shall **[**not**]:**

(a) Be subject to any certificate of tax abatement issued **after August 28, 1998,** pursuant to sections 99.700 to 99.715, RSMo**[**. Any certificate of abatement issued after August 28, 1998, shall not be applicable to the transitional school district**]; and**

(b) Effective January 1, 2002, be subject to any new or existing tax increment financing adopted by a city not within a county pursuant to sections 99.800 to 99.865, RSMo, except that any redevelopment plan and redevelopment project concerning a convention headquarters hotel adopted by ordinance by a city not within a county prior to August 28, 2003, shall be subject to such tax increment financing.

(3) The transitional school district shall not be subject to the provisions of section 162.081, sections 163.021 and 163.023, RSMo, with respect to any requirements to maintain a minimum value of operating levy or any consequences provided by law for failure to levy at least such minimum rate. No operating levy or increase in the operating levy or sales tax established pursuant to this section shall be collected for a transitional school district unless prior approval is obtained from a simple majority of the district's voters. The board of the transitional district shall place the matter before the voters prior to March 15, 1999.

6. (1) The special administrative board established in this section shall develop, implement, monitor and evaluate a comprehensive school improvement plan, and such plan shall be subject to review and approval of the state board of education. The plan shall ensure that all students meet or exceed grade-level standards established by the state board of education pursuant to section 160.514, RSMo;

(2) The special administrative board shall establish student performance standards consistent with the standards established by the state board of education pursuant to section 160.514, RSMo, for preschool through grade twelve in all skill and subject areas, subject to review and approval of the state board of education for the purpose of determining whether the standards are consistent with standards established by the state board of education pursuant to section 160.514, RSMo;

(3) All students in the district who do not achieve grade-level standards shall be required to attend summer school; except that the provisions of this subsection shall not apply to students receiving special education services pursuant to sections 162.670 to 162.999;

(4) No student shall be promoted to a higher grade level unless that student has a reading ability at or above one grade level below the student's grade level; except that the provisions of this subsection shall not apply to students receiving special education services pursuant to sections 162.670 to 162.999;

(5) The special administrative board established in this section shall develop, implement

and annually update a professional development plan for teachers and other support staff, subject to review and approval of the state board of education.

7. The school improvement plan established pursuant to this section shall ensure open enrollment and program access to all students in the district, and, consistent with the Missouri and United States Constitutions, shall give first priority to residents of the city for admission to magnet schools. The school board shall take all practicable and constitutionally permissible steps to ensure that all magnet schools operate at full capacity. Students who change residence within the district shall be allowed to continue to attend the school in which they were initially enrolled for the remainder of their education at grade levels served by that school, and transportation shall be provided by the district to allow such students to continue to attend such school of initial enrollment.

8. To the extent practicable, the special administrative board shall ensure that per pupil expenditures and pupil-teacher ratios shall be the same for all schools serving students at a given grade level.

9. The special administrative board shall ensure that early childhood education is available throughout the district.

10. The special administrative board shall ensure that vocational education instruction is provided within the district.

11. The special administrative board shall establish an accountability officer whose duty shall be to ensure that academically deficient schools within the district are raised to acceptable condition within two years.

12. The transitional school district in any city not within a county shall be dissolved on July 1, 2008, unless the state board determines, prior to that date, that it is necessary for the transitional district to continue to accomplish the purposes for which it was created. The state board of education may cause the termination of the transitional school district at any time upon a determination that the transitional district has accomplished the purposes for which it was established and is no longer needed. The state board of education may cause the reestablishment of the transitional school district at any time upon a determination that it is necessary for the transitional district to be reestablished to accomplish the purposes established in this section. The state board of education shall provide notice to the governor and general assembly of the termination or reestablishment of the transitional school district and the termination or reestablishment shall become effective thirty days following such determination. Upon dissolution of a transitional school district pursuant to this section, nothing in this section shall be construed to reduce or eliminate any power or duty of any school district or districts containing the territory of the dissolved transitional school district unless such transitional school district is reestablished by the state board of education pursuant to this section."; and

Further amend the title and enacting clause accordingly.

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

Senator Clemens offered **SA 14**:

SENATE AMENDMENT NO. 14

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 126, Section 135.207, Line 15, by inserting after all of said line the following:

"**(5) In addition to all other satellite zones authorized in this section, any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants which includes an existing state designated enterprise zone with the corporate limits of the city may, upon approval of the governing authority of the**

city and the director of the department of economic development, designate one satellite zone within its corporate limits. No satellite zone shall be designated pursuant to this subdivision until the governing authority of the city submits a plan describing how the satellite zone corresponds to the city's overall enterprise zone strategy and the director approves the plan.".

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

Senator Bland offered **SA 15**:

SENATE AMENDMENT NO. 15

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 138, Section 135.283, Line 26, 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**] whose board of directors is composed of businesses, 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 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 CFR 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 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.

135.431. 1. The department of economic development shall identify active community development corporations operating within the state and assist them in the formation of a Missouri community development corporation association. **[**With the assistance of the department,**]** **The department shall assist the community development corporation association in an amount up to ten percent of its total appropriation for community development corporations to cover the cost associated with the activities of the association.** The association shall serve as a clearinghouse for information for community development corporations. The association shall help staff members of community development corporations develop administrative skills in such areas as entrepreneurial development, grant writing, real estate analysis, financial deals structuring, negotiations, human resource development, strategic planning and community needs assessment. The association shall sponsor conferences which allow community development corporations to learn about community development activities statewide and at the federal level.

2. The Missouri community development corporation association shall be funded by dues assessed against participating community development corporations. The association shall adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted; elect officers; make

expenditures which are incidental and necessary to carry out its purposes and powers; and do all things necessary to ensure full participation by Missouri community development corporations in any federal program relating to community development needs."; and

Further amend the title and enacting clause accordingly.

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

Senator Goode offered **SA 16**, which was read:

SENATE AMENDMENT NO. 16

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 13, Section 99.915, Line 5, by striking all of said line and inserting in lieu thereof the following: "operation of any sports stadium, arena or related facility which has as its intended purpose use for spectator events which seats over ten thousand persons".

Senator Goode moved that the above amendment be adopted, which motion prevailed on a standing division vote.

Senator Goode offered **SA 17**:

SENATE AMENDMENT NO. 17

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 68, Section 99.980, Line 8 of said page, by inserting after all of said line the following:

"**3. The report shall include an analysis of the distribution of state supplemental downtown development financing by municipality and by economic development region, as defined by the department of economic development.**"; and further amend by renumbering the remaining subsections accordingly.

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

Senator Loudon offered **SA 18**, which was read:

SENATE AMENDMENT NO. 18

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 35, Section 99.933, Line 4, by deleting all of said line and replacing it with the following:

"disadvantaged business enterprise program to be"; and

Further amend said section, line 10, by adding after the word "specific" the words "worker ethnicity".

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

Senator Bray offered **SA 19**, which was read:

SENATE AMENDMENT NO. 19

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 289, Page 138, Section 135.276, Line 26, by inserting after all of said line, the following:

"**135.517. In order for investments of a qualifying investing entity to be counted as qualified investments pursuant to sections 135.500 through 135.529, each such investment of a qualifying investing entity must have received prior approval from the department.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Steelman moved that **SS** for **SCS** for **HCS** for **HB 289**, as amended, be adopted, which motion prevailed.

Senator Steelman was recognized to close on third reading and final passage of **SS** for **SCS** for **HCS** for **HB 289**, as amended.

President Pro Tem Kinder referred **SS** for **SCS** for **HCS** for **HB 289**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

HS for **HCS** for **HBs 349**, **120**, **136** and **328**, entitled:

An Act to repeal section 571.030, RSMo, and to enact in lieu thereof three new sections relating to concealable weapons, with penalty provisions.

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

Senator Caskey offered **SS** for **HS** for **HCS** for **HBs 349**, **120**, **136**, and **328**:

SENATE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 349, 120, 136 and 328

An Act to repeal section 571.030, RSMo, and to enact in lieu thereof three new sections relating to concealable weapons, with penalty provisions.

Senator Caskey moved that **SS** for **HS** for **HCS** for **HBs 349**, **120**, **136**, and **328** be adopted.

President Maxwell assumed the Chair.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Substitute for House Committee Substitute for House Bills Nos. 349, 120, 136, and 328, Page 30, Section 571.094, Line 2 of said page, striking the period "." and inserting in lieu thereof the following: "**;**

(11) A live firing exercise of sufficient duration under nighttime conditions for each applicant to fire a handgun, from a standing position or its equivalent, a minimum of fifty rounds at a distance of seven yards, and twenty-five rounds at a distance of fifteen yards, from a B-27 silhouette target or an equivalent target.".

Senator Kennedy moved that the above amendment be adopted.

Senator Caskey requested a roll call vote be taken on the adoption of **SA 1** and was joined in his request by Senators Cauthorn, Dougherty, Foster and Nodler.

At the request of Senator Kennedy, **SA 1** was withdrawn.

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Substitute for House Committee Substitute for House Bills Nos. 349, 120, 136, and 328, Page 7, Section 571.094, Line 29, by striking "twenty-one" and inserting in lieu thereof "**twenty-five**"; and

Further amend said section, page 10, lines 2-3, by striking "twenty-one" and inserting in lieu thereof "**twenty-five**"; and

Further amend said section, page 35, line 5, by striking "twenty-one" and inserting in lieu thereof "**twenty-five**".

Senator Dougherty moved that the above amendment be adopted.

Senator Caskey requested a roll call vote be taken on the adoption of **SA 2**. He was joined in his request by Senators Bartle, Childers, Griesheimer and Nodler.

At the request of Senator Caskey, **HS** for **HCS** for **HBs 349**, **120**, **136** and **328**, with **SS** and **SA2** (pending), was placed on the Informal Calendar.

On motion of Senator Gibbons, the Senate recessed until 7:35 p.m.

RECESS

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

REPORTS OF STANDING COMMITTEES

Senator Vogel, Chairman of the Committee on Ways and Means, submitted the following report:

Mr. President: Your Committee on Ways and Means, to which was referred **SB 675**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

HOUSE BILLS ON THIRD READING

Senator Caskey moved that **HS** for **HCS** for **HBs 349**, **120**, **136** and **328**, with **SS** and **SA 2** (pending), be called from the Informal Calendar and again taken up for third reading and final passage, which motion prevailed.

SA 2 was again taken up.

A quorum was established by the following vote:

Present—Senators

Bartle	Bray	Caskey	Cauthorn
Champion	Childers	Clemens	Coleman
Days	Dolan	Dougherty	Foster
Gibbons	Griesheimer	Gross	Jacob
Kennedy	Kinder	Loudon	Mathewson
Nodler	Russell	Scott	Shields
Steelman	Stoll	Vogel	Wheeler
Yeckel—29			

Absent—Senators

Bland	Goode	Klindt	Quick—4

Absent with leave—Senator DePasco—1

At the request of Senator Caskey, **HS** for **HCS** for **HBs 349**, **120**, **136** and **328**, with **SS** and **SA 2** (pending), was placed on the Informal Calendar.

RESOLUTIONS

Senator Scott offered Senate Resolution No. 846, regarding Robert S. Wheeler, Clinton, which was adopted.

Senator Scott offered Senate Resolution No. 847, regarding St. Clair County Assessor Billy Wayne Crabtree, which was adopted.

Senator Scott offered Senate Resolution No. 848, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Richard Snyderhoud, Hermitage, which was adopted.

Senator Dougherty offered Senate Resolution No. 849, regarding the Missouri Coalition for a Healthy and Active America, which was adopted.

Senators Gross and Dolan offered Senate Resolution No. 850, regarding Grace Nichols, St. Charles, which was adopted.

Senator Gross offered Senate Resolution No. 851, regarding Nancy Stuenkel, St. Charles, which was adopted.

Senator Gross offered Senate Resolution No. 852, regarding Curt Dreyer, which was adopted.

Senator Klindt offered Senate Resolution No. 853, regarding Kenneth Eugene "Kenny" Lee, Winston, which was adopted.

BILLS DELIVERED TO THE GOVERNOR

SS No. 2 for **SB 224**; **SCS** for **SB 238**; **SB 250**; **SCS** for **SB 269**; and **SB 456**, after having been duly signed by the Speaker of the House of Representatives in open session, were delivered to the Governor by the Secretary of the Senate.

COMMUNICATIONS

President Pro Tem Kinder submitted the following:

April 29, 2003

Mrs. Terry Spieler
Secretary of the Missouri Senate
State Capitol, Rm. 325
Jefferson City, MO 65101

RE: **Appointment to the Missouri Film Commission**

Dear Terry:

Pursuant to Section 620.1200, RSMo 2002, I am appointing Senator Norma Champion to the Missouri Film Commission.

If you have any questions, please feel free to contact me at your earliest convenience.

Sincerely,
/s/ Peter Kinder
PETER D. KINDER
President Pro Tem

INTRODUCTIONS OF GUESTS

On behalf of Senators Gibbons, Loudon, and himself, Senator Griesheimer introduced to the Senate, fifth grade students from Oakbrook School, Ballwin.

Senator Stoll introduced to the Senate, Edward and Barb Myles, and their son, Gregory, Jefferson County; and Gregory was made an honorary page.

Senator Russell introduced to the Senate, Bruce Mitchell, and members of the Camdenton Chamber of Commerce Leadership Group.

Senator Vogel introduced to the Senate, the Physician of the Day, Dr. James Luetkemeyer, M.D., Jefferson City.

Senator Klindt introduced to the Senate, Clay James, Corben Wilson, and thirty-eight eighth grade students and adults from Nodaway-Holt R-VII School District, Graham.

Senator Clemens introduced to the Senate, Carol Lohkamp and Dr. Pam Hedgepeth, Republic.

Senator Cauthorn introduced to the Senate, Doug, Lori, Alexis, and Jacob McPike, Mexico.

Senator Childers introduced to the Senate, Cheryl Cardangana, and thirty eighth grade students from Shell Knob Elementary School, Shell Knob.

Senator Bray introduced to the Senate, her husband, Carl Hoagland, and Al Van Arbury, St. Louis.

Senator Kinder introduced to the Senate, Valerie DeBerg, Jefferson City.

On motion of Senator Gibbons, the Senate adjourned until 8:00 a.m., Friday, May 2, 2003.

SENATE CALENDAR

SIXTY-FIFTH DAY–FRIDAY, MAY 2, 2003

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 16
HCS for HB 17
HCS for HB 18
HCS for HB 19
HCS for HB 20

THIRD READING OF SENATE BILLS

SS for SCS for SBs 361, 103, 156 & 329-Steelman (In Fiscal Oversight)

SB 305-Jacob and Steelman (In Fiscal Oversight)

SENATE BILLS FOR PERFECTION

SB 458-Childers
SBs 312, 49, 111, 113, 191, 206, 263, 404, 409, 418, 538, 550 & 584-Dolan, et al, with SCS
SB 485-Shields, with SCS
SB 346-Yeckel, with SCS
SB 531-Childers, with SCS
SB 307-Steelman, with SCS
SB 434-Yeckel, with SCS
SB 449-Bartle
SB 675-Gross, et al, with SCS

HOUSE BILLS ON THIRD READING

1. HCS for HB 288, with SCS (Shields) (In Fiscal Oversight)
2. HS for HCS for HBs 517, 94, 149, 150 & 342-Portwood, with SCS (Gross)
3. HS for HB 668-Crawford, with SCS (Dolan)
4. HS for HB 470-Mayer, with SCS (Bartle)
5. HB 198-Stevenson, et al (Nodler)
6. HS for HB 197-Johnson (47), with SCS (Shields)
7. HS for HCS for HB 564-Behnen, with SCS (Yeckel)
8. HS for HCS for HB 228-Pearce, with SCS (Goode)
9. HB 598-Schlottach, et al, with SCS
10. HB 327-Lipke, with SCS (Dolan)
11. HCS for HB 185, with SCS (Gross)
12. HB 91-Mayer, with SCS (Steelman)
13. HS for HCS for HBs 679 & 396-Hanaway

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 18-Yeckel and Cauthorn, with SCS & SS for SCS (pending)
SB 24-Steelman, with SCS & SS for SCS (pending)
SB 27-Gibbons, with SCS
SB 33-Loudon and Scott, with SS (pending)
SB 51-Shields, with SS, SS for SS & SA 1 (pending)
SB 112-Loudon, with SCS
SBs 125 & 290-Goode, with SCS & SA 6 (pending)
SB 209-Steelman, et al, with SCS

SB 217-Champion and Clemens, with SS (pending)
SB 241-Yeckel, with SCS
SBs 248, 100, 118, 233, 247, 341 & 420-Gross, et al, with SCS & SS for SCS (pending)
SB 253-Steelman, et al, with SCS, SS for SCS & SA 1 (pending)
SB 300-Cauthorn, et al, with SCS
SBs 343, 89, 134, 171, 240, 261, 331, 368, 369, 419, 484 & 581-Dolan, with SCS
SB 347-Loudon, et al, with SCS
SB 362-Steelman and Gross
SBs 381, 384, 432 & 9-Dolan, with SCS & SS for SCS (pending)
SBs 415, 88, 200, 223, 413, 523, 589 & 626-Yeckel, with SCS
SB 416-Yeckel, with SCS
SB 436-Klindt, with SCS, SS for SCS & SA 2 (pending)
SB 446-Bartle, with SCS
SB 450-Mathewson, et al, with SCS, SS for SCS & SA 2 (pending)
SB 455-Dougherty and Shields
SB 460-Loudon, with SS & SA 1 (pending)
SB 476-Jacob
SB 564-Gross
SB 685-Gibbons, et al, with SCS
SB 693-Klindt, et al, with SCS
SJR 13-Stoll

HOUSE BILLS ON THIRD READING

HCS for HB 73 (Yeckel)
HCS for HB 144, with SCS (Vogel)
HB 208-Engler, et al, with SCS (Kinder)
HS for HCS for HB 257-Munzlinger, with SCS (Cauthorn)
HB 286-Bearden, with SCS (Shields)
SS for SCS for HCS for HB 289 (Steelman) (In Fiscal Oversight)
HS for HCS for HB 321-Wilson (130), with SS & SS for SS (pending) (Loudon)
HCS for HBs 346 & 174, with SCS (Foster)
HS for HCS for HBs 349, 120, 136 & 328-Crawford, with SS & SA 2 (pending) (Caskey)
HB 412-Goodman, et al (Childers)
HB 444-Jackson, with SCS (Yeckel)
HB 445-Portwood, et al, with SCS (Loudon)
HS for HB 511-Deeken, with SCS (Yeckel)

CONSENT CALENDAR

Senate Bills

Reported 2/10

SB 62-Caskey

Reported 3/13

SB 159-Bland, with SCS
SB 694-Klindt
SB 490-Dolan

House Bills

Reported 4/14

HB 307-Merideth and Shoemaker (Foster)
HB 505-Byrd and Villa, with SCS (Mathewson)

Reported 4/15

HCS for HB 613, with SCS (Bartle)

SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 16-Childers, with HCS
SS for SCS for SB 36-Klindt, with HCS, as amended
SCS for SB 61-Caskey, with HCS
SB 68-Childers, with HCS
SB 101-Caskey, with HCS
SCS for SB 130-Gross and Dolan, with HCS
SB 136-Goode, with HCS
SB 175-Loudon, with HCS
SB 186-Cauthorn, with HCS
SCS for SBs 212 & 220-Bartle, with HCS
SCS for SB 218-Goode, et al, with HCS
SB 228-Griesheimer, with HCS
SB 266-Shields and Kennedy, with HCS

SB 275-Russell, with HCS
SCS for SB 281-Shields, with HCS
SB 289-Dolan, et al, with HCA 1
SCS for SB 295-Shields, with HCS
SCS for SB 296-Griesheimer, with HS for HCS, as amended
SS for SCS for SB 298-Griesheimer, with HCS, as amended
SB 301-Bray, with HCS
SB 325-Steelman, with HCS
SB 355-Stoll, with HCS
SCS for SB 358-Shields, with HCS
SB 370-Foster, with HCS
SCS for SB 373-Bartle, with HCS
SB 399-Caskey, with HCS
SB 423-Childers, with HCA 1
SCS for SB 447-Bartle, with HCA 1
SB 465-Bartle, with HCS
SB 468-Bartle, with HCA 1
SB 470-Bartle, with HCS
SB 474-Bartle, with HCS
SB 504-Clemens and Champion, with HCS
SCS for SB 547-Caskey, with HCS
SCS for SB 592-Foster, with HCS
SCS for SB 666-Bland, with HCS

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SCS#2 for SB 52-Shields, with HCS
SCS for SBs 299 & 40-Champion, et al, with HS, as amended
SB 394-Bartle, with HCS, as amended
SB 401-Dolan, et al, with HCS
SB 407-Klindt, with HCS
SB 448-Bartle, with HCS
SB 552-Yeckel, with HCS

Requests to Recede or Grant Conference

SCS for SB 379-Champion, with HCS
(Senate requests House recede or grant conference)

HCS for HB 427, with SCS (Bartle)
(House requests Senate recede or grant conference)

RESOLUTIONS

SCR 15-Dolan, et al

To be Referred

HCR 29-Jetton, et al

HCR 32-Miller

Reported from Committee

SR 30-Shields, with SCS, SS for SCS & SA 1 (pending)
SCR 4-Jacob
HCR 15-Behnen (Cauthorn)
SCR 17-Cauthorn, et al
SCR 18-Mathewson and Steelman
HCR 11-Moore and Walton

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