# Journal of the Senate

SECOND REGULAR SESSION

## SIXTY-SEVENTH DAY—TUESDAY, MAY 13, 2008

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

"Wisdom is the power to see and the inclination to choose the best and highest goal, together with the surest means of attaining it." (J.I. Packer)

Beloved Lord, help all who serve here to govern wisely and for the common good of all. Help us to continue to find ways to work together, to improve our collegiality and have a willingness to honor each other and assist as we are capable. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

Senator Shields announced that photographers from KRCG-TV and the Missourinet were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

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|---|---|---|---|---|---|---|---|
| Barnitz | Bartle | Bray | Callahan | Champion | Clemens | Coleman | Crowell |
| Days | Dempsey | Engler | Gibbons | Goodman | Graham | Green | Griesheimer |
| Justus | Kennedy | Koster | Lager | Loudon | Mayer | McKenna | Nodler |
| Purgason | Ridgeway | Rupp | Scott | Shields | Shoemyer | Smith | Stouffer |
| Vogel | Wilson—34 | | | | | | |

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

## RESOLUTIONS

Senator Stouffer offered Senate Resolution No. 2703, regarding Sherry Drunert, which was adopted.

Senator Stouffer offered Senate Resolution No. 2704, regarding Carson Oetting and Chase Petersen, Higginsville, which was adopted.

Senator Bartle offered Senate Resolution No. 2705, regarding Brian Jochems, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 2706, regarding Aaron Paul Price, which was adopted.

Senator Crowell offered Senate Resolution No. 2707, regarding Mallory LaPlant, East Prairie, which was adopted.

Senator Crowell offered Senate Resolution No. 2708, regarding Colton Bailey, Zalma, which was adopted.

Senator Crowell offered Senate Resolution No. 2709, regarding Angela Clubb, Marble Hill, which was adopted.

Senator Crowell offered Senate Resolution No. 2710, regarding Benjamin Russel Douglass, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 2711, regarding Ethan Parker Worthington, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 2712, regarding Jordan Jansen, which was adopted.

Senator Crowell offered Senate Resolution No. 2713, regarding Molly Brotherton, which was adopted.

Senator Crowell offered Senate Resolution No. 2714, regarding Courtney Thiele, which was adopted.

Senator Crowell offered Senate Resolution No. 2715, regarding Cody Van de Ven, which was adopted.

Senator Crowell offered Senate Resolution No. 2716, regarding Chelsea Broshuis, which was adopted.

Senator Days offered Senate Resolution No. 2717, regarding the Forty-fifth Wedding Anniversary of Mr. and Mrs. Richard Klebba, Osage Bend, which was adopted.

Senator Crowell offered Senate Resolution No. 2718, regarding Brenda Ruth, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 2719, regarding Mary Ann Stamp, Cape Girardeau, which was adopted.

Senator Crowell offered Senate Resolution No. 2720, regarding Ida L. Domazlicky, Cape Girardeau, which was adopted.

## MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SCS** for **SBs 930** and **947**, entitled:

An Act to repeal sections 144.030, 144.805, 155.010, 301.040, 301.130, 302.060, 302.171, 302.177, 302.720, 302.735, 304.015, 304.180, 304.230, 305.230, and 577.023, RSMo, and to enact in lieu thereof twenty-four new sections relating to transportation issues, with penalty provisions.

With House Amendment Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, House Amendment No. 1 to House Amendment No. 11, House Amendment No. 11, as amended, House Amendment No. 12, House Amendment No. 1 to House Amendment No. 13, House Amendment No. 13, as amended, House Amendment No. 14, House Amendment No. 1 to House Amendment No. 15, House Amendment No. 15, as amended, House Amendment Nos. 16, 17, 18, 19, 20, 21, 23, House Amendment No. 2 to House Amendment No. 24, House Amendment No. 24, as amended and House Amendment No. 25.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 15, Section 301.130, Line 107, by inserting after all of said line the following:

"302.010. Except where otherwise provided, when used in this chapter, the following words and phrases mean:

(1) "Circuit court", each circuit court in the state;

(2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;

(3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed pursuant to section 302.302 is appealed, the term "conviction" means the original judgment of conviction for the purpose of determining the assessment of points, and the date of final judgment affirming the conviction shall be the date determining the beginning of any license suspension or revocation pursuant to section 302.304;

(4) "Director", the director of revenue acting directly or through the director's authorized officers and agents;

(5) "Farm tractor", every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

(6) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;

(7) "Incompetent to drive a motor vehicle", a person who has become physically incapable of meeting the prescribed requirements of an examination for an operator's license, or who has been adjudged by a probate division of the circuit court in a capacity hearing of being incapacitated;

(8) "License", a license issued by a state to a person which authorizes a person to operate a motor vehicle;

(9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks except motorized bicycles, as defined in section 307.180, RSMo;

(10) "Motorcycle", a motor vehicle operated on two wheels; however, this definition shall not include motorized bicycles as defined in section 301.010, RSMo;

(11) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

(12) "Moving violation", that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;

(13) "Municipal court", every division of the circuit court having original jurisdiction to try persons for violations of city ordinances;

(14) "Nonresident", every person who is not a resident of this state;

(15) "Operator", every person who is in actual physical control of a motor vehicle upon a highway;

(16) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of sections 302.010 to 302.540;

(17) "Record" includes, but is not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or electronically recorded information, digitized images, deposited or filed with the department of revenue;

(18) "Residence address", "residence", or "resident address" shall be the location at which a person has been physically present, and that the person regards as home. A residence address is a person's true, fixed, principal, and permanent home, to which a person intends to return and remain, even though currently residing elsewhere;

(19) "Restricted driving privilege", a driving privilege issued by the director of revenue following a suspension of driving privileges for the limited purpose of driving in connection with the driver's business, occupation, employment, formal program of secondary, postsecondary or higher education, or for an alcohol education or treatment program **or certified ignition interlock provider**;

(20) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle, either publicly or privately owned, used to transport students to and from school, or to transport pupils properly chaperoned to and from any place within the state for educational purposes. The term "school bus" shall not include a bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interstate transportation of passengers when such bus is not traveling a specific school bus route but is:

(a) On a regularly scheduled route for the transportation of fare-paying passengers; or

(b) Furnishing charter service for the transportation of persons enrolled as students on field trips or other special trips or in connection with other special events;

(21) "School bus operator", an operator who operates a school bus as defined in subdivision (20) of this section in the transportation of any schoolchildren and who receives compensation for such service. The term "school bus operator" shall not include any person who transports schoolchildren as an incident to employment with a school or school district, such as a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under contract with or employed by a school or school district as a school bus operator;

(22) "Signature", any method determined by the director of revenue for the signing, subscribing or verifying of a record, report, application, driver's license, or other related document that shall have the same validity and consequences as the actual signing by the person providing the record, report, application, driver's license or related document;

(23) "Substance abuse traffic offender program", a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol- or drug-related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection **[**13**]** **14** of section 302.304 and subsections 1 and 5 of section 302.540;

(24) "Vehicle", any mechanical device on wheels, designed primarily for use, or used on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons."; and

Further amend said bill, Page 15, Section 302.060, Line 1 by inserting before the word "The", the following: "**1.**"; and

Further amend said bill, Page 17, Section 302.060, Line 58, by inserting after all of said line the following:

"**2. Any person whose license is reinstated under the provisions of subdivisions (9) and (10) of subsection 1 of this section shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be suspended for the remainder of the six-month period or until proof as required by this section is filed with the director. Upon the completion of the six-month period, the license shall be shown as reinstated, if the person is otherwise eligible.**"; and

Further amend said bill, Page 23, Section 302.177, Line 56, by inserting after all of said line the following:

"302.304. 1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

2. In an action to suspend or revoke a license or driving privilege under this section points shall be accumulated on the date of conviction. No case file of any conviction for a driving violation for which points may be assessed pursuant to section 302.302 may be closed until such time as a copy of the record of such conviction is forwarded to the department of revenue.

3. The director shall suspend the license and driving privileges of any person whose driving record shows the driver has accumulated eight points in eighteen months.

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

(1) In the case of an initial suspension, thirty days after the effective date of the suspension;

(2) In the case of a second suspension, sixty days after the effective date of the suspension;

(3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension.

Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege as defined in section 302.010. Upon completion of such period of restricted driving privilege, upon compliance with other requirements of law and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be reinstated.

6. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

7. The director shall revoke the license and driving privilege of any person when the person's driving record shows such person has accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation period of any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked. Any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the revocation from the director, pass the complete driver examination and apply for a new license before again operating a motor vehicle upon the highways of this state.

8. If, prior to conviction for an offense that would require suspension or revocation of a person's license under the provisions of this section, the person's total points accumulated are reduced, pursuant to the provisions of section 302.306, below the number of points required for suspension or revocation pursuant to the provisions of this section, then the person's license shall not be suspended or revoked until the necessary points are again obtained and accumulated.

9. If any person shall neglect or refuse to surrender the person's license, as provided herein, the director

shall direct the state highway patrol or any peace or police officer to secure possession thereof and return it to the director.

10. Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the armed forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the armed forces to submit copies of official orders to the director of revenue to substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

11. No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a limited driving privilege granted by a court or the director of revenue.

12. Any person or nonresident whose license or privilege to operate a motor vehicle in this state has been suspended or revoked under this or any other law shall, before having the license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

13. Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state.

14. No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department of mental health. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary

unless directed by the court.

15. The fees for the program authorized in subsection 14 of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee in an amount to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010 and section 577.001, RSMo, or a program determined to be comparable by the department of mental health. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rate established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

16. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

**17. Any person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (9) of subsection 1 of section 302.302 shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement of the license. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be resuspended or revoked and the person shall be guilty of a class A misdemeanor.**

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

(a) A business, occupation, or employment;

(b) Seeking medical treatment for such operator;

(c) Attending school or other institution of higher education;

(d) Attending alcohol or drug treatment programs; **[**or**]**

(e) **Seeking the required services of a certified ignition interlock device provider; or**

**(f)** Any other circumstance the court or director finds would create an undue hardship on the operator;

the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for that vehicle.

(4) **No limited driving privilege shall be issued to any person otherwise eligible under the provisions of paragraph (a) of subdivision (6) of subsection 3 of this section on a license revocation resulting from a conviction under subdivision (9) of subsection 1 of section 302.302; or a license denial under paragraph (a) or (b) of subdivision (8) of subsection 3 of this section; until the applicant has filed proof with the department of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of limited driving privilege.**

**(5)** The court order or the director's grant of the limited **or restricted** driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. **Failure of the driver to maintain proof of financial**

**responsibility, as required by chapter 303, or to maintain proof of installation of a functioning, certified ignition interlock device, as applicable, shall terminate the privilege.** The director shall notify by ordinary mail the driver whose privilege is so terminated.

**[**(5)**] (6)** Except as provided in subdivision **[**(7)**] (8)** of this subsection, no person is eligible to receive a limited driving privilege who at the time of application for a limited driving privilege has previously been granted such a privilege within the immediately preceding five years, or whose license has been suspended or revoked for the following reasons:

(a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter;

(b) A conviction of any felony in the commission of which a motor vehicle was used;

(c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

(d) Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as provided in section 577.060, RSMo;

(e) Due to a revocation for the first time for failure to submit to a chemical test pursuant to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if such person has not completed the first ninety days of such revocation;

(f) Violation more than once of the provisions of section 577.041, RSMo, or a similar implied consent law of any other state; or

(g) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed such revocation.

**[**(6)**] (7)** No person who possesses a commercial driver's license shall receive a limited driving privilege issued for the purpose of operating a commercial motor vehicle if such person's driving privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this section shall prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial motor vehicle provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege.

**[**(7)**] (8)** (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least three years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding three years and that the person's habits and conduct show that the

person no longer poses a threat to the public safety of this state.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of involuntary manslaughter while operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least two years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

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

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

(1) If the person's driving record shows no prior alcohol-related enforcement contacts during the immediately preceding five years, the period of suspension shall be thirty days after the effective date of suspension, followed by a sixty-day period of restricted driving privilege as defined in section 302.010 and issued by the director of revenue. The restricted driving privilege shall not be issued until he or she has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo,

and is otherwise eligible. In no case shall restricted driving privileges be issued pursuant to this section or section 302.535 until the person has completed the first thirty days of a suspension under this section;

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

**(3) In no case shall restricted driving privileges be issued under this section to any person whose driving record shows one or more prior alcohol-related enforcement contacts until the person has completed the first thirty days of a suspension under this section and has filed proof with the department of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of the restricted driving privilege. If the person fails to maintain such proof the restricted driving privilege shall be terminated**.

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

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

**5. Any person who has had a license to operate a motor vehicle revoked under this section or suspended under this section with one or more prior alcohol-related enforcement contacts showing on their driver record shall be required to file proof with the director of revenue that any motor vehicle operated by that person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be resuspended or revoked, as applicable.**"; and

Further amend said bill, Page 48, Section 577.023, Line 112, by inserting after all of said line the following:

"577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024, 565.060, or 565.082, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion

of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a certified report under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and shall include the following:

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and

(6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the department of mental health for the purposes

of funding the substance abuse traffic offender program defined in section 302.010, RSMo, and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

**10. Any person who has had a license to operate a motor vehicle revoked more than once for violation of the provisions of this section shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of license reinstatement. Such ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director as required by this section, the license shall be rerevoked and the person shall be guilty of a class A misdemeanor.**

**11. The revocation period of any person whose license and driving privilege has been revoked under this section and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked and the person shall be guilty of a class A misdemeanor.**

577.600. 1. In addition to any other provisions of law, a court may require that any person who is found guilty of or pleads guilty to a first intoxication-related traffic offense, as defined in section 577.023, and a court shall require that any person who is found guilty of or pleads guilty to a second or subsequent intoxication-related traffic offense, as defined in section 577.023, shall not operate any motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device for a period of not less than **[**one month**] six months** from the date of reinstatement of the person's driver's license. In addition, any court authorized to grant a limited driving privilege under section 302.309, RSMo, to any person who is found guilty of or pleads guilty to a second or subsequent intoxication-related traffic offense shall require the use of an ignition interlock device on all vehicles operated by the person as a required condition of the limited driving privilege. **These requirements shall be in addition to any other provisions of this chapter or chapter 302, RSMo, requiring installation and maintenance of an ignition interlock device.** Any person

required to use an ignition interlock device**, either under the provisions of this chapter or chapter 302, RSMo,** shall comply with **[**the court order,**]** **such requirement** subject to the penalties provided by this section.

2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to have had that person's driving privilege restricted as provided in subsection 1 of this section, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted as provided in subsection 1 of this section shall notify any other person who rents, leases or loans a motor vehicle to that person of the driving restriction imposed pursuant to this section.

3. Any person convicted of a violation of this section shall be guilty of a class A misdemeanor.

577.602. 1. If a court imposes a fine and requires the use of an ignition interlock device for the same offense, the amount of the fine may be reduced by the cost of the ignition interlock device.

2. If the court requires the use of an ignition interlock device, it shall order the installation of the device on any vehicle which the offender operates during the period of probation or limited driving privilege.

3. If the court imposes the use of an ignition interlock device on a person having full or limited driving privileges, the court shall require the person to provide proof of compliance with the order to the court or the probation officer within thirty days of this court's order or sooner, as required by the court**, in addition to any proof required to be filed with the director of revenue under the provisions of this chapter or chapter 302, RSMo**. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall revoke or terminate the person's probation or limited driving privilege.

4. Nothing in sections 577.600 to 577.614 shall be construed to authorize a person to operate a motor vehicle whose driving privileges have been suspended or revoked, unless the person has obtained a limited driving privilege or restricted driving privilege under other provisions of law.

5. The person whose driving privilege is restricted pursuant to section 577.600 shall report to the court or the probation officer at least once annually, or more frequently as the court may order, on the operation of each ignition interlock device in the person's vehicle or vehicles. Such person shall be responsible for the cost and maintenance of the ignition interlock device. If such device is broken, destroyed or stolen, such person shall also be liable for the cost of replacement of the device.

6. The court may require a person whose driving privilege is restricted under section 577.600 to report to any officer appointed by the court in lieu of a probation officer.

7. The court shall require periodic calibration checks that are needed for the proper operation of the ignition interlock device.

577.612. 1. It is unlawful for any person whose driving privilege is restricted pursuant to **[**section 577.600**]** **the provisions of this chapter or chapter 302, RSMo,** to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

2. It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to **[**section 577.600**]** **the provisions of this chapter or chapter 302, RSMo**.

3. It is unlawful to tamper with, or circumvent the operation of, an ignition interlock device.

4. Any person who violates any provision of this section is guilty of a class A misdemeanor.

Section B. The repeal and reenactment of sections 302.010, 302.060, 302.304, 302.309, 302.525, 577.023, 577.041, 577.600, 577.602, and 577.612 of section A of this act shall become effective on July 1, 2009.

Section C. Because immediate action is necessary to rectify a recent Supreme Court ruling which held that a defendant's prior guilty plea and suspended imposition of sentence in municipal court could not be used to enhance the punishment for the defendant's new intoxication-related traffic offense, section 577.023 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 577.023 of this act shall be in full force and effect upon its passage and approval."; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 10, Section 144.805, Line 30, by deleting the second occurrence of the opening bracket, "**[**" after the letters, "RSMo"; and

Further amend said page and section, Line 31, by putting opening and closing brackets, "**[]**" around the word "six"; and

Further amend said page, section and line, by inserting after the word, "six" the word, "**eight**"; and

Further amend said page and section, Line 32, by deleting the closing bracket, "**]**"; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 930 and 947, Page 33, Section 304.180, Line 102 by inserting after the second occurrence of the word "pounds" the words "**, except as provided in subsection 9 of this section**"; and

Further amend said bill, Page 33, Section 304.180, Line 118 by inserting after said line the following:

"**9. Notwithstanding subsections 3 and 6 of this section or any other provision of law to the contrary, the total gross weight of any vehicle or combination of vehicles hauling livestock may be as much as, but shall not exceed, eighty-five thousand five hundred pounds while operating on U.S. Highway 36 from St. Joseph to U.S. Highway 65, and on U.S. Highway 65 from the Iowa state line to U.S. Highway 36.**"; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947,

Page 22, Section 302.720, Line 1, by inserting before all of said Line, the following:

"302.341. If a Missouri resident charged with a moving traffic violation of this state or any county or municipality of this state fails to dispose of the charges of which he is accused through authorized prepayment of fine and court costs and fails to appear on the return date or at any subsequent date to which the case has been continued, or without good cause fails to pay any fine or court costs assessed against him for any such violation within the period of time specified or in such installments as approved by the court or as otherwise provided by law, any court having jurisdiction over the charges shall within ten days of the failure to comply inform the defendant by ordinary mail at the last address shown on the court records that the court will order the director of revenue to suspend the defendant's driving privileges if the charges are not disposed of and fully paid within thirty days from the date of mailing. Thereafter, if the defendant fails to timely act to dispose of the charges and fully pay any applicable fines and court costs, the court shall notify the director of revenue of such failure and of the pending charges against the defendant. Upon receipt of this notification, the director shall suspend the license of the driver, effective immediately, and provide notice of the suspension to the driver at the last address for the driver shown on the records of the department of revenue. Such suspension shall remain in effect until the court with the subject pending charge requests setting aside the noncompliance suspension pending final disposition, or satisfactory evidence of disposition of pending charges and payment of fine and court costs, if applicable, is furnished to the director by the individual. Upon proof of disposition of charges and payment of fine and court costs, if applicable, and payment of the reinstatement fee as set forth in section 302.304, the director shall **[**reinstate**] return** the license **and remove the suspension from the individual's driving record**. The filing of financial responsibility with the bureau of safety responsibility, department of revenue, shall not be required as a condition of reinstatement of a driver's license suspended solely under the provisions of this section. If any city, town or village receives more than forty-five percent of its total annual revenue from fines for traffic violations occurring on state highways, all revenues from such violations in excess of forty-five percent of the total annual revenue of the city, town or village shall be sent to the director of the department of revenue and shall be distributed annually to the schools of the county in the same manner that proceeds of all penalties, forfeitures and fines collected for any breach of the penal laws of the state are distributed. For the purpose of this section the words "state highways" shall mean any state or federal highway, including any such highway continuing through the boundaries of a city, town or village with a designated street name other than the state highway number."; and

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 305.230, Page 41, Line 86, by inserting after all of said line the following:

"**385.400. Sections 385.400 to 385.436 shall be known and may be cited as the "Missouri Vehicle Protection Product Act".**

**385.403. As used in sections 385.400 to 385.436, the following terms shall mean:**

**(1) "Administrator", a third party other than the warrantor who is designated by the warrantor to be responsible for the administration of vehicle protection product warranties;**

**(2) "Department", the department of insurance, financial institutions and professional registration;**

**(3) "Director", the director of the department of insurance, financial institutions, and professional registration;**

**(4) "Incidental costs", expenses specified in the warranty incurred by the warranty holder related to the failure of the vehicle protection product to perform as provided in the warranty. Incidental costs may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees;**

**(5) "Premium", the consideration paid to an insurer for a reimbursement insurance policy;**

**(6) "Service contract", a contract or agreement for a separately stated consideration or for a specific duration to perform the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements;**

**(7) "Vehicle protection product", a vehicle protection device, system, or service that:**

**(a) Is installed on or applied to a vehicle;**

**(b) Is designed to prevent loss or damage to a vehicle from a specific cause; and**

**(c) Includes a written warranty.**

**For purposes of sections 385.400 to 385.436, the term "vehicle protection product" shall include, without limitation, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices;**

**(8) "Vehicle protection product warranty" or "warranty", a written agreement by a warrantor that provides that if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause, then the warranty holder shall be paid specified incidental costs by the warrantor as a result of the failure of the vehicle protection product to perform pursuant to the terms of the warranty. Incidental costs may be reimbursed under the provisions of the warranty in either a fixed amount specified in the warranty or sales agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder;**

**(9) "Vehicle protection product warrantor" or "warrantor", a person who is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty agreement. "Warrantor" does not include an authorized insurer providing a warranty reimbursement insurance policy;**

**(10) "Warranty holder", the person who purchases a vehicle protection product or who is a permitted transferee;**

**(11) "Warranty reimbursement insurance policy", a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to the warrantor or to pay on behalf of the warrantor all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties sold by the warrantor.**

**385.406. 1. No vehicle protection product may be sold or offered for sale in this state unless the seller, warrantor, and administrator, if any, comply with the provisions of sections 385.400 to 385.436.**

**2. Vehicle protection product warrantors and related vehicle protection product sellers and warranty administrators complying with sections 385.400 to 385.436 are not required to comply with and are not subject to any other provisions of the state insurance code.**

**3. Service contract providers who do not sell vehicle protection products are not subject to the requirements of sections 385.400 to 385.436 and sales of vehicle protection products are exempt from the requirements of sections 385.200 to 385.220.**

**4. Warranties, indemnity agreements, and guarantees that are not provided as a part of a vehicle protection product are not subject to the provisions of sections 385.400 to 385.436.**

**5. Notwithstanding the provisions of sections 408.140 and 408.233, RSMo, a business which is licensed and regulated under sections 367.100 to 367.215 or sections 367.500 to 367.533, RSMo, may offer and sell service contracts, as defined in sections 385.200, 385.300, and 385.403, in conjunction with other transactions so long as such business complies with all other requirements of chapter 385.**

**385.409. 1. A person may not operate as a warrantor or represent to the public that the person is a warrantor unless the person is registered with the department on a form prescribed by the director.**

**2. Warrantor registration records shall be filed annually and shall be updated within thirty days of any change. The registration records shall contain the following information:**

**(1) The warrantor's name, any fictitious names under which the warrantor does business in the state, principal office address, and telephone number;**

**(2) The name and address of the warrantor's agent for service of process in the state if other than the warrantor;**

**(3) The names of the warrantor's executive officer or officers directly responsible for the warrantor's vehicle protection product business;**

**(4) The name, address, and telephone number of any administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this state;**

**(5) A copy of the warranty reimbursement insurance policy or policies or other financial information required by section 385.412;**

**(6) A copy of each warranty the warrantor proposes to use in this state; and**

**(7) A statement indicating under which provision of section 385.412 the warrantor qualifies to do business in this state as a warrantor.**

**3. The director may charge each registrant a reasonable fee to offset the cost of processing the**

**registration and maintaining the records in an amount not to exceed five hundred dollars annually or as set by regulation. The information in subdivisions (1) and (2) of subsection 2 of this section shall be made available to the public.**

**4. If a registrant fails to register by the renewal deadline, the director shall give him or her written notice of the failure and the registrant will have thirty days to complete the renewal of his or her registration before he or she is suspended from being registered in this state.**

**5. An administrator or person who sells or solicits a sale of a vehicle protection product but who is not a warrantor shall not be required to register as a warrantor or be licensed under the insurance laws of this state to sell vehicle protection products.**

**385.412. No vehicle protection product shall be sold or offered for sale in this state unless the warrantor conforms to either subdivision (1) or (2) of this section in order to ensure adequate performance under the warranty. No other financial security requirements or financial standards for warrantors shall be required. The vehicle protection product's warrantor may meet the requirements of this section by:**

**(1) Obtaining a warranty reimbursement insurance policy issued by an insurer authorized to do business within this state which provides that the insurer will pay to, or on behalf of, the warrantor one hundred percent of all sums that the warrantor is legally obligated to pay according to the warrantor's contractual obligations under the warrantor's vehicle protection product warranty. The warrantor shall file a true and correct copy of the warranty reimbursement insurance policy with the director. The policy shall contain the provisions required in section 385.415; or**

**(2) Maintaining a net worth or stockholder's equity of fifty million dollars. The warrantor shall provide the director with a copy of the warrantor's or warrantor's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year, or if the warrantor does not file with the Securities and Exchange Commission, a copy of the warrantor or the warrantor's parent company's audited financial statements that shows a net worth of the warrantor or its parent company of at least fifty million dollars. If the warrantor's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the warrantor's financial stability requirement, then the parent company shall agree to guarantee the obligations of the warrantor relating to warranties issued by the warrantor in this state. The financial information filed under this subdivision shall be confidential as a trade secret of the entity filing the information and not subject to public disclosure if the entity is not required to file with the Securities and Exchange Commission.**

**385.415. No warranty reimbursement insurance policy shall be issued, sold, or offered for sale in this state unless the policy meets the following conditions:**

**(1) The policy states that the issuer of the policy will reimburse or pay on behalf of the vehicle protection product warrantor all covered sums which the warrantor is legally obligated to pay or will provide that all service that the warrantor is legally obligated to perform according to the warrantor's contractual obligations under the provisions of the insured warranties sold by the warrantor;**

**(2) The policy states that in the event payment due under the terms of the warranty is not provided by the warrantor within sixty days after proof of loss has been filed according to the terms**

**of the warranty by the warranty holder, the warranty holder may file directly with the warranty reimbursement insurance company for reimbursement;**

**(3) The policy provides that a warranty reimbursement insurance company that insures a warranty shall be deemed to have received payment of the premium if the warranty holder paid for the vehicle protection product and insurer's liability under the policy shall not be reduced or relieved by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer; and**

**(4) The policy has the following provisions regarding cancellation of the policy:**

**(a) The issuer of a reimbursement insurance policy shall not cancel such policy until a notice of cancellation in writing has been mailed or delivered to the director and each insured warrantor sixty days prior to cancellation of the policy;**

**(b) The cancellation of a reimbursement insurance policy shall not reduce the issuer's responsibility for vehicle protection products sold prior to the date of cancellation; and**

**(c) In the event an insurer cancels a policy that a warrantor has filed with the director, the warrantor shall do either of the following:**

**a. File a copy of a new policy with the director, before the termination of the prior policy; or**

**b. Discontinue offering warranties as of the termination date of the policy until a new policy becomes effective and is accepted by the director.**

**385.418. 1. Every vehicle protection product warranty shall be written in clear, understandable language and shall be printed or typed in an easy-to-read point size and font and shall not be issued, sold, or offered for sale in the state unless the warranty:**

**(1) States that the obligations of the warrantor to the warranty holder are guaranteed under a warranty reimbursement insurance policy if the warrantor elects to meet its financial responsibility obligations under subdivision (1) of section 385.412, or states the obligations of the warrantor under this warranty are backed by the full faith and credit of the warrantor if the warrantor elects to meet its financial responsibility under subdivision (2) of section 385.412;**

**(2) States that in the event a warranty holder must make a claim against a party other than the warrantor, the warranty holder is entitled to make a direct claim against the warranty reimbursement insurer upon the failure of the warrantor to pay any claim or meet any obligation under the terms of the warranty within sixty days after proof of loss has been filed with the warrantor, if the warrantor elects to meet its financial responsibility obligations under subdivision (1) of section 385.412;**

**(3) States the name and address of the insurer of the warranty reimbursement insurance policy, and this information need not be preprinted on the warranty form but may be stamped on the warranty, if the warrantor elects to meet its financial responsibility obligations under subdivision (1) of section 385.412;**

**(4) Identifies the warrantor, the seller, and the warranty holder;**

**(5) Sets forth the total purchase price of the vehicle protection product warranty and the terms under which it is to be paid; however, the purchase price is not required to be preprinted on the**

**vehicle protection product warranty and may be negotiated with the consumer at the time of sale;**

**(6) Sets forth the procedure for making a claim, including a telephone number;**

**(7) States the existence of a deductible amount, if any;**

**(8) Specifies the payments or performance to be provided under the warranty including payments for incidental costs, the manner of calculation or determination of payments or performance, and any limitations, exceptions, or exclusions;**

**(9) Sets forth all of the obligations and duties of the warranty holder such as the duty to protect against further damage to the vehicle, the obligation to notify the warrantor in advance of any repair, or other similar requirements, if any;**

**(10) Sets forth any terms, restrictions, or conditions governing transferability of the warranty, if any; and**

**(11) Contains a disclosure that reads substantially as follows: "This agreement is a product warranty and is not insurance".**

**2. At the time of sale, the seller or warrantor shall provide to the purchaser:**

**(1) A copy of the vehicle protection product warranty; or**

**(2) A receipt or other written evidence of the purchase of the vehicle protection product and a copy of the warranty within thirty days of the date of purchase.**

**385.421. 1. No vehicle protection product may be sold or offered for sale in this state unless the vehicle protection product warranty states the terms and conditions governing the cancellation of the sale and warranty, if any.**

**2. The warrantor may only cancel the warranty if the warranty holder does any of the following:**

**(1) Fails to pay for the vehicle protection product;**

**(2) Makes a material misrepresentation to the seller or warrantor;**

**(3) Commits fraud; or**

**(4) Substantially breaches the warranty holder's duties under the warranty.**

**3. A warrantor canceling a warranty shall mail written notice of cancellation to the warranty holder at the last known address of the warranty holder in the warrantor's records at least thirty days prior to the effective date of the cancellation. The notice shall state the effective date of the cancellation and the reason for the cancellation.**

**385.424. 1. Unless licensed as an insurance company, a vehicle protection product warrantor shall not use in its name, contracts, or literature the words "insurance", "casualty", "surety", "mutual", or any other word that is descriptive of the insurance, casualty, or surety business or that is deceptively similar to the name or description of any insurance or surety corporation or any other vehicle protection product warrantor. A warrantor may use the term "guaranty" or a similar word in the warrantor's name. A warrantor or its representative shall not in its vehicle protection product warranties or literature make, permit, or cause to be made any false or misleading statement, or**

**deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell, or advertisement of a vehicle protection product warranty.**

**2. A vehicle protection product seller or warrantor may not require as a condition of financing that a retail purchaser of a motor vehicle purchase a vehicle protection product.**

**385.427. 1. All vehicle protection product warrantors shall keep accurate accounts, books, and records concerning transactions regulated under sections 385.400 to 385.436.**

**2. A vehicle protection product warrantor's accounts, books, and records shall include:**

**(1) Copies of all vehicle protection product warranties;**

**(2) The name and address of each warranty holder; and**

**(3) Claims files which shall contain at least the dates, amounts, and descriptions of all receipts, claims, and expenditures.**

**3. A vehicle protection product warrantor shall retain all required accounts, books, and records pertaining to each warranty holder for at least three years after the specified period of coverage has expired. A warrantor discontinuing business in the state shall maintain its records until it furnishes the director satisfactory proof that it has discharged all obligations to warranty holders in this state.**

**4. Vehicle protection product warrantors shall make all accounts, books, and records concerning transactions regulated under sections 385.400 to 385.436 available to the director for examination.**

**385.430. 1. The director may conduct examinations of warrantors, administrators, or other persons to enforce sections 385.400 to 385.436 and protect warranty holders in this state. Upon request of the director, a warrantor shall make available to the director all accounts, books, and records concerning vehicle protection products provided by the warrantor that are necessary to enable the director to reasonably determine compliance or noncompliance with sections 385.400 to 385.436.**

**2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in An Act, practice, or course of business constituting a violation of sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, or a person has materially aided or is materially aiding An Act, practice, omission, or course of business constituting a violation of sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of these sections is a level two violation under section 374.049, RSMo.**

**3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in An Act, practice, or course of business constituting a violation of sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding An Act, practice, omission, or course of business constituting a violation of sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of these sections is a level two violation under section 374.049, RSMo.**

**385.433. The director may promulgate rules and regulations to implement the provisions of**

**sections 385.400 to 385.436. Such rules and regulations shall include disclosures for the benefit of the warranty holder, record keeping, and procedures for public complaints. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2009, shall be invalid and void.**

**385.436. Sections 385.400 to 385.436 applies to all vehicle protection products sold or offered for sale on or after January 1, 2009. The failure of any person to comply with sections 385.400 to 385.436 prior to January 1, 2009, shall not be admissible in any court proceeding, administrative proceeding, arbitration, or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected vehicle protection product was unlawful or otherwise improper. The adoption of sections 385.400 to 385.436 does not imply that a vehicle protection product warranty was insurance prior to January 1, 2009. The penalty provision of sections 385.400 to 385.436 do not apply to any violation of sections 385.400 to 385.436 relating to or in connection with the sale or failure to disclose in a retail installment contract or lease, or contract or agreement that provides for payments under a vehicle protection product warranty so long as the sale of such product, contract, or agreement was otherwise disclosed to the purchaser in writing at the time of the purchase or lease.**"; and

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

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 48, Section 577.023, Line 112, by inserting after all of said line the following:

"590.050. 1. The POST commission shall establish requirements for the continuing education of all peace officers. Peace officers who make traffic stops shall be required to receive **[**annual training**] three hours of training within the law enforcement continuing education three-year reporting period** concerning the prohibition against racial profiling and such training shall promote understanding and respect for racial and cultural differences and the use of effective, noncombative methods for carrying out law enforcement duties in a racially and culturally diverse environment.

2. The director shall license continuing education providers and may probate, suspend and revoke such licenses upon written notice stating the reasons for such action. Any person aggrieved by a decision of the director pursuant to this subsection may appeal as provided in chapter 536, RSMo.

3. The costs of continuing law enforcement education shall be reimbursed in part by moneys from the peace officer standards and training commission fund created in section 590.178, subject to availability of funds, except that no such funds shall be used for the training of any person not actively commissioned or employed by a county or municipal law enforcement agency.

4. The director may engage in any activity intended to further the professionalism of peace officers through training and education, including the provision of specialized training through the department of

public safety."; and

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

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 930 and 947, Page10, Section 155.010, Line 13 by inserting after said line the following:

"226.525. 1. The state highways and transportation commission is directed to erect within the right-of-way of all classes of highways within the state signs and notices pertaining to publicly and privately owned natural wonders **[**and**],** scenic and historical attractions**, and tourist attractions as defined in subsection 3 of this section,** under the following conditions:

(1) Such signs shall not violate any federal law, rule, or regulation affecting the allocation of federal funds to the state of Missouri or which violate any safety regulation formally promulgated by the state highways and transportation commission.

(2) Such official signs shall be limited in content to the name of the attraction and necessary travel information.

(3) The state highways and transportation commission shall determine those sites and attractions for which directional and other official signs may be erected as permitted by Section 131 of Title 23, United States Code, which it deems of such importance as to justify such signing, using as a guide those publicly or privately owned natural wonders and scenic, historic, educational, cultural, or recreational sites which have been determined to be of general interest.

(4) The state highways and transportation commission may require reimbursement for the cost of erection and maintenance of the official directional signs authorized hereunder when sites or attractions are privately owned by other than the state or political subdivisions. The state highways and transportation commission shall prescribe the size, number and locations of such signs based upon its determination of the travelers' need for directional information.

2. The commission shall adopt rules to implement a program for the erection and maintenance of tourist-oriented directional signs within the right-of-way of state highways in the state. The tourist-oriented directional signs shall provide business identification and directional information for natural attractions and activities which, during a normal business season, derive a major portion of the income and visitors for the business or activity from motorists not residing in the immediate area of the business or activity.

Natural attractions and activities eligible for such tourist-oriented directional signs shall include, but not be limited to, caves, museums, wineries, antique business districts and tourist-oriented directional signs indicating the location of any veterans' memorial located at any college in such county provided that such signs are located on a highway known as the "Veterans' Memorial Highway" in any county of the first classification with a population of more than one hundred seventy thousand inhabitants but less than two hundred thousand inhabitants.

**3. For purposes of this section, "tourist attraction" means a permanently established attraction or facility which attracts or is used by more than seven hundred fifty thousand visitors annually which appeals to the recreational desires and tastes of the traveling public through the presentation of services or devices designed to entertain or educate visitors and an established agri-tourism attraction whose products or services are regulated by the department of agriculture or a facility**

**which attracts or is used by more than ten thousand visitors annually which appeals to the educational and recreational desires of the traveling public.**"; and

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

HOUSE AMENDMENT NO. 8

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 12, Section 227.400, Line 4, by inserting after all of said line the following:

"301.010. As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation":

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of fifty miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation.

Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a

commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle shall not exceed the weight limits of section 304.180, RSMo, does not have more than four axles, and does not pull a trailer which has more than two axles. Harvesting equipment which is used specifically for cutting, felling, trimming, delimbing, debarking, chipping, skidding, loading, unloading, and stacking may be transported on a local log truck. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, RSMo, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220, RSMo;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(29) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(31) "Manufacturer", any person, firm, corporation or association engaged in the business of

manufacturing or assembling motor vehicles, trailers or vessels for sale;

(32) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(33) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(34) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(35) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(36) "Motorcycle", a motor vehicle operated on two wheels;

(37) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(38) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(39) "Municipality", any city, town or village, whether incorporated or not;

(40) "Nonresident", a resident of a state or country other than the state of Missouri;

(41) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(42) "Operator", any person who operates or drives a motor vehicle;

(43) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(44) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(45) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(46) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the

addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(47) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(48) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(49) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a "double saddlemount combination". When three vehicles are towed in this manner, the combination is called a "triple saddlemount combination";

(50) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(51) "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which:

(a) Was damaged during a year that is no more than six years after the manufacturer's model year designation for such vehicle to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds eighty percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it;

(c) Has been declared salvage by an insurance company as a result of settlement of a claim;

(d) Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property".

The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or damage as a result of hail, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance

industry, including market surveys, that is applied by the company in a uniform manner;

(52) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(53) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(54) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(55) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term specially constructed motor vehicle includes kit vehicles;

(56) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(57) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(58) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(59) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

(60) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(61) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

(62) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(63) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(64) **"Utility vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is sixty-three inches or less in width, with an unladen dry weight of one thousand eight hundred fifty pounds or less, traveling on four or six wheels, to be used primarily for landscaping, lawn care, or maintenance purposes;**

**(65)** "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

**[**(65)**] (66)** "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

**[**(66)**] (67)** "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

**[**(67)**] (68)** "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain."; and

Further amend said bill, Page 30, Section 304.015, Line 69, by inserting after all of said line the following:

"**304.032. 1. No person shall operate a utility vehicle, as defined in section 301.010, RSMo, upon the highways of this state, except as follows:**

**(1) Utility vehicles owned and operated by a governmental entity for official use;**

**(2) Utility vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation, unless equipped with proper lighting;**

**(3) Utility vehicles operated by handicapped persons for short distances occasionally only on the state's secondary roads when operated between the hours of sunrise and sunset;**

**(4) Governing bodies of cities may issue special permits for utility vehicles to be used on highways within the city limits by licensed drivers. Fees of fifteen dollars may be collected and retained by cities for such permits;**

**(5) Governing bodies of counties may issue special permits for utility vehicles to be used on county roads within the county by licensed drivers. Fees of fifteen dollars may be collected and retained by the counties for such permits.**

**2. No person shall operate a utility vehicle within any stream or river in this state, except that utility vehicles may be operated within waterways which flow within the boundaries of land which a utility vehicle operator owns, or for agricultural purposes within the boundaries of land which a utility vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials or peace officers of this state and its political subdivisions or department of conservation agents or department of natural resources park rangers shall enforce the provisions of this subsection within the geographic area of their jurisdiction.**

**3. A person operating a utility vehicle on a highway pursuant to an exception covered in this section shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle under subdivision (3) of subsection 1 of this section, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than forty-five miles per hour.**

**4. No persons shall operate a utility vehicle:**

**(1) In any careless way so as to endanger the person or property of another; or**

**(2) While under the influence of alcohol or any controlled substance.**

**5. No operator of a utility vehicle shall carry a passenger, except for agricultural purposes. The provisions of this subsection shall not apply to any utility vehicle in which the seat of such vehicle is designed to carry more than one person.**

**6. A violation of this section shall be a class C misdemeanor. In addition to other legal remedies, the attorney general or county prosecuting attorney may institute a civil action in a court of competent jurisdiction for injunctive relief to prevent such violation or future violations and for the assessment of a civil penalty not to exceed one thousand dollars per day of violation.**"; and

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

HOUSE AMENDMENT NO. 9

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 577.023, Page 48, Line 112 by inserting immediately after said Line the following:

"**Section 1. The portion of state highway Business Route 54 within Audrain County which is located within the city limits of Mexico shall be designated as the "Christopher S. 'Kit' Bond Highway".**"; and

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

HOUSE AMENDMENT NO. 10

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 25, Section 302.720, Line 98, by inserting after all of said line the following:

"**5. Notwithstanding the provisions of this section or any other law to the contrary, beginning August 28, 2008, the director of the department of revenue shall certify as a third-party tester any municipality that owns, leases, or maintains its own fleets that requires certain employees as a condition of employment to hold a valid commercial driver's license; and that administered in-house testing to such employees prior to August 28, 2006.**"; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 11

Amend House Amendment No. 11 to House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 1, Section 227.397, Line 6 by inserting after all of said section the following:

"Further amend Bill, Page 12, Section 227.400, Line 4 by inserting after all of said line the following:

"233.155. 1. Whenever the inhabitants of any special road district already formed under sections 233.010 to 233.165 shall desire to extend the boundaries of such district to take in territory not included in the original district, and shall present a petition to the county commission of the county in which such district is located, or if the proposed district is to include portions of more than one county, then to the county commissions of each of such counties, signed by not less than thirty-five voters in the old district and not less then fifty percent of the voters in the territory proposed to be taken into said district, asking the county commission or commissions of such county or counties to submit the proposition of the proposed extension of such road district to a vote of the people of such proposed district for their adoption or rejection, the county commission of such county, or if the proposed district shall include parts of more than one county, the county commissions of all such counties, shall each make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district.

2. The question shall be submitted in substantially the following form:

Shall the special road district be extended?

3. If the territory of more than one county be included in said special road district, the county commission of each county in said district shall, as soon as the returns are in from said election, cause a certificate to be made out stating the number of votes cast for and against said proposition in said county, and cause such certificate to be filed with the county clerk of the county commission of every other county which shall form a part of said special road district. If it shall appear from the returns of said county and from said certificate that a majority of the votes cast upon the proposition in the whole proposed district be in favor of the extension of said road district, the county commission or county commissions in said proposed district shall declare the result of the vote thereon in said proposed district by an order of record, and shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election.

4. If any territory added to any such original district be in any county outside of the county of such original district, each county outside of such original district may appoint one road commissioner to act with

the commissioners appointed in the county of the original district. Such commissioners so appointed outside of the county of the original district shall serve for a term of three years from the date of such appointment, and until their successors shall be appointed and qualified. Such commissioners shall be voters of such added territory in such county of their appointment. Except as herein provided, such commissioners shall be governed by sections 233.010 to 233.165. No change shall be made in the number of commissioners appointed by the county of the original district or in the manner of their appointment. **In any special road district located in two counties with an additional fourth commissioner appointed by the county outside of the original district as provided in this subsection, a fifth commissioner may be appointed by the same county that appointed the fourth commissioner. Except as herein provided, a fifth commissioner shall be governed by sections 233.010 to 233.165, shall serve for a term of three years from the date of the appointment and until the fifth commissioner's successor shall be appointed and qualified, and shall be a voter of the county of appointment.**

5. If a majority of the votes of the proposed district, as extended, be cast in favor of such extension, then the territory of such district, as extended, shall be governed by sections 233.010 to 233.165. But if such extension proposition shall not receive a majority of the votes of said district, as extended, then said special road district shall remain as it was before said petition was filed. Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than seventeen miles square."; and "; and

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

HOUSE AMENDMENT NO. 11

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 227.396, Page 12, Line 4 by inserting after all of said section the following:

"**227.397. The portion of Interstate 55 in Jefferson County from the intersection of highway M to a point one mile south shall be designated the "Jeff McBride Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.**"; and

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

HOUSE AMENDMENT NO. 12

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 302.177, Page 23, Line 56 by inserting immediately after said Line the following:

"302.341. **1.** If a Missouri resident charged with a moving traffic violation of this state or any county or municipality of this state fails to dispose of the charges of which **[**he**] the resident** is accused through authorized prepayment of fine and court costs and fails to appear on the return date or at any subsequent date to which the case has been continued, or without good cause fails to pay any fine or court costs assessed against **[**him**] the resident** for any such violation within the period of time specified or in such installments as approved by the court or as otherwise provided by law, any court having jurisdiction over the charges shall within ten days of the failure to comply inform the defendant by ordinary mail at the last address shown on the court records that the court will order the director of revenue to suspend the

defendant's driving privileges if the charges are not disposed of and fully paid within thirty days from the date of mailing. Thereafter, if the defendant fails to timely act to dispose of the charges and fully pay any applicable fines and court costs, the court shall notify the director of revenue of such failure and of the pending charges against the defendant. Upon receipt of this notification, the director shall suspend the license of the driver, effective immediately, and provide notice of the suspension to the driver at the last address for the driver shown on the records of the department of revenue. Such suspension shall remain in effect until the court with the subject pending charge requests setting aside the noncompliance suspension pending final disposition, or satisfactory evidence of disposition of pending charges and payment of fine and court costs, if applicable, is furnished to the director by the individual. Upon proof of disposition of charges and payment of fine and court costs, if applicable, and payment of the reinstatement fee as set forth in section 302.304, the director shall reinstate the license. The filing of financial responsibility with the bureau of safety responsibility, department of revenue, shall not be required as a condition of reinstatement of a driver's license suspended solely under the provisions of this section.

**2.** If any city, town**,** or village receives more than **[**forty-five**] thirty-five** percent of its **[**total**]** annual **general operating** revenue from fines **and court costs** for traffic violations occurring on state highways, all revenues from such violations in excess of **[**forty-five**] thirty-five** percent of the **[**total**]** annual **general operating** revenue of the city, town**,** or village shall be sent to the director of the department of revenue and shall be distributed annually to the schools of the county in the same manner that proceeds of all penalties, forfeitures and fines collected for any breach of the penal laws of the state are distributed. For the purpose of this section the words "state highways" shall mean any state or federal highway, including any such highway continuing through the boundaries of a city, town or village with a designated street name other than the state highway number. **If any city, town, or village fails to send such excess revenues to the director of the department of revenue in a timely fashion which shall be set forth by the director by rule, such city, town, or village may submit to an annual audit by the state auditor under the authority of article IV, section 13 of the Missouri Constitution. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**3. Subsection 2 of this section shall not apply before January 1, 2010, to any city, town, or village located in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants.**"; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 13

Amend House Amendment No. 13 to House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 302.181, Page 5, Line 2 of said amendment by inserting after all of said line the following:

"**(4) Applicants of this subsection shall not be charged with a ticket as a result of a red-light camera violation.**"; and

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

HOUSE AMENDMENT NO. 13

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 302.177, Page 23, Line 56 by inserting immediately after said Line the following:

"302.181. 1. The license issued pursuant to the provisions of sections 302.010 to 302.340 shall be in such form as the director shall prescribe, but the license shall be a card made of plastic or other comparable material. All licenses shall be manufactured of materials and processes that will prohibit, as nearly as possible, the ability to reproduce, alter, counterfeit, forge, or duplicate any license without ready detection. All licenses shall bear the licensee's Social Security number, if the licensee has one, and if not, a notarized affidavit must be signed by the licensee stating that the licensee does not possess a Social Security number, or, if applicable, a certified statement must be submitted as provided in subsection 4 of this section. The license shall also bear the expiration date of the license, the classification of the license, the name, date of birth, residence address including the county of residence or a code number corresponding to such county established by the department, and brief description and colored photograph or digitized image of the licensee, and a facsimile of the signature of the licensee. The director shall provide by administrative rule the procedure and format for a licensee to indicate on the back of the license together with the designation for an anatomical gift as provided in section 194.240, RSMo, the name and address of the person designated pursuant to sections 404.800 to 404.865, RSMo, as the licensee's attorney in fact for the purposes of a durable power of attorney for health care decisions. No license shall be valid until it has been so signed by the licensee. If any portion of the license is prepared by a private firm, any contract with such firm shall be made in accordance with the competitive purchasing procedures as established by the state director of the division of purchasing. For all licenses issued or renewed after March 1, 1992, the applicant's Social Security number shall serve as the applicant's license number. Where the licensee has no Social Security number, or where the licensee is issued a license without a Social Security number in accordance with subsection 4 of this section, the director shall issue a license number for the licensee and such number shall also include an indicator showing that the number is not a Social Security number.

2. All film involved in the production of photographs for licenses shall become the property of the department of revenue.

3. The license issued shall be carried at all times by the holder thereof while driving a motor vehicle, and shall be displayed upon demand of any officer of the highway patrol, or any police officer or peace officer, or any other duly authorized person, for inspection when demand is made therefor. Failure of any operator of a motor vehicle to exhibit his or her license to any duly authorized officer shall be presumptive evidence that such person is not a duly licensed operator.

4. The director of revenue shall issue a commercial or noncommercial driver's license without a Social Security number to an applicant therefor, who is otherwise qualified to be licensed, upon presentation to the director of a certified statement that the applicant objects to the display of the Social Security number on the license. The director shall assign an identification number, that is not based on a Social Security number, to the applicant which shall be displayed on the license in lieu of the Social Security number.

5. The director of revenue shall not issue a license without a facial photograph or digital image of the license applicant, except as provided pursuant to subsection 8 of this section. A photograph or digital image of the applicant's full facial features shall be taken in a manner prescribed by the director. No photograph or digital image will be taken wearing anything which cloaks the facial features of the individual.

6. The department of revenue may issue a temporary license or a full license without the photograph or with the last photograph or digital image in the department's records to members of the armed forces, except that where such temporary license is issued it shall be valid only until the applicant shall have had time to appear and have his or her picture taken and a license with his or her photograph issued.

7. The department of revenue shall issue upon request a nondriver's license card containing essentially the same information and photograph or digital image, except as provided pursuant to subsection 8 of this section, as the driver's license upon payment of six dollars. All nondriver's licenses shall expire on the applicant's birthday in the sixth year after issuance. A person who has passed his or her seventieth birthday shall upon application be issued a nonexpiring nondriver's license card. The nondriver's license card shall be used for identification purposes only and shall not be valid as a license.

8. If otherwise eligible, an applicant may receive a driver's license or nondriver's license without a photograph or digital image of the applicant's full facial features except that such applicant's photograph or digital image shall be taken and maintained by the director and not printed on such license. In order to qualify for a license without a photograph or digital image pursuant to this section the applicant must:

(1) Present a form provided by the department of revenue requesting the applicant's photograph be omitted from the license or nondriver's license due to religious affiliations. The form shall be signed by the applicant and another member of the religious tenant verifying the photograph or digital image exemption on the license or nondriver's license is required as part of their religious affiliation. The required signatures on the prescribed form shall be properly notarized;

(2) Provide satisfactory proof to the director that the applicant has been a U.S. citizen for at least five years and a resident of this state for at least one year, except that an applicant moving to this state possessing a valid driver's license from another state without a photograph, shall be exempt from the one-year state residency requirement. The director may establish rules necessary to determine satisfactory proof of citizenship and residency pursuant to this section;

(3) Applications for a driver's license or nondriver's license without a photograph or digital image must be made in person at a license office determined by the director. The director is authorized to limit the number of offices that may issue a driver's or nondriver's license without a photograph or digital image pursuant to this section.

9. The department of revenue shall make available, at one or more locations within the state, an opportunity for individuals to have their full facial photograph taken by an employee of the department of revenue, or their designee, who is of the same sex as the individual being photographed, in a segregated location.

10. **An applicant who desires to receive a driver’s license or nondriver’s license without a photograph under subsection 8 of this section may receive such a driver’s license or nondriver’s license without having his or her photograph or digital image taken and maintained by the director provided that the applicant:**

**(1) Complies with all of the provisions of subsection 8 of this section except for the provision requiring the applicant's photograph or digital image be taken and maintained by the director;**

**(2) Submits a set of fingerprints in a format prescribed by the director upon application for the driver's license or nondriver's license. The fingerprints shall be maintained by the director in a manner prescribed by the director and shall be accessible to the Missouri highway patrol and other law enforcement officers as established by rule. The applicant shall pay a twenty five dollar fee for the submission of such fingerprints; and**

**(3) Presents evidence satisfactory to the director that the applicant is exempt from paying social security and Medicare taxes because the applicant is a member of a recognized religious group that:**

**(a) Has existed continuously since December 31, 1950;**

**(b) Conscientiously opposes accepting benefits of any private or public insurance that makes payments in the event of death, disability, old age, or retirement or that makes payments for the cost of medical care or provides services for medical care including the benefits of any insurance system established by the social security act and Medicare benefits; and**

**(c) Provides a reasonable level of living for its dependent members.**

**For purposes of this subdivision, a Form 4029, or a copy thereof, approved by the Internal Revenue Service shall be considered satisfactory evidence.**

**11.** Beginning July 1, 2005, the director shall not issue a driver's license or a nondriver's license for a period that exceeds an applicant's lawful presence in the United States. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license or nondriver's license issued under this section.

**[**11.**] 12.** No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it is promulgated pursuant to the provisions of chapter 536, RSMo."; and

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

HOUSE AMENDMENT NO. 14

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 930 and 947, Section 304.015, Page 30, Line 69, by inserting the following after all of said line:

"304.130. 1. For the purpose of promoting the public safety, health and general welfare and to protect life and property, the county commission in all counties of the first class, is empowered to adopt, by order or ordinance, regulations to control vehicular traffic upon the public roads and highways in the unincorporated territory of such counties and to establish reasonable speed regulations in congested areas upon such public roads and highways in the unincorporated territory of such counties. Such regulations shall not be inconsistent with the provisions of the general motor vehicle laws of this state.

2. **Except as provided in subsection 3 of this section,** before the adoption of such regulations, the county commission shall hold at least three public hearings thereon, fifteen days' notice of the time and place of which shall be published in at least two newspapers having a general circulation within the county, and notice of such hearing shall also be posted at least fifteen days in advance thereof in four conspicuous places in the county; provided, however, that any regulations respecting stop signs, signal lights and speed

limits on state or federal highways shall be approved by the state highways and transportation commission before the same shall become effective.

3. **Regulations relating solely to increasing speed limits shall be exempt from the procedural requirements of subsection 2 of this section and shall take effect immediately upon approval of the county commission.**

**4.** The regulations adopted shall be codified, printed and distributed for public use; provided, however, that adequate signs displaying the speed limit must be posted along the highways at the points along such highways where such speed limits begin and end."; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 15

Amend House Amendment No. 15 to House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, by inserting in the correct place the following:

"Further amend said bill, Page 12, Section 227.103, Line 15, by inserting after all of said line the following:

"**227.378. The Table Rock Lake bridge on Highway 39 in the census designated place with more than one thousand three hundred but fewer than one thousand four hundred inhabitants and partially located in any county of the third classification without a township form of government and with more than thirty-four thousand but fewer than thirty-four thousand one hundred inhabitants shall be designated the "State Senator Larry Gene Taylor Memorial Bridge".**"; and"; and

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

HOUSE AMENDMENT NO. 15

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 45, Section 390.372, Line 24, by inserting after all of said line the following:

"**565.076. 1. A person commits the crime of assault of an employee of a mass transit system while in the scope of his or her duties in the first degree if such person attempts to kill or knowingly causes or attempts to cause serious physical injury to an employee of a mass transit system while in the scope of his or her duties.**

**2. As used in this section, "mass transit system", includes employees of public bus and light rail companies.**

**3. Assault of an employee of a mass transit system in the first degree is a class B felony.**

**565.077. 1. A person commits the crime of assault of an employee of a mass transit system while in the scope of his or her duties in the second degree if such person:**

**(1) Knowingly causes or attempts to cause physical injury to an employee of a mass transit system while in the scope of his or her duties by means of a deadly weapon or dangerous instrument;**

**(2) Knowingly causes or attempts to cause physical injury to an employee of a mass transit system**

**while in the scope of his or her duties by means other than a deadly weapon or dangerous instrument;**

**(3) Recklessly causes serious physical injury to an employee of a mass transit system while in the scope of his or her duties; or**

**(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and when so operating, acts with criminal negligence to cause physical injury to an employee of a mass transit system while in the scope of his or her duties;**

**(5) Acts with criminal negligence to cause physical injury to an employee of a mass transit system while in the scope of his or her duties by means of a deadly weapon or dangerous instrument;**

**(6) Purposely or recklessly places an employee of a mass transit system while in the scope of his or her duties in apprehension of immediate serious physical injury; or**

**(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to an employee of a mass transit system while in the scope of his or her duties.**

**2. As used in this section, "mass transit system", includes employees of public bus and light rail companies.**

**3. Assault of an employee of a mass transit system while in the scope of his or her duties in the second degree is a class C felony unless committed under subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class B felony.**

**565.078. 1. A person commits the crime of assault of an employee of a mass transit system while in the scope of his or her duties in the third degree if:**

**(1) Such person recklessly causes physical injury to an employee of a mass transit system while in the scope of his or her duties;**

**(2) Such person purposely places an employee of a mass transit system while in the scope of his or her duties in apprehension of immediate physical injury;**

**(3) Such person knowingly causes or attempts to cause physical contact with an employee of a mass transit system while in the scope of his or her duties without the consent of the employee of the mass transit system.**

**2. As used in this section, "mass transit system", includes employees of public bus and light rail companies.**

**3. Assault of an employee of a mass transit system while in the scope of his or her duties in the third degree is a class B misdemeanor.**"; and

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

HOUSE AMENDMENT NO. 16

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 302.171, Page 21, Line 96, by inserting after "9." the following:

"**Notwithstanding any provision of this chapter, for the renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, a photocopy of an applicant's birth certificate along with another form of identification approved by the department of revenue,**

**including, but not limited to, United States military identification or United States military discharge papers, shall constitute sufficient proof of lawful presence.**

**10.**"; and

Further amend said Section and Page, Line 97, by inserting "**or 9**" after "8"; and

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

HOUSE AMENDMENT NO. 17

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 33, Section 304.180, Line 118, by inserting at the end of said line:

"**The additional weight increase allowed under this subsection shall only be applicable if the idle reduction technology is manufactured in the United States.**"; and

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

HOUSE AMENDMENT NO. 18

Amend House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 930 and 947, Page 15, Section 301.130, Line 107, by inserting after said line the following:

"302.020. 1. Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by section 302.080, to:

(1) Operate any vehicle upon any highway in this state unless the person has a valid license;

(2) Operate a motorcycle or motortricycle upon any highway of this state unless such person has a valid license that shows the person has successfully passed an examination for the operation of a motorcycle or motortricycle as prescribed by the director. The director may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by section 302.173, is conducted on such vehicle;

(3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person or under such person's control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor;

(4) Operate a motor vehicle with an instruction permit or license issued to another person.

2. **Every person operating or riding as a passenger on any motorcycle or motortricycle, as defined in section 301.010, RSMo, upon any federal interstate highway shall wear protective headgear at all times the vehicle is in motion, regardless of such person's age. The provisions of this subsection shall expire August 28, 2013.**

**3.** Every person **who is under twenty-one years of age** operating or riding as a passenger on any motorcycle or motortricycle, as defined in section 301.010, RSMo, upon any highway of this state shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the director.

**[**3.**]** **4.** Notwithstanding the provisions of section 302.340 any person convicted of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class A misdemeanor. Any person convicted a third or subsequent time of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class D felony. Notwithstanding the provisions of section 302.340, violation of subdivisions (3) and (4) of subsection 1 of this section is a class C misdemeanor and the penalty for failure to wear protective headgear as required by subsection 2 of this section is an infraction for which a fine not to exceed twenty-five dollars may be imposed. Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall be imposed upon any person due to such violation. No points shall be assessed pursuant to section 302.302 for a failure to wear such protective headgear."; and

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

HOUSE AMENDMENT NO. 19

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 301.130, Page 15, Line 107 by inserting after all of said line the following:

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

**(1) "Mobility motor vehicle", a motor vehicle that is designed and equipped to transport a person with a disability and:**

**(a) Contains a lowered floor or lowered frame, or a raised roof and raised door;**

**(b) Contains an electronic or mechanical wheelchair, scooter, or platform lift that enables a person to enter or exit the vehicle while occupying a wheelchair or scooter; an electronic or mechanical wheelchair ramp; or a system to secure a wheelchair or scooter to allow for a person to be safely transported while occupying the wheelchair or scooter; and**

**(c) Is installed as an integral part or permanent attachment to the motor vehicle chassis;**

**(2) "Mobility motor vehicle dealer", a dealer who is licensed as a new or used motor vehicle dealer under this chapter who is engaged in the business of buying, selling, or exchanging mobility motor vehicles and servicing or repairing mobility motor vehicles at an established and permanent place of business.**

**2. Notwithstanding any other law, a mobility motor vehicle dealer may:**

**(1) Purchase or otherwise acquire a new motor vehicle from a franchised dealer to fit or equip the motor vehicle for retail sale as a mobility motor vehicle;**

**(2) Display a new motor vehicle to a person with a disability to fit or equip the vehicle as a mobility motor vehicle for the person; or**

**(3) Resell a new motor vehicle that has been fitted or equipped as a new mobility motor vehicle without the resale occurring through or by a franchised dealer.**

**3. A mobility motor vehicle dealer who purchased or acquired a new motor vehicle from a franchised dealer to equip the vehicle as a mobility vehicle shall not advertise the vehicle for resale until the vehicle is fitted or equipped as a mobility motor vehicle.**

**4. A mobility motor vehicle dealer shall not, except as permitted by subdivision (2) of subsection**

**2 of this section, display or offer to display a new motor vehicle that is not a mobility motor vehicle to the public.**"; and

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

HOUSE AMENDMENT NO. 20

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 30, Section 304.015, Line 69, by inserting after all of said line the following:

"**304.034. 1. Notwithstanding any other law to the contrary, a neighborhood electric vehicle may be operated only upon a street or highway for which the posted speed limit is thirty-five miles per hour or less. A neighborhood electric vehicle may cross a road or street at an intersection where the road or street has a posted speed limit of more than thirty-five miles per hour. For purposes of this section, "neighborhood electric vehicle" means a vehicle subject to the federal motor vehicle safety standards in 49 CFR 571.500.**

**2. A county or municipality may prohibit the operation of a neighborhood electric vehicle on a street or highway if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.**

**3. The department of transportation may prohibit the operation of a neighborhood electric vehicle on a highway if that department determines that the prohibition is necessary in the interest of safety.**

**4. The department of revenue may adopt rules relating to the registration and issuance of license plates to neighborhood electric vehicles. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**"; and

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

HOUSE AMENDMENT NO. 21

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Page 12, Section 227.400, Line 4, by inserting after all of said line the following:

"238.202. 1. As used in sections 238.200 to 238.275, the following terms mean:

(1) "Board", the board of directors of a district;

(2) "Commission", the Missouri highways and transportation commission;

(3) "District", a transportation development district organized under sections 238.200 to 238.275;

(4) "Local transportation authority", a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having

jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service;

(5) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar or related improvement or infrastructure.

2. For the purposes of sections 11(c), 16 and 22 of article X of the Constitution of Missouri, section 137.073, RSMo, and as used in sections 238.200 to 238.275, the following terms shall have the meanings given:

(1) "Approval of the required majority" or "direct voter approval", a simple majority;

(2) "Qualified electors", "qualified voters" or "voters"**[**,**]:**

**(a)** Within **[**the**] a** proposed or established district, **except for a district proposed under subsection 1 of section 238.207,** any persons residing therein who have registered to vote pursuant to chapter 115, RSMo**[**, and**]; or**

**(b) Within a district proposed or established under subsection 1 of section 238.207 which has no persons residing therein who have registered to vote pursuant to chapter 115, RSMo,** the owners of **record of all** real property **located in the district**, who shall receive one vote per acre, provided that **[**any**] if a** registered voter **[**who also owns property**] subsequent to the creation of the district becomes a resident within the district and obtains ownership of property within the district, such registered voter** must elect whether to vote as an owner **of real property** or **as** a registered voter**, which election once made cannot thereafter be changed**;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo.

238.207. 1. Whenever the creation of a district is desired, not less than fifty registered voters from each county partially or totally within the proposed district may file a petition requesting the creation of a district. However, if no persons eligible to be registered voters reside within the district, the owners of record of all of the real property, except public streets, located within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

2. Alternatively, the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a district.

3. The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties; provided:

(1) Property separated only by public streets, easements or rights-of-way shall be considered contiguous;

(2) In the case of a district formed pursuant to a petition filed by the owners of record of all of the real property located within the proposed district, the proposed district area need not contain contiguous properties if:

(a) The petition provides that the only funding method for project costs will be a sales tax;

(b) The court finds that all of the real property located within the proposed district will benefit by the projects to be undertaken by the district; and

(c) Each parcel within the district is within five miles of every other parcel; and

(3) In the case of a district created pursuant to subsection 5 of this section, property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

4. The petition shall set forth:

(1) The name, voting residence and county of residence of each individual petitioner, or, if no persons eligible to be registered voters reside within the proposed district, the name and address of each owner of record of real property located within the proposed district, or shall recite that the petitioner is the governing body of a local transportation authority acting in its official capacity;

(2) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(3) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(4) A general description of each project proposed to be undertaken by that district, including a description of the approximate location of each project;

(5) The estimated project costs and the anticipated revenues to be collected from the project;

(6) The name of the proposed district;

(7) The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;

(8) A statement that the terms of office of initial board members shall be staggered in approximately equal numbers to expire in one, two or three years;

(9) If the petition was filed by registered voters or by a governing body, a request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop a specified project or projects;

(10) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the funding proposal be submitted to the qualified voters within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(11) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

5. (1) As an alternative to the methods described in subsections 1 and 2 of this section, if two or more local transportation authorities have adopted resolutions calling for the joint establishment of a district, the governing body of any one such local transportation authority may file a petition in the circuit court of any county in which the proposed project is located requesting the creation of a district**; or, if not less than fifty registered voters from each of two or more counties sign a petition calling for the joint establishment**

**of a district for the purpose of developing a project that lies in whole or in part within those same counties, the petition may be filed in the circuit court of any of those counties in which not less than fifty registered voters have signed the petition**.

(2) The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties. Property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

(3) The petition shall set forth:

(a) That the petitioner is the governing body of a local transportation authority acting in its official capacity**; or, if the petition was filed by obtaining the signatures of not less than fifty registered voters in each of two or more counties, it shall set forth the name, voting residence, and county of residence of each individual petitioner**;

(b) The name of each local transportation authority within the proposed district. The resolution of the governing body of each local transportation authority calling for the joint establishment of the district shall be attached to the petition;

(c) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(d) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(e) A general description of each project proposed to be undertaken by the district, including a description of the approximate location of each project;

(f) The name of the proposed district;

(g) The number of members of the board of directors of the proposed district;

(h) A request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop the projects described in the petition;

(I) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the imposition of the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(j) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

238.210. 1. Within thirty days after the petition is filed, the circuit court clerk shall serve a copy of the petition on the respondents who shall have thirty days after receipt of service to file an answer stating agreement with or opposition to the creation of the district. If any respondent files its answer opposing the creation of the district, it shall recite legal reasons why the petition is defective, why the proposed district is illegal or unconstitutional, or why the proposed method for funding the district is illegal or unconstitutional. The respondent shall ask the court for a declaratory judgment respecting these issues. The answer of each respondent shall be served on each petitioner and every other respondent named in the

petition. Any resident, taxpayer, any other entity, or any local transportation authority within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a declaratory judgment respecting these same issues within thirty days after the date notice is last published by the circuit clerk.

2. The court shall hear the case without a jury. If the court shall thereafter determine the petition is defective or the proposed district is illegal or unconstitutional, or shall be an undue burden on any owner of property within the district or is unjust and unreasonable, it shall enter its declaratory judgment to that effect and shall refuse to make the certifications requested in the pleadings. If the court determines that any proposed funding method is illegal or unconstitutional, it shall enter its judgment striking that funding method in whole or part. If the court determines the petition is not legally defective and the proposed district and method of funding are neither illegal nor unconstitutional, the court shall enter its judgment to that effect. If the petition was filed by registered voters or by a governing body, the court shall then certify the questions regarding district creation, project development, and proposed funding for voter approval. If the petition was filed by a governing body**, or by no less than fifty registered voters of two or more counties,** pursuant to subsection 5 of section 238.207, the court shall then certify the single question regarding district creation, project development, and proposed funding for voter approval. If the petition was filed by the owners of record of all of the real property located within the proposed district, the court shall declare the district organized and certify the funding methods stated in the petition for qualified voter approval; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230. In either case, if no objections to the petition are timely filed, the court may make such certifications based upon the pleadings before it without any hearing.

3. Any party having filed an answer or petition may appeal the circuit court's order or declaratory judgment in the same manner provided for other appeals. **The circuit court shall have continuing jurisdiction to enter such orders as are required for the administration of the district after its formation.**"; and

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

HOUSE AMENDMENT NO. 23

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 930 and 947, Section A, Page 1, Line 6 by inserting after all of said line the following:

"**142.814. 1. Motor fuel sold to be used to operate school buses to transport students to or from school or to transport students to or from any place for educational purposes is exempt from the fuel tax imposed by this chapter. As used in this section, "school buses" shall have the same meaning as section 302.010, RSMo.**

**2. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**" ; and

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

accordingly.

HOUSE AMENDMENT NO. 2 TO
HOUSE AMENDMENT NO. 24

Amend House Amendment 24 to House Committee Substitute for Senate Committee Substitute for Senate Bill No. 930, Page 8, Line 5, by inserting after the phrase "**RSMo.**", the following:

"**304.830. Notwithstanding any provision of law to the contrary, any revenue received by a county, city, town, village, municipality, state agency, or other political subdivision of this state from fines assessed for red light violations that are detected and enforced through an automated photo red light enforcement system shall be deposited in the state school moneys fund established under 166.051, RSMo.**"; and

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

HOUSE AMENDMENT NO. 24

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 301.130, Page 15, Line 107 by inserting after all of said Line the following:

"**301.161. 1. The provisions of sections 301.161 to 301.164 shall be known as the "Missouri Universal Red Light Enforcement Act" (MURLE). No motor vehicle registration fees shall be charged under sections 301.161 to 301.164. For the purposes of sections 301.161 to 301.164, the following terms mean:**

**(1) "Agency", any county, city, town, village, municipality, state agency, or other political subdivision of this state that is authorized to issue a notice of violation for a violation of a state or local traffic law or regulation;**

**(2) "Automated photo red light enforcement system" or "system", a device owned by an agency consisting of a camera or cameras and vehicle sensor or sensors, installed to work in conjunction with a traffic control signal;**

**(3) "Owner", the owner of a motor vehicle as shown on the motor vehicle registration records of the Missouri department of revenue or the analogous department or agency of another state or country. The term "owner" includes:**

**(a) A lessee of a motor vehicle under a lease of six months or more; or**

**(b) The lessee of a motor vehicle rented or leased from a motor vehicle rental or leasing company, but does not include the motor vehicle rental or leasing company itself.**

**If there is more than one owner of the motor vehicle, the primary owner will be deemed the owner. If no primary owner is named, the first-listed owner will be deemed the owner;**

**(4) "Recorded image", an image recorded by an automated photo red light enforcement system that depicts the rear view of a motor vehicle and is automatically recorded by a high-resolution camera as a digital image;**

**(5) "Steady red signal indication violation" or "violation", a violation of a steady red signal indication under sections 304.271 and 304.281 or substantially similar agency ordinance or traffic**

**laws;**

**(6) "Traffic control signal", a traffic control device that displays alternating red, yellow, and green lights intended to direct traffic as when to stop at or proceed through an intersection.**

**2. All automated photo red light enforcement systems shall be registered with the Missouri department of transportation prior to installation. The department of transportation shall collect a one-time registration fee of five hundred dollars per light and all registration fees collected shall be deposited in the "Red Light Enforcement Fund" hereby established. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used to conduct audits to ensure agency compliance with the provisions of sections 304.271 to 304.281, including, but not limited to, ensuring that the agency is distributing the fines collected as required under section 301.162. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.**

**3. No agency shall use an automated photo red light enforcement system unless the system is capable of producing at least two high-resolution color digital recorded images that show:**

**(1) The traffic control signal while it is emitting a steady red signal;**

**(2) The offending vehicle; and**

**(3) The rear license plate of the offending vehicle. One of the images must be of sufficient resolution to show clearly, while the vehicle is in the intersection and while the traffic signal is emitting a steady red signal, all three elements set forth in this subdivision and subdivisions (1) and (2) of this subsection.**

**4. The automated photo red light enforcement system shall not capture images of the front license plate of the motor vehicle.**

**5. The automated photo red light enforcement system shall utilize a video recording component which shall record the local time at which the two violation images were captured, as well as at least five seconds before and at least five seconds after the violation event.**

**6. No system may photograph or otherwise capture an image of the driver's face.**

**7. Agencies that utilize automated photo red light enforcement systems to detect and enforce steady red signal indication violations are subject to the conditions and limitations specified in sections 301.161 to 301.164.**

**8. Prior to activation of the system at an intersection:**

**(1) If not already present, the roadway first must be clearly marked with a white stripe indicating the stop line and the perimeter of the intersection;**

**(2) Warning signs shall be installed within five hundred feet of the white stripe indicating the stop line;**

**(3) Signal phase timings at intersections equipped with a system shall be certified by the Missouri department of transportation before the automated photo red light enforcement systems may be**

**activated for enforcement purposes and any adjustment to such timing shall be made only by a department of transportation traffic engineer. The department of transportation shall also certify that the green light is not arbitrarily short. If an agency alters the signal phase timing at an intersection without prior written approval from the Missouri department of transportation and without certification by the department of transportation traffic engineer, the agency shall be assessed a municipal fine of fifty thousand dollars for a first offense and the red light device shall be removed upon a subsequent violation. In no case shall a private vendor have the ability to control the signal phase timing connected with a system.**

**9. Prior to installing the automated photo red light enforcement system, the agency shall give notice of the intersection where the system will be located and of the date on which the system will begin to monitor the intersection. The agency shall give reasonable notice at least fourteen days prior to the installation of the system in a newspaper of general circulation throughout the political subdivision served by the agency.**

**10. Any agency that implements a system shall submit an annual report to the Missouri department of transportation. The report shall include, at a minimum:**

**(1) The number of intersections enforced by active systems;**

**(2) The number of notices of violation mailed;**

**(3) The number of notices of violation paid;**

**(4) The number of hearings; and**

**(5) The total revenue collected as a result of the program.**

**Any agency failing to complete the annual report required under this subsection within forty-five days of the time such report is due shall be assessed a fine of fifty thousand dollars and all automated photo red light enforcement systems shall be removed from the agency's jurisdiction.**

**11. Within three years of the establishment of an automated photo traffic law enforcement program, the implementing jurisdiction shall initiate a formal evaluation of the program to determine the program's impact on traffic safety. That evaluation shall be completed within one year.**

**12. An agency that establishes an automated photo red light enforcement system shall enter into an agreement or agreements for the purpose of compensating a private vendor to perform operational and administrative tasks associated with the use of such system. The notice of violation issued under section 301.162, however, shall not be issued by a private vendor. Any compensation paid to a private vendor shall not be based upon the number of violations mailed, the number of citations issued, or the number of violations paid. The compensation paid to a private vendor shall be based upon the value of the equipment and the services provided or rendered in support of the system.**

**301.162. 1. Before a notice may be issued, all violation images produced by a system shall be reviewed and approved by a law or code enforcement officer employed by the agency in which the alleged violation occurred. Such review and acceptance shall be based on a full review of the images that clearly demonstrate a violation.**

**2. Based on inspection of recorded images produced by a system, a notice of violation or copy of such notice alleging that the violation occurred and signed manually or digitally by a duly authorized**

**agent of the agency shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under sections 301.161 to 301.164.**

**3. An agency shall mail or cause to be mailed a notice of violation by certified mail to the owner of the motor vehicle, which notice shall include, in addition to the requirements of supreme court rule no. 37:**

**(1) The name and address of the owner of the vehicle;**

**(2) The registration number of the motor vehicle involved in the violation;**

**(3) A copy of the two recorded images and a zoomed and cropped image of the vehicle license plate which was extracted from one of the two images;**

**(4) Information advising the registered owner of how he or she can review the video, photographic, and recorded images that captured the alleged violation. The agency may provide access to the video and other recorded images through the Internet. If access to the video and other recorded images is provided through the Internet, the agency shall ensure that such video and recorded images are accessible only to the registered owner through a password-protected system;**

**(5) A manually or digitally signed statement by a law or code enforcement officer employed by the agency that, based on inspection of the two recorded images and video sequence, the motor vehicle was operated in violation of a traffic control device or prevailing traffic laws or statutes;**

**(6) Information advising the registered owner of the manner, time, and place in which liability as alleged in the notice of violation may be contested, and warning that failure to pay the civil penalty or to contest liability within fourteen days from the mailing of notice is an admission of liability; and**

**(7) Information advising the registered owner that he or she may file an affidavit under subsection 8 of this section stating that he or she was not the operator of the vehicle at the time of the violation.**

**4. A notice of violation issued under this section shall be mailed no later than three business days after the violation was recorded by the automated photo red light enforcement system. The issuance of a notice of violation under this section shall be made by the agency, and shall not be subcontracted to a third party.**

**5. The civil penalties and court costs imposed for a violation detected and enforced pursuant to a system shall not exceed an amount that would have been imposed if the violation had been detected by a law enforcement officer present when the violation occurred. In no event shall the combined fine and court costs exceed one hundred dollars. Any revenue generated from fines collected under this section shall be distributed as follows:**

**(1) One-third to the agency;**

**(2) One-third to the private vendor performing the operational and administrative tasks associated with the use of an automated photo red light enforcement system; and**

**(3) One-third to the local school district where the infraction occurred.**

**Revenue distributed to schools shall not be distributed through the school funding mechanisms of section 163.031, RSMo. The chief elected official of any agency failing to distribute the funds as**

**directed under this subsection shall be subject to criminal liability.**

**6. Notwithstanding any provision of law to the contrary, including but not limited to, sections 304.271, 304.281, 304.361, and 304.570, any person who commits a steady red light violation that is detected and enforced through an automated photo red light enforcement system is guilty of an infraction. A penalty imposed by an agency for a violation detected pursuant to a system shall not be deemed a moving violation and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall such imposition of a penalty be subject to merit rating for insurance purposes and no surcharge points shall be imposed in the provision of motor vehicle insurance coverage. In no case shall points be assessed against any person under section 302.302, RSMo, for a violation detected by an automated photo red light enforcement system.**

**7. Payment of the established fine and any applicable civil penalties shall operate as a final disposition of the case. Payment of the fine and any penalties, whether before or after hearing, by one motor vehicle owner shall be satisfaction of the fine as to all other motor vehicle owners of the same motor vehicle for the same violation.**

**8. In the prosecution of a steady red signal indication violation under sections 304.286 to 304.289, the agency shall have the burden of proving that the vehicle described in the notice of violation issued under this section was operated in violation of sections 301.161 to 301.164 and that the defendant was at the time of such violation the owner and the driver of such vehicle. The agency shall not enter into any plea-bargaining agreements in relation to any violation occurring under sections 301.161 to 301.164.**

**301.163. 1. For each automated photo red light enforcement system that is installed at an intersection by an agency, during the first thirty days the system is monitoring an intersection, the agency shall issue only warning notices and shall not issue any ticket or citation for any violation detected by the system.**

**2. No agency shall employ the use of a photo radar system to enforce speeding violations. As used in this subsection, the term "photo radar system" shall mean a device used primarily for highway speed limit enforcement substantially consisting of a radar unit linked to a camera, which automatically produces a photograph of a motor vehicle traveling in excess of the legal speed limit.**

**301.164. Photographic and other recorded evidence obtained through the use of automated photo red light enforcement devices shall be maintained according to law and shall be maintained by the appropriate agency for a period of at least three years. Such photographic and other recorded evidence obtained through the use of an automated photo red light enforcement system shall be confidential and shall not be deemed a "public record" under section 610.010, RSMo, and shall not be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo.**"; and

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

HOUSE AMENDMENT NO. 25

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 930 and 947, Section 390.372, Page 45, Line 24, by inserting immediately after said line the following:

"565.082. 1. A person commits the crime of assault of a law enforcement officer, emergency personnel,

**highway worker in a construction zone or work zone,** or probation and parole officer in the second degree if such person:

(1) Knowingly causes or attempts to cause physical injury to a law enforcement officer, emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer by means of a deadly weapon or dangerous instrument;

(2) Knowingly causes or attempts to cause physical injury to a law enforcement officer, emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer by means other than a deadly weapon or dangerous instrument;

(3) Recklessly causes serious physical injury to a law enforcement officer, emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer, emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer;

(5) Acts with criminal negligence to cause physical injury to a law enforcement officer, emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer by means of a deadly weapon or dangerous instrument;

(6) Purposely or recklessly places a law enforcement officer, emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in apprehension of immediate serious physical injury; or

(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer, emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

3. **As used in this section, the terms "highway worker", "construction zone" or "work zone" shall have the same meaning as such terms are defined in section 304.580, RSMo.**

**4.** Assault of a law enforcement officer, emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony. **For any violation of subdivision (1), (3) or (4) of subsection 1 of this section, the defendant must serve mandatory jail time as part of his or her sentence.**"

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 2279**, as amended. Representatives: Wright, Schoeller, Emery, Walsh and Skaggs.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **SCR 31**.

Senator Dempsey assumed the Chair.

## HOUSE BILLS ON THIRD READING

**HCS** for **HB 1341**, entitled:

An Act to amend chapter 316, RSMo, by adding thereto one new section relating to liability insurance of a for-profit private swimming pool or facility, with a penalty provision and an emergency clause.

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

On motion of Senator Nodler, **HCS** for **HB 1341** was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Bartle | Bray | Callahan | Champion | Clemens | Days | Dempsey | Engler |
| Gibbons | Goodman | Graham | Green | Griesheimer | Justus | Koster | Loudon |
| Mayer | McKenna | Nodler | Ridgeway | Rupp | Shields | Shoemyer | Smith |
| Stouffer | Vogel | Wilson—27 | | | | | |

NAYS—Senators

| | | | | | |
|---|---|---|---|---|---|
| Barnitz | Crowell | Kennedy | Lager | Purgason | Scott—6 |

Absent—Senators—None

Absent with leave—Senator Coleman—1

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Bartle | Bray | Callahan | Clemens | Days | Dempsey | Engler | Gibbons |
| Goodman | Graham | Green | Griesheimer | Koster | Lager | Loudon | Mayer |
| McKenna | Nodler | Ridgeway | Rupp | Scott | Shields | Shoemyer | Smith |
| Stouffer | Vogel | Wilson—27 | | | | | |

NAYS—Senators

| | | | | | |
|---|---|---|---|---|---|
| Barnitz | Champion | Crowell | Justus | Kennedy | Purgason—6 |

Absent—Senators—None

Absent with leave—Senator Coleman—1

Vacancies—None

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

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

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

Senator Callahan moved that **HB 2081**, with **SCS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

**SCS** for **HB 2081** was again taken up.

Senator Callahan offered **SS** for **SCS** for **HB 2081**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2081

An Act to repeal sections 190.107, 194.119, 194.233, 333.011, 334.500, 334.506, 334.530, 334.540, 334.550, 334.560, 334.570, 334.610, 334.650, 334.655, 334.660, 334.665, 334.670, 334.675, 339.010, 339.150, and 376.811, RSMo, and to enact in lieu thereof thirty-four new sections relating to professional services, with penalty provisions.

Senator Callahan moved that **SS** for **SCS** for **HB 2081** be adopted.

Senator Scott offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Page 70, Section 367.811, Line 5 of said page, by inserting after all of said line the following:

"436.005. As used in sections 436.005 to **[**436.071**]** **436.072**, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition and who will receive funeral services, facilities or merchandise described in a preneed contract;

(2) "Division", the division of professional registration of the department of **[**economic development**]** **insurance, financial institutions and professional registration**;

(3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other personal property incidental to a funeral or burial service, and such term shall also include grave lots, grave space, grave markers, monuments, tombstones, crypts, niches or mausoleums if, but only if, such items are sold:

(a) By a companion agreement which is sold in contemplation of trade or barter for grave vaults or funeral or burial services and funeral merchandise; or

(b) At prices, in excess of prevailing market prices, intended to be offset by reductions in the costs of funeral or burial services or facilities which are not immediately required;

(4) "Person", any individual, partnership, corporation, cooperative, association, or other entity;

(5) "Preneed contract", any contract or other arrangement which requires the **[**current**]** payment of money or other property in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities or merchandise are not immediately required, including, but not limited to, an agreement providing for a

membership fee or any other fee having as its purpose the furnishing of burial or funeral services or merchandise at a discount, except for contracts of insurance, including payment of proceeds from contracts of insurance, unless the preneed seller or provider is named as the owner or beneficiary in the contract of insurance**. In no instance shall preneed contract be funded by term life insurance**;

(6) "Preneed trust", a trust established by a seller, as grantor, to receive deposits of, administer, and disburse payments received under preneed contracts by such seller, together with income thereon;

(7) "Provider", the person obligated to provide the disposition and funeral services, facilities, or merchandise described in a preneed contract;

(8) "Purchaser", the person who is obligated to make payments under a preneed contract;

(9) "Seller", the person who sells a preneed contract to a purchaser and who is obligated to collect and administer all payments made under such preneed contract;

(10) "State board", the Missouri state board of embalmers and funeral directors;

(11) "Trustee", the trustee of a preneed trust, including successor trustees.

436.007. 1. Each preneed contract made after August 13, 1982, shall be void and unenforceable unless:

(1) It is in writing;

(2) It is executed by a seller who is in compliance with the provisions of section 436.021;

(3) It identifies the contract beneficiary and sets out in detail the final disposition of the dead body and funeral services, facilities, and merchandise to be provided;

(4) It identifies the preneed trust into which contract payments shall be deposited, including the name and address of the trustee thereof;

(5) The terms of such trust and related agreements among two or more of the contract seller, the contract provider, and the trustee of such trust are in compliance with the provisions of sections 436.005 to **[**436.071**] 436.072**;

(6) It contains the name and address of the seller and the provider.

2. If a preneed contract does not comply with the provisions of sections 436.005 to **[**436.071**] 436.072**, all payments made under such contract shall be recoverable by the purchaser, his heirs, or **the purchaser's** legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys' fees.

3. Each preneed contract made before August 13, 1982, and all payments and disbursements under such contract shall continue to be governed by sections 436.010 to 436.080, as those sections existed at the time the contract was made; but, the provisions of subsection 2 of section 436.035 may be applied to all preneed contracts which are executory on August 13, 1982.

4. Subject to the provisions of subdivision (5) of section 436.005, the provisions of sections 436.005 to **[**436.071**] 436.072** shall apply to the assignment of proceeds of any contract of insurance for the purpose of funding a preneed contract or written in conjunction with a preneed contract. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance sold with a preneed contract.

5. No preneed contract shall become effective unless and until the purchaser thereof has placed his **or her** signature in a space provided on such contract, or application therefor, and the purchaser has received

a copy of such contract signed by the seller.

6. The seller and the provider of a preneed contract may be the same person.

436.011. 1. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.005 to **[**436.071**] 436.072. Upon request of the board, a licensed seller or provider shall provide a copy of any preneed contract or any contract or agreement with a seller or provider**.

2. Any person who knowingly permits a seller to sell a preneed contract designating him as the provider or as one of two or more providers who will furnish the funeral merchandise and services described in the preneed contract shall provide the funeral merchandise and services described in the preneed contract for the beneficiary. Failure of any such person to do so shall be a violation of the provisions of sections 436.005 to **[**436.071**] 436.072** and shall be cause for suspension or revocation of that person's license under the provisions of section 333.061, RSMo.

3. If a provider has knowledge that a seller is designating him **or her** as the provider of funeral merchandise and services under any preneed contract and fails within thirty days after first obtaining such knowledge to take action to prevent the seller from so designating him **or her** as the provider, the provider shall be deemed to have consented to such designation.

436.015. 1. No person shall perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract unless, at the time of such performance, agreement or designation:

(1) Such person is licensed by the state board as a funeral establishment pursuant to the provisions of section 333.061, RSMo, but such person need not be licensed as a funeral establishment if **[**he**] such person** is the owner of real estate situated in Missouri which has been formally dedicated for the burial of dead human bodies and the contract only provides for the delivery of one or more grave vaults at a future time and is in compliance with the provisions of chapter 214, RSMo; and

(2) Such person is registered **to conduct business with the secretary of state and is licensed** with the state board **as a provider and pays a licensing fee to be established by the board** and files with the state board a written consent authorizing the state board to order an **investigation,** examination **[**and if necessary an audit by the staff of the division of professional registration who are not connected with the board**], or audit** of its **joint accounts or** books and records which contain information concerning preneed contracts sold for, **[**in**] on** behalf of, or in which he **or she** is named as provider of the described funeral merchandise or services. **The state board may order an investigation to determine compliance with sections 436.005 to 436.072.**

2. Each provider under one or more preneed contracts shall:

(1) Furnish the state board in writing with the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is named as such within fifteen days after the provider signs a written agreement or authorization permitting the seller to sell preneed contracts designating or obligating the provider as the "provider" under the contract. This notification requirement shall include a provider who, itself, acts as seller;

(2) **Pay an annual fee and** file annually with the state board **by the thirty-first day of October** a report **[**which**]. Annual reports filed after the date provided in this section shall be subject to a late fee of one hundred dollars for every six months past the renewal deadline or an amount determined by**

**the board by rule. The annual report** shall contain:

(a) The business name or names of the provider and all addresses from which it engages in the practice of its business;

(b) The name and address of each seller with whom it has entered into a written agreement since last filing a report **including the total payments collected by the provider for each preneed contract since the last annual report filed with the board**;

(c) The name and address of the custodian of its books and records containing information about preneed contract sales and services; **and**

**(d) The name and address of the financial institutions in which joint accounts are held as authorized by section 436.053, or that issued any certificate of deposit purchased on behalf of a preneed contract beneficiary;**

(3) Cooperate with the state board, the office of the attorney general of Missouri, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to **[**436.071**]** **436.072**;

(4) At least thirty days prior to selling or otherwise disposing of its business assets, or its stock if a corporation, or ceasing to do business, give written notification to the state board and to all sellers with whom it has one or more preneed contracts of its intent to engage in such sale or to cease doing business. In the case of a sale of assets or stock, the written notice shall also contain the name**, phone number,** and address of the purchaser. Upon receipt of such written notification, the state board may take reasonable and necessary action to determine that any preneed contracts which the provider is obligated to service will be satisfied at the time of need**, including, but not limited to, an examination of books and records or audit of any joint account**. The state board may waive the requirements of this subsection, or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within thirty days shall constitute such a waiver.

3. It is a violation of the provisions of sections 436.005 to **[**436.071**]** **436.072** and subdivision (3) of section 333.121, RSMo, for any person to sell, transfer or otherwise dispose of the assets of a provider without first complying with the provisions of subdivision (4) of subsection 2 of this section. This violation shall be in addition to the provisions of section 436.061.

4. If any licensed embalmer, funeral director or licensed funeral establishment shall knowingly allow such licensee's name to be designated as the provider under, or used in conjunction with the sale of, any preneed contract, such licensee shall be liable for the provider's obligations under such contract.

5. With respect to a provider or seller licensed under the provisions of chapter 333, RSMo, any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of subdivision (3) of section 333.121, RSMo.

436.021. 1. No person, including without limitation a person who is a provider under one or more preneed contracts, shall sell, perform or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of that sale, performance, agreement, or designation, that person shall:

(1) Be an individual resident of Missouri or a business entity duly authorized to transact business in

Missouri **and registered with the secretary of state**;

(2) Have established, as grantor, a preneed trust or trusts with terms consistent with sections 436.005 to 436.071;

(3) Have registered with the state board **and have paid a licensing fee to be established by the board by rule**.

2. **In lieu of establishing a trust, the applicant may certify to the board that a whole life insurance policy will be purchased on the life of the beneficiary for each preneed contract, or that a certificate of deposit will be purchased on behalf of the beneficiary of the contract, provided that no amount shall be borrowed against such certificate, nor shall such certificates be redeemed for their cash value, until the terms of the contract have been fully performed.**

**3.** Each seller under one or more preneed contracts shall:

(1) Maintain adequate records of all such contracts and related agreements with providers and the trustee of preneed trusts regarding such contracts, including copies of all such agreements;

(2) Notify the state board in writing of the name and address of each provider who has authorized the seller to sell one or more preneed contracts under which the provider is designated or obligated as the contract's "provider";

(3) File annually with the state board **by the thirty-first day of October** a signed and notarized report on forms provided by the state board **and pay the annual renewal fee established by the board by rule. Annual reports filed after the date provided in this section shall be subject to a late fee of one hundred dollars for every six months past the renewal deadline or any amount as determined by the board by rule. Any seller who fails to file their annual report on or before the thirty-first day of October shall be prohibited from selling any preneed contracts until the annual report, and all applicable fees, have been paid to the board**. Such **[**a**]** report shall **[**only**]** contain:

(a) The date the report is submitted and the date of the last report;

(b) The name and address of each provider with whom it is under contract;

(c) The total number of preneed contracts sold in Missouri since the filing of the last report **and a detailed list including the name, contract number, amount of each preneed contract the seller has written in Missouri since the last filing report, the amount the seller has received as payment for each preneed contract and the address and phone number of the purchaser as reflected in the contract**;

(d) The total face value of all preneed contracts sold in Missouri since the filing of the last report;

(e) The name and address of the **insurance company issuing a whole life insurance policy on the life of each beneficiary for each preneed contract or the** financial institution in Missouri in which it maintains the trust accounts required under the provisions of sections 436.005 to **[**436.071**] 436.072** and the account numbers of such trust accounts**, or the financial institution that issued any certificate of deposit purchased on behalf of a preneed contract beneficiary**;

(f) A consent authorizing the state board to order an examination and if necessary an audit **[**by staff of the division of professional registration who are not connected with the board**]** of the trust account, designated by depository and account number. **[**The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there

exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to **[**436.071**]** **436.072**, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071**]**;

(4) File with the state board a consent authorizing the state board to order an **investigation,** examination and if necessary an audit **[**by staff of the division of professional registration who are not connected with the board**]** of its books and records relating to the sale of preneed contracts and the name and address of the person designated by the seller as custodian of these books and records. **[**The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071**]**;

(5) Cooperate with the state board, the office of the attorney general, **[**and**]** the division**, the division of finance, and the division of insurance** in any investigation, examination or audit brought under the provisions of sections 436.005 to **[**436.071**]** **436.072**.

**[**3.**]** **4.** Prior to selling or otherwise disposing of a majority of its business assets, or a majority of its stock if a corporation, or ceasing to do business as a seller, the seller shall provide written notification to the state board of its intent to engage in such sale at least sixty days prior to the date set for the closing of the sale, or of its intent to cease doing business at least sixty days prior to the date set for termination of its business. The written notice shall be sent, at the same time as it is provided to the state board, to all providers who are then obligated to provide funeral services or merchandise under preneed contracts sold by the seller. Upon receipt of the written notification, the state board may take reasonable and necessary action to determine that the seller has made proper plans to assure that the trust **[**assets**]** **accounts** of the seller will be set aside and used to service outstanding preneed contracts sold by the seller**, including, but not limited to, an examination of books and records or audit of the trust account**. The state board may waive the requirements of this subsection or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within sixty days shall constitute such a waiver.

**[**4.**]** **5.** It is a violation of the provisions of sections 436.005 to **[**436.071**]** **436.072** for any person to sell, transfer or otherwise dispose of the assets of a seller without first complying with the provisions of subsection 3 of this section.

436.027. The seller may retain as his **or her** own money, for the purpose of covering his selling expenses, servicing costs, and general overhead, the initial funds so collected or paid until he **or she** has received for his **or her** use and benefit an amount not to exceed twenty percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract. **After the seller retains the amount authorized by this section, all funds paid to the purchaser shall be placed in trust, or shall be used to purchase insurance or certificates of deposit, as authorized by this chapter.**

436.031. 1. The trustee of a preneed trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it by the seller of a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, pursuant to the provisions of sections 436.005 to **[**436.071**]** **436.072**. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trust's

grantor is the seller of all such preneed contracts and the trustee maintains adequate records of all payments received.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof. The trustee shall exercise such judgment and care under circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their **[**funds**]** **moneys**, considering the probable income therefrom as well as the probable safety of their capital. **[**A preneed trust agreement may provide that when the principal and interest in a preneed trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the seller who established the trust; provided, that title to all investment assets shall remain with the trustee and be kept by the trustee to be liquidated upon request of the advisor of the seller.**]** In no case shall control of said assets be divested from the trustee nor shall said assets be placed in any investment which would be beyond the authority of a reasonably prudent trustee to invest in. **[**The trustee shall be relieved of all liability regarding investment decisions made by such qualified investment advisor.**]**

3. The seller of a preneed contract shall be entitled to all income, including, without limitation, interest, dividends, and capital gains, and losses generated by the investment of preneed trust property regarding such contract, and the trustee of the trust may distribute all income, net of losses, to the seller at least annually; but no such income distribution shall be made to the seller if, and to the extent that, the distribution would reduce the aggregate market value on the distribution date of all property held in the preneed trust, including principal and undistributed income, below the sum of all deposits made to such trust pursuant to subsection 1 of this section for all preneed contracts then administered through such trust.

4. All expenses of establishing and administering a preneed trust, including, without limitation, trustee's fees, legal and accounting fees, investment expenses, and taxes, shall be paid or reimbursed directly by the seller of the preneed contracts administered through such trust and shall not be paid from the principal of a preneed trust.

5. The trustee of a preneed trust shall maintain adequate books of account of all transactions administered through the trust and pertaining to the trust generally. The trustee shall assist **the** seller who established the trust or its successor in interest in the preparation of the annual report described in subdivision (3) of subsection 2 of section 436.021. The seller shall furnish to each contract purchaser, within fifteen days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract.

6. The trustee of a preneed trust shall, from time to time, distribute trust principal as provided by sections 436.005 to **[**436.071**]** **436.072**.

7. A preneed trust shall terminate when trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

436.048. If a seller shall fail to make timely payment of an amount due a purchaser or a provider pursuant to the provisions of sections 436.005 to **[**436.071**]** **436.072**, the purchaser or provider, as appropriate, shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the purchaser or provider from the trust, as damages for its breach, an amount equal to all deposits made into the trust for the contract.

436.051. Upon the death or legal incapacity of a purchaser, all rights and remedies granted to the purchaser pursuant to the provisions of sections 436.005 to **[**436.071**] 436.072** shall be enforceable by and accrue to the benefit of the purchaser's legal representative or **[**his**] the purchaser's** successor designated in such contract, and all payments otherwise payable to the purchaser shall be paid to that person.

436.053. 1. Notwithstanding the provisions of sections 436.021 to 436.048, the provider and the purchaser may agree that all **[**funds**] moneys** paid the provider by the purchaser shall be deposited with financial institutions chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the provider and purchaser. If the purchaser has irrevocably waived and renounced his right to cancel the agreement between the provider and the purchaser pursuant to subdivision (5) of this subsection, such agreement may provide that all funds held in the account at the beneficiary's death shall be applied toward the purchase of funeral or burial services or facilities, or funeral merchandise, selected by the purchaser or the responsible party after the beneficiary's death, in lieu of the detailed identification of such items required by subdivision (3) of subsection 1 of section 436.007. The agreement between the provider and purchaser shall provide that:

(1) The total consideration to be paid by the purchaser under the contract shall be made in one or more payments into the joint account**, including the name and address of the financial institution which holds such moneys and the account numbers of such moneys,** at the time the agreement is executed or, thereafter within five days of receipt, respectively**, and the agreements shall contain the name and address of the financial institution that holds such moneys and the account numbers of such moneys**;

(2) The financial institution shall hold, invest, and reinvest the deposited **[**funds**] moneys** in savings accounts, certificates of deposit or other accounts offered to depositors by the financial institutions, as the **[**agreement**] contract** shall provide;

(3) The income generated by the deposited funds shall be used to pay the reasonable expenses of administering the agreement, and the balance of the income shall be distributed or reinvested as provided in the agreement;

(4) At any time before the final disposition, or before funeral services, facilities, and merchandise described in a preneed contract are furnished, the purchaser may cancel the contract without cause by delivering written notice thereof to the provider and the financial institution, and within fifteen days after its receipt of the notice, the financial institution shall distribute the deposited **[**funds**] moneys** to the purchaser;

(5) Notwithstanding the provisions of subdivision (4) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his **or her** right to cancel such **[**agreement**] contract**. The waiver and renunciation must be in writing and must be delivered to the provider and the financial institution**, if requested**;

(6) If the death of the beneficiary occurs outside the general area served by the provider, then the provider shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the purchaser or, at the provider's option, shall pay over to the purchaser in fulfillment of the obligation of the preneed contract, an amount equal to the sums actually paid in cash by such purchaser under such preneed contract together with interest to be provided for in the contract, in which event the financial institution shall distribute the deposited funds to the provider;

(7) Within fifteen days after a provider and a witness certifies in writing to the financial institution that he **or she** has furnished the final disposition, or funeral services, facilities, and merchandise described in a contract, or has provided alternative funeral **arrangements or** benefits for the beneficiary pursuant to special arrangements made with the purchaser, if the certification has been approved by the purchaser, then the financial institution shall distribute the deposited funds to the provider.

2. There shall be a separate joint account as described in subsection 1 of this section for each preneed contract sold or arranged under this section.

3. If the total face value of the contracts sold by a provider operating solely under the provisions of this section does not exceed thirty-five thousand dollars in any one fiscal year, such a provider shall not be required to pay the annual reporting fee for such year required under subsection 1 of section 436.069.

**436.054. It is unlawful for the seller to:**

**(1) Purchase with preneed funds any term life insurance to fund the preneed contract;**

**(2) Procure or accept any loan against any life insurance contract.**

436.055. 1. All complaints received by the state board which allege a **[**registrant's**]** **licensee's** noncompliance with the provisions of sections 436.005 to **[**436.071 shall be forwarded to the division of professional registration for investigation, except minor complaints which the state board can mediate or otherwise dispose of by contacting the parties involved**] 436.072, or allege that a licensee has committed any act for which the board may discipline or refuse to issue a license under section 436.062, may be investigated by the board**. A copy of each such complaint shall be forwarded to the subject **[**registrant**]** **licensee**, except **[**that each complaint**] the board shall not be required to forward complaints** in which the complainant alleges **[**under oath**]** that a **[**registrant**]** **licensee** has misappropriated preneed contract payments **[**may be forwarded to the division of professional registration without notice to the subject registrant**]**. **This section shall not be construed to limit the board's authority to file a complaint with the administrative hearing commission charging a licensee of the board with any actionable conduct or violation, regardless of whether such complaint exceeds the scope of acts charged in a preliminary public complaint filed with the board and whether any public complaint has been filed with the board.**

2. **[**The division shall investigate each complaint forwarded from the state board using staff who are not connected with the state board and shall forward the results of such investigation to the subject registrant and to the attorney general for evaluation. If the attorney general, after independent inquiry using staff of the attorney general's office who have not represented the board, determines that there is no probable cause to conclude that the registrant has violated sections 436.005 to 436.071, the registrant and the state board shall be so notified and the complaint shall be dismissed; but, if the attorney general determines that there is such probable cause the registrant shall be so notified and the results of such evaluation shall be transmitted to the state board for further action as provided in sections 436.061 and 436.063.**] The board may investigate, examine or audit the books or records of any licensee, or examine or audit a preneed trust or joint account, at any time to ensure a licensee's compliance with the provisions of sections 436.005 to 436.072. The board shall have authority to conduct random inspections or audits with or without cause.**

**3. Upon determining that an inspection, investigation, examination or audit shall be conducted, the board shall issue a notice authorizing one or more employees or independent contractors to perform such inspection, investigation, examination or audit and instructing such employees or**

**independent contractors as to the scope of such inspection, investigation, examination or audit. The board shall not appoint any employee or contract if such employee or contractor either directly or indirectly has a conflict of interest or is affiliated with the management of, or owns a pecuniary interest in, any person subject to inspection, investigation, examination or audit under section 436.005 to 436.072. The board shall request that the director of the division of professional registration or the director of the department of insurance, financial institutions and professional registration designate one or more financial examiners to assist in any examination or audit.**

436.061. 1. Each person **including the officers, directors, partners, agents, or employees of such person** who shall knowingly and willfully violate **or assist or enable any person to violate** any provision of sections 436.005 to **[**436.071, and any officer, director, partner, agent, or employee of such person involved in such violation**] 436.072 by misconduct, gross negligence, fraud, misrepresentation, or dishonest** is guilty of a class D felony. Each violation of any provision of sections 436.005 to **[**436.071**] 436.072** constitutes a separate offense and may be prosecuted individually. **The attorney general shall have concurrent jurisdiction with any local prosecutor to prosecute under this section.**

2. Any violation of the provisions of sections 436.005 to **[**436.071**] 436.072** shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.005 to **[**436.071**] 436.072**, the court may **order all relief and penalties authorized under chapter 407, RSMo, and**, in addition to imposing the penalties provided for in sections 436.005 to **[**436.071**] 436.072**, order the revocation or suspension of the **[**registration**] license** of a defendant seller **or provider**.

**436.062. 1. The board may refuse to issue any certificate of registration or authority, permit or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

**2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 436.005 to 436.072 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:**

**(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 436.005 to 436.072;**

**(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under sections 436.005 to 436.072, for any offense involving a controlled substance, or for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;**

**(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued under this chapter or in obtaining permission to take any examination given or required under sections 436.005 to 436.072;**

**(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;**

**(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by sections 436.005 to 436.072;**

**(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted under sections 436.005 to 436.072;**

**(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;**

**(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 436.005 to 436.072 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;**

**(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;**

**(10) Misappropriation of preneed funds or funds belonging to a preneed trust or joint account holding preneed funds, or funds issued by an insurance company pursuant to a preneed contract;**

**(11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 436.005 to 436.072 who is not registered and currently eligible to practice under sections 436.005 to 436.072;**

**(12) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;**

**(13) Failure to display a valid certificate or license if so required by sections 436.005 to 436.072 or any rule promulgated hereunder;**

**(14) Violation of any professional trust or confidence;**

**(15) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;**

**(16) Violation of any statute or regulation related to the funeral industry or to consumer protection;**

**(17) Having any license, permit, or registration revoked by any insurance or preneed regulatory agency or professional licensing board of any state; and**

**(18) Willfully and through undue influence selling a preneed contract.**

**3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.**

**4. Notwithstanding any other provision of this section, the board may automatically suspend a**

**license if the board finds, after an inspection, examination, investigation or audit, a shortage of more than five thousand dollars in any preneed trust or joint account maintained pursuant to this chapter. Failure to provide access to the licensee's books, records or accounts as requested by the board in any inspection, investigation, examination or audit initiated pursuant to this subsection to determine whether suspension is warranted shall constitute grounds for automatic suspension as provided in this section.**

**5. Any person whose license is suspended under subsection 4 of this section may appeal such suspension to the administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of suspension. Failure of a person whose license was suspended to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the suspension. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission pursuant to chapter 621, RSMo.**

**6. The board shall only issue a license if the applicant, or if a business entity, each owner, partner, officer, member, or controlling ownership interest of the entity, is a person of good moral character.**

436.067. **[**No information given to the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall, unless ordered by a court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, any person other than the seller, or the provider who is the subject thereof, the authorized employee of the board, the attorney general or the division, without the consent of the person who produced such material. However, under such reasonable conditions and terms as the board, the division or the attorney general shall prescribe, such material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person. The state board, the division or the attorney general, or his duly authorized assistant, may use such documentary material or copies thereof in the enforcement of the provisions of sections 436.005 to 436.071 by presentation before any court or the administrative hearing commission, but any such material which contains trade secrets shall not be presented except with the approval of the court, or the administrative hearing commission, in which the action is pending after adequate notice to the person furnishing such material. No documentary material provided the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall be disclosed to any person for use in any criminal proceeding**] All complaints, investigation materials, annual registrations, reports, and information pertaining to the licensee shall be closed and may be disclosed only as authorized by statute or order of the court**.

**436.068. 1. The board may promulgate rules to implement the provisions of sections 436.005 to 436.072 and rules governing standards of service and practice to be followed by licensed providers and sellers as deemed necessary for the public good and consistent with the laws of this state. The board may prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of the preneed industry.**

**2. The board shall establish the amount of the fees authorized in sections 436.005 to 436.072 and required by rules promulgated thereunder. Such fees shall be set at a level to produce revenue which does not substantially exceed the cost and expense of administering sections 436.005 to 436.072.**

**3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is**

**subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

436.069. 1. **[**After July 16, 1985,**]** Each seller shall remit an annual reporting fee in an amount of **[**two**]** **ten** dollars for each preneed contract sold in the year since the date the seller filed its last annual report with the state board **of the fee established by the board by rule**. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the state board from the **[**funds**]** **moneys** of the seller.

2. **[**After July 16, 1985,**]** Each provider shall remit an annual reporting fee of **[**thirty**]** **fifty** dollars**, or the annual reporting fee established by the board by rule**.

3. The reporting fee authorized by subsections 1 and 2 of this section are in addition to the fees authorized by section 436.071.

436.071. Each application for **[**registration**]** **licensure** under the provisions of section 436.015 or 436.021 shall be accompanied by a preneed registration fee as determined by the board pursuant to the provisions of **subsection 2 of** section 333.111**[**, subsection 2**]**.

**436.072. The board or a designated member thereof or any agent authorized by the board may enter the office, premises, establishment, or place of business of any preneed seller or provider of funeral service contracts licensed in this state, or any office, premises, establishment, or place where the practice of selling and/or providing preneed funerals is carried on, or where such practice is advertised as being carried on for the purpose of inspecting such office, premises, establishment, or place to determine compliance with sections 436.005 to 436.072, or for the purpose of inspecting, examining, investigating or auditing the licensee or the sale of preneed contracts.**"; and

Further amend said bill, page 71, section 194.233, line 8 of said page, by inserting after all of said line the following:

"**[**436.063. Whenever the state board determines that a registered seller or provider has violated or is about to violate any provision of sections 436.005 to 436.071 following a meeting at which the registrant is given a reasonable opportunity to respond to charges of violations or prospective violations, it may request the attorney general to apply for the revocation or suspension of the seller's or provider's registration or the imposition of probation upon terms and conditions deemed appropriate by the state board in accordance with the procedure set forth in sections 621.100 to 621.205, RSMo. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 436.061.**]**"; and

Further amend the title and enacting clause accordingly.

Senator Scott moved that the above amendment be adopted.

Senator Crowell offered **SA 1** to **SA 1**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Substitute for Senate Committee Substitute for House Bill

No. 2081, Page 19, Section 436.055, Line 11, by striking the first use of the opening and closing brackets on said line.

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

Senator Scott moved that **SA 1**, as amended, be adopted, which motion prevailed.

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Pages 3-4, Section 190.107, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Green offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Page 70, Section 376.811, Line 5, by inserting immediately after all of said line the following:

"701.355. The board shall have the following powers:

(1) To consult with engineering authorities and organizations who are studying and developing elevator safety codes;

(2) To adopt a code of rules and regulations governing construction, maintenance, testing**, licenses of elevator mechanics and elevator contractors,** and inspection of both new and existing installations. The board shall have the power to adopt a safety code only for those types of equipment defined in the rule. In promulgating the elevator safety code the board may consider any existing or future American National Standards Institute safety code affecting elevators as defined in sections 701.350 to 701.380, or any other nationally acceptable standard;

(3) To certify state, municipal inspectors and political subdivision inspectors, and special inspectors, who shall enforce the provisions of a safety code adopted pursuant to sections 701.350 to 701.380;

(4) To appoint a chief safety inspector together with a staff for the purpose of ensuring compliance with any safety code established pursuant to sections 701.350 to 701.380."; and

Further amend the title and enacting clause accordingly.

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

Senator Loudon offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Page 8, Section 324.650, Line 1, by adding at the end thereof, the following:

"**324.650. The use of physical agents such as air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, and exercise used for the prevention and care**

**of human health conditions, injuries, and illnesses that uses diagnosis and natural substances and remedies to support and stimulate an individuals intrinsic self processes, as authorized to be taught in the state of Missouri by the Coordinating Board of Higher Education, shall not be deemed the practice of medicine as defined in Section 334.010, RSMo (2004).**"; and

Further amend the title and enacting clause accordingly.

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

Senator Barnitz offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Page 8, Section 194.119, Line 1, by inserting immediately after said line the following:

"**324.1230. As used in sections 324.1230 to 324.1245, the following terms shall mean:**

**(1) "Antepartum", before birth;**

**(2) "Board", the board of professional midwives;**

**(3) "Client", a person who retains the services of a professional midwife;**

**(4) "Division", the division of professional registration;**

**(5) "Intrapartum", during birth;**

**(6) "Postpartum", after birth;**

**(7) "Practice of professional midwifery", the science and art of examination, evaluation, assessment, counseling, and treatment of women and infants by a professional midwife in the antepartum, intrapartum, and postpartum period by those methods commonly taught in any midwifery school, or midwifery program in a university or college which has been accredited by the Midwifery Education Accreditation Council, its successor entity or approved by the board; including identifying and referring women who require obstetrical or other professional care. It shall not include the use of operative surgery, nor the prescribing of drugs. The practice of professional midwifery is not the practice of medicine or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter. The practice of professional midwifery is not the practice of nurse-midwifery or nursing within the meaning of chapter 335, RSMo, and not subject to the provisions of the chapter;**

**(8) "Professional midwife", any person who is certified by the North American Registry of Midwives (NARM) as a certified professional midwife (CPM) and provides for compensation those skills relevant to the care of women and infants in the antepartum, intrapartum, and postpartum period.**

**324.1231. 1. There is hereby created and established within the division of professional registration a "Board of Professional Midwives" which consists of five members appointed by the governor with the advice and consent of the senate. Each member shall be a United States citizen and a resident of this state for at least one year immediately preceding their appointment. Of these five members, one member shall be a public member, four members shall be licensed professional midwives who attend births in homes or other out-of-hospital settings, provided that the first midwife**

**members appointed need not be licensed at the time of appointment if they are actively working toward licensure under the provisions of sections 324.1230 to 324.1245.**

**2. The initial appointments to the board shall be one member for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years, and one member for a term of five years. After the initial terms, each member shall serve a five-year term. No member of the board shall serve more than two consecutive five-year terms. All successor members shall be appointed for five-year terms. All members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the board for any reason shall be filled by appointment by the governor for the unexpired term.**

**3. The public member shall not be, nor have previously been, a member of any profession regulated by chapter 334 or 335, RSMo, or under sections 324.1230 to 324.1245, or the spouse or immediate family member of such person. The public member is subject to the provisions of section 620.132, RSMo.**

**4. The board may sue and be sued in its own name and its members need not be named parties. Members of the board shall not be personally liable, either jointly or severally, for any act or acts committed in the performance of their official duties as board members. No board member shall be personally liable for any court costs which accrue in any action by or against the board.**

**5. Notwithstanding any other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division not to exceed seventy dollars per day for board business plus actual and necessary expenses.**

**6. The division shall employ administrative and clerical personnel necessary to enforce the provisions of sections 324.1230 to 324.1245.**

**7. The board shall hold an annual meeting at which time it shall elect from its membership a chairperson and a vice chairperson. The board may hold such additional meetings as may be required in the performance of its duties. A quorum of the board shall consist of a majority of its members.**

**8. Pursuant to section 620.106, RSMo, no new licensing activity or other statutory requirements shall become effective until expenditures or personnel are specifically appropriated for the purpose of conducting the business as required to administer the provisions of sections 324.1230 to 324.1245 and the initial rules filed have become effective.**

**324.1233. 1. Applications for licensure as a professional midwife shall be in writing, submitted to the board on forms prescribed by the board, and furnished to the applicant. Each application shall contain a statement that it is made under oath or affirmation that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the board.**

**2. Each applicant for licensure shall:**

**(1) Present evidence of current certification by the North American Registry of Midwives as a certified professional midwife;**

**(2) Present evidence of current certification in basic life support for healthcare providers, and either infant cardiopulmonary resuscitation or neonatal resuscitation; and**

**(3) Comply with the written disclosure requirement under subsection 1 of section 324.1239.**

**3. The division shall mail a renewal notice to the last known address of each licensee prior to the renewal date. Failure to provide the board with the information required for renewal, or to pay the renewal fee after such notice, shall result in the license expiring. The license shall be reinstated if, within two years of the renewal date, the applicant submits the required documentation and pays the applicable fees as approved by the board.**

**4. Each license issued pursuant to the provisions of this section shall expire three years after the date of its issuance. Each applicant for renewal shall submit:**

**(1) Evidence of attendance at a minimum of ten hours per year of continuing education in midwifery or related fields;**

**(2) Evidence of attendance at a minimum of three hours per year of peer review;**

**(3) Evidence of current certification in basic life support for healthcare providers, and either infant cardiopulmonary resuscitation or neonatal resuscitation; and**

**(4) The renewal fee set by the board.**

**5. The board may refuse to issue or renew any certificate of registration or authority, permit, or license required pursuant to this chapter for one or any combination of causes stated in subsection 6 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration, or authority, the board may, at its discretion, issue a license which is subject to probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 6 of this section. The board's order of probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefore, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.**

**6. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered the person's certificate or registration or authority, permit, or license for any one or any combination of the following causes:**

**(1) Engaging in conduct detrimental to the health or safety of either the mother or infant, or both, as determined by the board;**

**(2) Having an unpaid judgment resulting from providing professional midwifery services;**

**(3) Procuring or attempting to procure a license under sections 324.1230 to 324.1245 by making a false statement, submitting false information, refusing to provide complete information in response**

**to a question in an application for licensure, or through any form of fraud or misrepresentation;**

**(4) Failing to meet the minimum qualifications for licensure or renewal established under sections 324.1230 to 324.1245;**

**(5) Paying money or other valuable consideration, other than as provided for under sections 324.1230 to 324.1245, to any member or employee of the board to procure a license under sections 324.1230 to 324.1245;**

**(6) Incompetency, misconduct, negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of professional midwives as prescribed under sections 324.1230 to 324.1245;**

**(7) Violating, assisting, or enabling any person to willfully disregard any of the provisions of sections 324.1230 to 324.1245, or the rules of the board for the administration and enforcement of the provisions of sections 324.1230 to 324.1245;**

**(8) Violating any term or condition of a license issued by the board under the authority of sections 324.1230 to 324.1245;**

**(9) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;**

**(10) Assisting or enabling a person to practice or offer to practice any profession licensed or regulated by sections 324.1230 to 324.1245 who is not licensed and currently eligible to practice under sections 324.1230 to 324.1245; or**

**(11) Using any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.**

**7. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 6 of this section for disciplinary action are met, the board may, singly or in combination, warn, censure, or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate, or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or restrict or limit the person's license, certificate, or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling, or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.**

**8. The division may promulgate rules as necessary in accordance with the provisions of chapter 536, RSMo, to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to**

**delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**324.1235. 1. The board shall promulgate rules as necessary in accordance with the provisions of chapter 536, RSMo, to establish:**

**(1) An application process and administrative procedures for processing applications and issuing professional midwife licenses and for conducting disciplinary proceedings under the provisions of sections 324.1230 to 324.1245;**

**(2) Practice guidelines consistent with standards regarding the practice of midwifery established by the North American Registry of Midwives and the National Association of Certified Professional Midwives, or a successor organization whose essential documents include without limitation subject matter concerning scope of practice, standards of practice, informed consent, appropriate consultation, collaboration or referral, including the development of collaborative relationships with other healthcare practitioners who can provide care outside the scope of midwifery practice when necessary; and**

**(3) Reasonable rules as deemed necessary by the board to carry out and enforce the provisions of sections 324.1230 to 324.1245.**

**2. The board shall:**

**(1) Investigate to verify such applicant's qualifications. If the results of the investigation are satisfactory to the board and the applicant is otherwise qualified, the board shall issue to the applicant a license authorizing the applicant to act as a professional midwife in Missouri;**

**(2) Set the amount of fees authorized by sections 324.1230 to 324.1245 and required by rules promulgated under section 536.021, RSMo. The fees shall be set at a level to produce revenue that does not substantially exceed the cost and expense of administering sections 324.1230 to 324.1245;**

**(3) Perform such other functions and duties as necessary to carry out the provisions of sections 324.1230 to 324.1245;**

**(4) Provide a form for use in the event of transfer to emergency care detailing for the mother:**

**(a) Name, age, and birth date;**

**(b) Parity;**

**(c) Estimated delivery date;**

**(d) Results of routine blood tests;**

**(e) Results of any lab tests;**

**(f) Reason for transfer of care; and**

**(g) Vital signs;**

**(5) Provide a form for use in the event of transfer to emergency care detailing for the baby:**

**(a) Name of the mother and the baby;**

**(b) Sex of the baby;**

**(c) Estimated gestational age;**

**(d) Vital signs;**

**(e) APGAR scores; and**

**(f) Reason for transfer of care.**

**3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**324.1237. There is hereby established in the treasury a fund to be known as the "Board of Professional Midwives Fund" which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly. All funds received by the board pursuant to the provisions of sections 324.1230 to 324.1245 shall be collected by the director of the department who shall transmit the funds to the department of revenue for deposit in the state treasury to the credit of the board of professional midwives fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys in the fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the fund for the preceding fiscal year.**

**324.1239. 1. Every licensed professional midwife shall present a written disclosure statement to each client, which shall be signed by the client and kept with the client's records, and which shall include but not be limited to, the following:**

**(1) A description of professional midwifery education and related training;**

**(2) Licensure as a professional midwife, including the effective dates of the licensure;**

**(3) The benefits and risks associated with childbirth in the setting selected by the client;**

**(4) A statement concerning the licensed professional midwife's collaborative arrangements with other healthcare professionals, including licensed physicians;**

**(5) A statement concerning the licensed professional midwife's malpractice or liability insurance coverage; and**

**(6) A written plan, specific to the client, for obtaining medical care, when necessary, which shall include:**

**(a) The name and phone number of the hospital or other healthcare facility to which transfer is preferred should emergency care become necessary; and**

**(b) The plan, protocol, or standing order for fulfilling maternal screening tests and laboratory work required by state statute.**

**2. Licensed professional midwives shall carry medical malpractice insurance under the same conditions described for physicians in section 383.500, RSMo.**

**3. Licensed professional midwives may be reimbursed for professional midwifery services under the MO HealthNet program.**

**324.1240. 1. Nothing in sections 324.1230 to 324.1245 shall be construed to apply to a person who provides information and support in preparation for labor and delivery and assists in the delivery of an infant if that person does not do the following:**

**(1) Advertise as a midwife or as a provider of midwife services;**

**(2) Accept compensation for midwife services; and**

**(3) Use any words, letters, signs, or figures to indicate that the person is a midwife.**

**2. Nothing in sections 324.1230 to 324.1245 shall be construed to prohibit the attendance at birth of the mother's choice of family, friends, or other uncompensated labor support attendants.**

**324.1241. 1. Any hospital, physician, nurse, emergency services personnel, or any other licensed health care professional who renders emergency care, treatment, or assistance to any person or persons, when the need of such care, treatment, or assistance arises from care provided by a licensed professional midwife, shall not be held liable for any civil damages except for acts of gross negligence or those occasioned by willful and wanton acts by such person in rendering such emergency care, treatment, or assistance.**

**2. A licensed health care provider or facility shall not be disciplined for assisting, enabling, aiding, procuring, advising, or encouraging any person licensed to practice professional midwifery who is practicing within the confines of sections 324.1230 to 324.1245.**

**324.1242. 1. When a birth or stillbirth occurs without a physician in attendance at or immediately after the birth or stillbirth, but with a licensed professional midwife in attendance at or immediately after the birth, it shall be the responsibility of the licensed professional midwife to prepare and file the certificate of birth as required by section 193.085, RSMo, and the reports required under section 193.165, RSMo, and section 210.050, RSMo.**

**2. Licensed professional midwives shall follow the newborn screening requirements for health care providers with respect to infants born in this state as described under subsections 1, 2, and 5 of section 191.331, RSMo.**

**3. Licensed professional midwives shall be required to retain patient records for a period of six years and keep such records confidential consistent with the provisions of the federal Health Insurance Portability and Accountability Act, as amended.**

**324.1243. No licensed professional midwife shall be permitted to:**

**(1) Prescribe drugs;**

**(2) Perform medical inductions or cesarean sections during the delivery of an infant;**

**(3) Use forceps during the delivery of an infant;**

**(4) Perform vacuum delivery of an infant;**

**(5) Perform an abortion as defined in chapter 188, RSMo; or**

**(6) Administer prescription drugs, with exceptions limited to:**

**(a) Neonatal use of prophylactic ophthalmic medications as required in section 210.070, RSMo,**

**vitamin K, and oxygen; and**

**(b) Maternal use of Rho (D) immune globulin, oxygen, local anesthetic, and oxytocin and methylergonovine maleate as postpartum antihemorrhagics.**

**324.1244. 1. Notwithstanding any other provision of law, a licensed professional midwife providing a service of professional midwifery shall not be deemed to be engaged in the practice of medicine, nursing, nurse-midwifery, or any other medical or healing practice.**

**2. The provisions of sections 324.1230 to 324.1245 shall be remedial and curative in nature.**

**324.1245. Any person who violates the provisions of sections 324.1230 to 324.1245, or any rule or order promulgated under authority granted by sections 324.1230 to 324.1245 is guilty of a class A misdemeanor.**

334.010. 1. It shall be unlawful for any person not now a registered physician within the meaning of the law to practice medicine or surgery in any of its departments, to engage in the practice of medicine across state lines or to profess to cure and attempt to treat the sick and others afflicted with bodily or mental infirmities, **[**or engage in the practice of midwifery**]** in this state, except as herein provided. **The practice of professional midwifery is not the practice of medicine or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter.**

2. For the purposes of this chapter, the "practice of medicine across state lines" shall mean:

(1) The rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or physician's agent; or

(2) The rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or physician's agent.

3. A physician located outside of this state shall not be required to obtain a license when:

(1) In consultation with a physician licensed to practice medicine in this state; and

(2) The physician licensed in this state retains ultimate authority and responsibility for the diagnosis or diagnoses and treatment in the care of the patient located within this state; or

(3) Evaluating a patient or rendering an oral, written or otherwise documented medical opinion, or when providing testimony or records for the purpose of any civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state; or

(4) Participating in a utilization review pursuant to section 376.1350, RSMo.

334.120. 1. There is hereby created and established a board to be known as "The State Board of Registration for the Healing Arts" for the purpose of registering, licensing and supervising all physicians and surgeons**[**, and midwives**]** in this state. **The purpose of the board shall not include registering, licensing, or supervising of professional midwives.** The board shall consist of nine members, including one voting public member, to be appointed by the governor by and with the advice and consent of the senate, at least five of whom shall be graduates of professional schools accredited by the Liaison Committee on Medical Education or recognized by the Educational Commission for Foreign Medical Graduates, and

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

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure."; and

Further amend said bill, page 70, section 376.811, line 5 of said page, by inserting immediately after said line the following:

"376.1753. **[**Notwithstanding any law to the contrary, any person who holds current ministerial or tocological certification by an organization accredited by the National Organization for Competency Assurance (NOCA) may provide services as defined in 42 U.S.C. 1396 r-6(b)(4)(E)(ii)(I).**] Licensed professional midwives under sections 324.1230 to 324.1245, RSMo, may be compensated for professional midwife services by a health benefit plan or insurer under this chapter.**"; and

Further amend said bill, page 71, section 194.233, line 8 of said page, by inserting immediately after said line the following:

"**[**334.260. On August 29, 1959, all persons licensed under the provisions of chapter 334, RSMo 1949, as midwives shall be deemed to be licensed as midwives under this chapter and subject to all the provisions of this chapter.**]**"; and

Section B. Because of the need to provide clarity on the issue of the practice of midwifery, the repeal and reenactment of sections 334.010, 334.120, and 376.1753, and the enactment of sections 324.1230, 324.1231, 324.1233, 324.1235, 324.1237, 324.1239, 324.1240, 324.1241, 324.1242, 324.1243, 324.1244, 324.1245, and the repeal of section 334.260 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 334.010, 334.120, and 376.1753, and the enactment of sections 324.1230, 324.1231, 324.1233, 324.1235, 324.1237, 324.1239, 324.1240, 324.1241, 324.1242, 324.1243, 324.1244, 324.1245, and the repeal of section 334.260 of this act shall be in full force and effect upon its passage and approval."; and

Further amend the title and enacting clause accordingly.

Senator Barnitz moved that the above amendment be adopted.

At the request of Senator Callahan, **HB 2081**, with **SCS**, **SS** for **SCS** and **SA 5** (pending), was placed on the Informal Calendar.

## MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SCS** for **SB 720**, entitled:

An Act to repeal sections 393.275, 407.300, 537.340, 660.115 and 660.135, RSMo, and to enact in lieu thereof fourteen new sections relating to utilities, with penalty provisions.

With House Amendment Nos. 2 and 5.

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, Page 3, Section 393.171, Lines 1 to 9, by deleting all of said lines and inserting in lieu thereof the following:

"**393.171. 1. The commission shall have the authority to grant the permission and approval specified in section 393.170, after the construction or acquisition of any electric plant located in a first class county without a charter form of government has been completed if the commission determines that the grant of such permission and approval is necessary or convenient for the public service. Any such permission and approval shall, for all purposes, have the same effect as the permission and approval granted prior to such construction or acquisition. This subsection is enacted to clarify and specify the law in existence at all times since the original enactment of section 393.170.**

**2. No permission or approval granted for an electric plant by the commission under subsection 1 of this section, nor any special use permit issued for any such electric plant by the governing body of the county in which the electric plant is located, shall extinguish, render moot, or mitigate any suit or claim pending or otherwise allowable by law by any landowner or other legal entity for monetary damages allegedly caused by the operation or existence of such electric plant.**

**3. The commission's authority under subsection 1 of this section shall expire on August 28, 2009.**"; and

Further amend said bill, Pages 3 and 4, Section 393.275, Lines 1 to 25, by deleting all of said lines and inserting in lieu thereof the following:

"393.275. 1. The commission shall notify the governing body of each city or county imposing a business license tax pursuant to section 66.300, 92.045, 94.110, 94.270 or 94.360, RSMo, or a similar tax adopted pursuant to charter provisions in any constitutional charter city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, on gross receipts of any gas corporation, electric corporation, water corporation or sewer corporation of any tariff increases authorized for such firm doing business in that city or county if the approved increase exceeds seven percent. The commission shall include with such notice to any city or county the percentage increase approved for the utility, together with an estimate of the annual increase in gross receipts resulting from the tariff increase on customers residing in that city or county. The provisions of this subsection shall not apply to rate adjustments in the purchase price of natural gas which are approved by the commission.

2. The governing body of each city or county notified of a tariff increase as provided in subsection 1 of this section shall reduce the tax rate of its business license tax on the gross receipts of utility corporations. Within sixty days of the effective date of the tariff increase, the tax rate shall be reduced to the extent necessary so that revenue for the ensuing twelve months will be approximately equal to the revenue received during the preceding twelve months plus a growth factor. The growth factor shall be equal to the average of the additional revenue received in each of the preceding three years. However, a city or county may maintain the tax rate of its business license tax on the gross receipts of utility corporations without reduction if an ordinance to maintain the tax rate is enacted by the governing body of the city or an order to maintain the tax rate is issued by the governing body of the county after September 28, 1985. The provisions of this subsection shall not apply to rate adjustments in the purchase price of natural gas which are approved by the commission **and such purchased gas adjustment rates shall include the gas cost portion of net write-offs incurred by the gas corporation in providing service to system sales customers upon the filing and approval of new rate schedules applicable to such customers. Such rate schedules shall be designed to simultaneously decrease the gas corporation's base rates and increase its purchased gas adjustment rates by like amounts so as to reasonably ensure that the gas cost portion of the net write-offs applicable to such customers, as such portion is determined by the commission, is only being recovered once through the gas corporation's purchased gas adjustment rates. Increases and decreases in the gas cost portion of net write-offs shall thereafter be reflected in the gas corporation's purchased gas adjustment rates pursuant to tariff provisions approved by the commission provided, however, that such tariff provisions shall:**

**(1) Limit increases or decreases in the gas cost portion of net write-offs as reflected in purchased gas adjustment rates to once each year;**

**(2) Require a true-up of the gas cost portion of net write-offs as reflected in purchased gas adjustment rates once each year; and**

**(3) Require commission review of the gas cost portion of net write-offs as reflected in purchased gas adjustment rates once each year to insure that the gas corporation is prudently pursuing collection of amounts owed by its customers**."; and

Further amend said bill, Section 394.320, Page 4 by removing all of said Section from the bill; and

Further amend said bill, Pages 4 and 5, Section 407.300, Lines 1 to 31, by deleting all of said lines and inserting in lieu thereof the following:

"407.300. 1. Every **purchaser or** collector of**,** or dealer in**,** junk**, scrap metal,** or any secondhand property shall keep a register **[**which shall contain the name and address of the person from whom**]**

**containing a written or electronic record for each purchase or trade in which each type of metal subject to the provisions of this section is obtained for value. There shall be a separate record for each transaction involving** any**:**

**(1)** Copper**, brass, or bronze;**

**(2) Aluminum** wire **[**or is purchased,**],** cable**, pipe, tubing, bar, ingot, rod, fitting, or fastener; or**

**(3) Material containing copper or aluminum that is knowingly used for farming purposes as "farming" is defined in section 350.010, RSMo;**

whatever may be the condition or length of such **[**copper wire or cable**] metal. The record shall contain the following data: A copy of the driver's license or photo identification issued by the state or by the United States government or agency thereof to the person from whom the material is obtained, which shall contain a current address of the person from whom the material is obtained**; **[**the residence or place of business and driver's license number of such person;**] and the date, time, and place of and** a full description of each **such** purchase **or trade** including the quantity by weight thereof**[**; and shall permit any peace officer to inspect the register at any reasonable time**]**.

2. **The records required under this section shall be maintained for a minimum of twenty-four months from when such material is obtained and shall be available for inspection by any law enforcement officer.**

**3.** Anyone convicted of violating this section shall be **[**fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both**] guilty of a class A misdemeanor**.

**4. This section shall not apply to any of the following transactions:**

**(1) Any transaction for which the total amount paid for all regulated scrap metal purchased or sold does not exceed fifty dollars;**

**(2) Any transaction for which the seller, including a farm or farmer, has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or**

**(3) Any transaction for which the type of metal subject to subsection 1 of this section is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications.**"; and

Further amend said bill, Page 5, Section 407.301, Lines 1 to 9, by deleting all of said lines and inserting in lieu thereof the following:

"**407.301. 1. No scrap metal dealer shall knowingly purchase or possess a metal beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut, or otherwise alter scrap metal except when the purchase is from the brewer or its authorized representative. For purposes of this section, "keg" shall have the same meaning as in section 311.082, RSMo.**

**2. Anyone who is found guilty of, or pleads guilty to, violating this section shall be guilty of a class**

**A misdemeanor punishable only by fine. Nothing in this section shall be construed to preclude a person violating this section from also being prosecuted for any applicable criminal offense.**"; and

Further amend said bill, Page 5, Section 407.302, Lines 1 to 10, by deleting all of said lines and inserting in lieu thereof the following:

"**407.302. 1. No scrap yard shall purchase any metal that can be identified as belonging to a public or private cemetery or to a political subdivision or electrical cooperative, municipal utility, or a utility regulated under chapter 386 or 393, RSMo, including bleachers, guardrails, signs, street and traffic lights or signals, and manhole cover or covers, whether broken or unbroken, from anyone other than the cemetery or monument owner, political subdivision, electrical cooperative or utility, or manufacturer of the metal or item described in this section unless such person is authorized in writing by the cemetery or monument owner, political subdivision, electrical cooperative or utility, or manufacturer to sell the metal.**

**2. Anyone convicted of violating this section shall be guilty of a class B misdemeanor.**"; and

Further amend said bill, Page 6, Section 407.303, Lines 1 to 8, by deleting all of said lines and inserting in lieu thereof the following:

"**407.303. 1. Any scrap metal dealer paying out an amount that is five hundred dollars or more shall make such payment in the form of a check or shall pay by any method in which a financial institution makes and retains a record of the transaction.**

**2. This section shall not apply to any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business.**"; and

Further amend said bill, Pages 6 to 8, Section 537.340, Lines 1 to 68, by deleting all of said lines and inserting in lieu thereof the following:

"537.340. **1.** If any person shall cut down, injure or destroy or carry away any tree placed or growing for use, shade or ornament, or any timber, rails or wood standing, being or growing on the land of any other person, including any governmental entity, or shall dig up, quarry or carry away any stones, ore or mineral, gravel, clay or mold, or any ice or other substance or material being a part of the realty, or any roots, fruits or plants, or cut down or carry away grass, grain, corn, flax or hemp in which such person has no interest or right, standing, lying or being on land not such person's own, or shall knowingly break the glass or any part of it in any building not such person's own, the person so offending shall pay to the party injured treble the value of the things so injured, broken, destroyed or carried away, with costs. Any person filing a claim for damages pursuant to this section need not prove negligence or intent.

**2. Notwithstanding the provisions of subsection 1 of this section, the following rules shall apply to the trimming, removing, and controlling of trees and other vegetation by any electric supplier:**

**(1) Every electric supplier that operates electric transmission or distribution lines shall have the authority to maintain the same by trimming, removing, and controlling trees and other vegetation posing a hazard to the continued safe and reliable operation thereof;**

**(2) An electric supplier may exercise its authority under subdivision (1) of this subsection if the**

**trees and other vegetation are within the legal description of any recorded easement, or in the absence of a recorded easement, the following:**

**(a) Within ten feet, plus one-half the length of any attached cross arm, of either side of the centerline of electricity lines potentially energized at or below 34.5 kilovolts measured line to line and located within the limits of any city; or**

**(b) Within thirty feet of either side of the centerline of electricity lines potentially energized at or below 34.5 kilovolts measured line to line and located outside the limits of any city; or**

**(c) Within fifty feet of either side of the centerline of electricity lines potentially energized between 34.5 and one hundred kilovolts measured line to line; or**

**(d) Within the greater of the following for any electricity lines potentially energized at one hundred kilovolts or more measured line to line:**

**a. Seventy-five feet to either side of the centerline; or**

**b. Any required clearance distance adopted by either the Federal Energy Regulatory Commission or an Electric Reliability Organization authorized by the Energy Policy Act of 2005, 16 U.S.C. Section 824o. Such exercise shall be considered reasonable and necessary for the proper and reliable operation of electric service and shall create a rebuttable presumption, in claims for property damage, that the electric supplier acted with reasonable care, operated within its rights regarding the operation and maintenance of its electricity lines, and has not committed a trespass;**

**(3) An electric supplier may trim, remove, and control trees and other vegetation outside the provisions in subdivision (2) of this subsection if such actions are necessary to maintain the continued safe and reliable operation of its electric lines;**

**(4) An electric supplier may secure from the owner or occupier of land greater authority to trim, remove, and control trees and other vegetation than the provisions set forth in subdivision (2) of this subsection and may exercise any and all rights regarding the trimming, removing, and controlling of trees and other vegetation granted in any easement held by the electric supplier;**

**(5) An electric supplier may trim or remove any tree of sufficient height outside the provisions of subdivision (2) of this subsection when such tree, if it were to fall, would threaten the integrity and safety of any electric transmission or distribution line and would pose a hazard to the continued safe and reliable operation thereof;**

**(6) Prior to the removal of any tree under the provisions of subdivision (5) of this subsection, an electric supplier shall notify the owner or occupier of land, if available, at least fourteen days prior to such removal, unless either the electric supplier deems the removal to be immediately necessary to continue the safe and reliable operation of its electricity lines, or the electric supplier is trimming or removing trees and other vegetation following a major weather event or other emergency situation;**

**(7) If any tree which is partially trimmed by an electric supplier dies within three months as a result of such trimming, the owner or occupier of land upon which the tree was trimmed may request in writing that the electric supplier remove such tree at the electric supplier's expense. The electric supplier shall respond to such request within ninety days;**

**(8) Nothing in this subsection shall be interpreted as requiring any electric supplier to fully exercise the authorities granted in this subsection.**

**3. For purposes of this section, the term "electric supplier" means any rural cooperative that is subject to the provisions of chapter 394, RSMo, and any electric corporation which is required by its bylaws to operate on the not-for-profit cooperative business plan, with its consumers who receive service as the stockholders of such corporation and that holds a certificate of public convenience and necessity to serve a majority of its customer-owners in counties of the third classification as of August 28, 2003.**"; and

Further amend said bill, Page 8, Section 660.135, Lines 1 through 6 by deleting all of said lines and inserting in lieu thereof the following:

"660.135. 1. **The utilicare stabilization fund for any fiscal year shall be funded, subject to appropriations, by the general assembly. [**Not more than five million dollars from state general revenue shall be appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 for the support of the utilicare program established by sections 660.100 to 660.136 for any fiscal year, except in succeeding years the amount of state funds may be increased by a percentage which reflects the national cost-of-living index or seven percent, whichever is lower.**]**"; and

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, Page 1, Section A, Line 4 by inserting after said line the following:

"**260.1050. Sections 260.1050 to 260.1101 may be cited as the "Manufacturer Responsibility and Consumer Convenience Equipment Collection and Recovery Act".**

**260.1053. As used in sections 260.1050 to 260.1101, the following terms mean:**

**(1) "Brand", the name, symbol, logo, trademark, or other information that identifies a product rather than the components of the product;**

**(2) "Computer materials", a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner;**

**(3) "Consumer", an individual who uses equipment that is purchased primarily for personal or home business use;**

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

**(5) "Equipment", computer materials;**

**(6) "Manufacturer", a person:**

**(a) Who manufactures or manufactured equipment under a brand that:**

**a. The person owns or owned; or**

**b. The person is or was licensed to use, other than under a license to manufacture equipment for delivery exclusively to or at the order of the licensor;**

**(b) Who sells or sold equipment manufactured by others under a brand that:**

**a. The person owns or owned; or**

**b. The person is or was licensed to use, other than under a license to manufacture equipment for delivery exclusively to or at the order of the licensor;**

**(c) Who manufactures or manufactured equipment without affixing a brand;**

**(d) Who manufactures or manufactured equipment to which the person affixes or affixed a brand that:**

**a. The person does not or has not owned; or**

**b. The person is not or was not licensed to use; or**

**(e) Who imports or imported equipment manufactured outside the United States into the United States unless at the time of importation the company or licensee that sells or sold the equipment to the importer has or had assets or a presence in the United States sufficient to be considered the manufacturer.**

**260.1059. 1. The collection, recycling, and reuse provisions of sections 260.1050 to 260.1101 apply to equipment used and returned to the manufacturer by a consumer in this state and do not impose any obligation on an owner or operator of a solid waste facility.**

**2. Sections 260.1050 to 260.1101 do not apply to:**

**(1) Any part of a motor vehicle, a personal digital assistant, or a telephone, including wireless devices;**

**(2) A consumer's lease of equipment or a consumer's use of equipment under a lease agreement; or**

**(3) The sale or lease of equipment to an entity when the manufacturer and the entity enter into a contract that effectively addresses the collection, recycling, and reuse of equipment that has reached the end of its useful life.**

**260.1062. 1. Before a manufacturer may offer equipment for sale in this state, the manufacturer shall:**

**(1) Adopt and implement a recovery plan;**

**(2) Submit a written copy of the recovery plan to the department; and**

**(3) Affix a permanent, readily visible label to the equipment with the manufacturer's brand.**

**2. The recovery plan shall enable a consumer to recycle equipment without paying a separate fee at the time of recycling and shall include provisions for:**

**(1) The manufacturer's collection from a consumer of any equipment that has reached the end of its useful life and is labeled with the manufacturer's brand; and**

**(2) Recycling or reuse of equipment collected under subdivision (1) of this subsection.**

**3. The collection of equipment provided under the recovery plan shall be:**

**(1) Reasonably convenient and available to consumers in this state; and**

**(2) Designed to meet the collection needs of consumers in this state.**

**4. Examples of collection methods that alone or combined meet the convenience requirements of**

**this section include a system:**

**(1) By which the manufacturer or the manufacturer's designee offers the consumer an option for returning equipment by mail at no charge to the consumer;**

**(2) Using a physical collection site that the manufacturer or the manufacturer's designee keeps open and staffed and to which the consumer may return equipment; and**

**(3) Using a collection event held by the manufacturer or the manufacturer's designee at which the consumer may return equipment.**

**5. Collection services under this section may use existing collection and consolidation infrastructure for handling equipment and may include systems jointly managed by a group of manufacturers, electronic recyclers and repair shops, recyclers of other commodities, reuse organizations, not-for-profit corporations, retailers, recyclers, and other suitable operations. If a manufacturer or its designee offers a mail-back system as described in subsection 4 of this section, either individually or by working together with a group of manufacturers or by working with others, it shall be deemed to meet the convenience requirements of this section.**

**6. The recovery plan shall include information for the consumer on how and where to return the manufacturer's equipment. The manufacturer:**

**(1) Shall include collection, recycling, and reuse information on the manufacturer's publicly available Internet site;**

**(2) Shall provide collection, recycling, and reuse information to the department; and**

**(3) May include collection, recycling, and reuse information in the packaging for or in other materials that accompany the manufacturer's equipment when the equipment is sold.**

**7. Information about collection, recycling, and reuse on a manufacturer's publicly available Internet site does not constitute a determination by the department that the manufacturer's recovery plan or actual practices are in compliance with sections 260.1050 to 260.1101 or other state or federal law.**

**8. Each manufacturer shall submit a report to the department not later than January thirty-first of each year that includes:**

**(1) The weight of equipment collected, recycled, and reused during the preceding calendar year; and**

**(2) Documentation certifying that the collection, recycling, and reuse of equipment during the preceding calendar year was conducted in a manner that complies with section 260.1089 regarding sound environmental management.**

**9. If more than one person is a manufacturer of a certain brand of equipment as defined by section 260.1053, any of those persons may assume responsibility for and satisfy the obligations of a manufacturer under sections 260.1050 to 260.1101 for that brand. If none of those persons assumes responsibility or satisfies the obligations of a manufacturer for the equipment of that brand, the department may consider any of those persons to be the responsible manufacturer for purposes of sections 260.1050 to 260.1101.**

**10. The obligations under sections 260.1050 to 260.1101 of a manufacturer who manufactures or**

**manufactured equipment, or sells or sold equipment manufactured by others, under a brand that was previously used by a different person in the manufacture of the equipment extends to all equipment bearing that brand regardless of its date of manufacture.**

**260.1065. 1. A person who is a retailer of equipment shall not sell or offer to sell new equipment in this state unless the equipment is labeled with the manufacturer's label and the manufacturer is included on the department's list of manufacturers that have recovery plans.**

**2. Retailers can go to the department's Internet site as outlined in section 260.1071 and view all manufacturers that are listed as having registered a collection program. Covered electronic products from manufacturers on that list may be sold in or into this state.**

**3. A retailer is not required to collect equipment for recycling or reuse under sections 260.1050 to 260.1101.**

**260.1068. 1. A manufacturer or retailer of equipment is not liable in any way for information in any form that a consumer leaves on computer materials that are collected, recycled, or reused under sections 260.1050 to 260.1101.**

**2. The consumer is responsible for any information in any form left on the consumer's computer materials that are collected, recycled, or reused.**

**3. Compliance with sections 260.1050 to 260.1101 does not exempt a person from liability under other law.**

**260.1071. 1. The department shall educate consumers regarding the collection, recycling, and reuse of equipment.**

**2. The department shall host or designate another person to host an Internet site providing consumers with information about the recycling and reuse of equipment, including best management practices and information about and links to information on:**

**(1) Manufacturers' collection, recycling, and reuse programs, including manufacturers' recovery plans; and**

**(2) Equipment collection events, collection sites, and community equipment recycling and reuse programs.**

**260.1074. 1. The department may conduct audits and inspections to determine compliance with sections 260.1050 to 260.1101.**

**2. The department and the attorney general, as appropriate, shall enforce sections 260.1050 to 260.1101 and, except as provided by subsections 4 and 5 of this section, take enforcement action against any manufacturer, retailer, or person who recycles or reuses equipment for failure to comply with sections 260.1050 to 260.1101.**

**3. The attorney general may file suit to enjoin an activity related to the sale of equipment in violation of sections 260.1050 to 260.1101.**

**4. The department shall issue a written warning notice to a person upon the person's first violation of sections 260.1050 to 260.1101. The person shall comply with sections 260.1050 to 260.1101 not later than the sixtieth day after the date the warning notice is issued.**

**5. A retailer who receives a warning notice from the department that the retailer's inventory violates sections 260.1050 to 260.1101 because it includes equipment from a manufacturer that has not submitted the recovery plan required by section 260.1062 shall bring the inventory into compliance with sections 260.1050 to 260.1101 not later than the sixtieth day after the date the warning notice is issued.**

**6. (1) The department may assess a penalty against a manufacturer that does not label its equipment or adopt, implement, or submit a recovery plan as required by section 260.1062. No penalty shall be assessed for a first violation and the amount of the penalty shall not exceed ten thousand dollars for the second violation or twenty-five thousand dollars for each subsequent violation.**

**(2) Any penalty collected under this section shall be credited to the "Equipment Recycling Subaccount", which is hereby created, in the hazardous waste fund. Moneys in the subaccount shall be used for the purpose of administering the provisions of sections 260.1050 to 260.1101. The state treasurer shall be custodian of the subaccount and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the subaccount shall be used solely for the administration of sections 260.1050 to 260.1101. Any moneys remaining in the subaccount at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the subaccount.**

**260.1077. Financial or proprietary information submitted to the department under sections 260.1050 to 260.1101 shall not be considered a public record under chapter 610, RSMo.**

**260.1080. The department shall compile information from manufacturers and issue an electronic report to the committee in each house of the general assembly having primary jurisdiction over environmental matters not later than March first of each year.**

**260.1083. Sections 260.1050 to 260.1101 do not authorize the department to impose a fee, including a recycling fee or registration fee, on a consumer, manufacturer, retailer, or person who recycles or reuses equipment.**

**260.1089. 1. All equipment collected under sections 260.1050 to 260.1101 shall be recycled or reused in a manner that complies with federal, state, and local law.**

**2. The department shall, by rule, adopt as mandatory standards for recycling or reuse of equipment in this state the standards provided by "Electronics Recycling Operating Practices" as approved by the board of directors of the Institute of Scrap Recycling Industries, Inc., April 25, 2006, or other standards issued from the U.S. Environmental Protection Agency, if available.**

**260.1092. 1. If federal law establishes a national program for the collection and recycling of equipment and the department determines that the federal law substantially meets the purposes of sections 260.1050 to 260.1101, the department may adopt an agency statement that interprets the federal law as preemptive of sections 260.1050 to 260.1101.**

**2. Sections 260.1050 to 260.1101 shall expire on the date the department issues a statement under this section.**

**260.1101. 1. The department shall adopt any rules required to implement sections 260.1050 to**

**260.1101 not later than July 1, 2009. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**2. Sections 260.1050 to 260.1101 shall not be enforced before rules developed under this section are promulgated.**

**3. It shall not be considered a violation of sections 260.1050 to 260.1101 for a retailer to sell any inventory accrued before the effective date of sections 260.1050 to 260.1101.**

**260.1104. Sections 260.1050 to 260.1101 shall not apply to:**

**(1) Any computer material that is an electronic device that is a part of a motor vehicle or any part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;**

**(2) Any electronic device that is functionally or physically a part of, connected to or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including diagnostic, monitoring, or other medical products as that term is defined under the federal Food, Drug, and Cosmetic Act or equipment used for security, sensing, monitoring, or anti-terrorism purposes;**

**(3) A covered electronic device that is contained within a clothes washer, clothes dryer, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier;**

**(4) Telephone of any type, including mobile telephones; or**

**(5) A personal digital assistant or P.D.A.”; and**

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

In which the concurrence of the Senate is respectfully requested.

On motion of Senator Shields, the Senate recessed until 1:30 p.m.

## RECESS

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

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

## HOUSE BILLS ON THIRD READING

**HCS** for **HBs 1549**, **1771**, **1395** and **2366**, entitled:

An Act to repeal section 302.720, RSMo, and to enact in lieu thereof five new sections relating to illegal aliens and immigration status, with penalty provisions.

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

Senator Rupp offered **SS** for **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, entitled:

SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 1549, 1771, 1395 and 2366

An Act to repeal sections 8.283, 302.720, and 544.470, RSMo, and to enact in lieu thereof eighteen new sections relating to illegal aliens, with penalty provisions and an effective date for certain sections.

Senator Rupp moved that **SS** for **HCS** for **HBs 1549**, **1771**, **1395** and **2366** be adopted.

At the request of Senator Rupp, **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, with **SS** (pending), was placed on the Informal Calendar.

## MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SCS** for **SB 711**, entitled:

An Act to repeal sections 52.240, 67.110, 137.055, 137.073, 137.082, 137.115, 137.180, 137.245, 137.275, 137.335, 137.355, 137.375, 137.390, 137.490, 137.510, 137.515, 137.720, 137.721, 137.1018, 138.010, 138.050, 138.090, 138.100, 138.110, 138.120, 138.170, 138.180, 138.380, 138.390, 138.395, 138.400, 138.430, 139.031, 163.044, and 164.151, RSMo, and to enact in lieu thereof fifty-four new sections relating to property taxation, with penalty provisions.

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

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 711, Page 2, Section 67.110, Line 8, by inserting immediately after the word "**books**" the following: "**for each calendar year after December 31, 2008**"; and

Further amend said bill, Page 14, Section 137.055, Line 8, by inserting immediately after the word "**year**" the following: "**for each calendar year after December 31, 2008**"; and

Further amend said bill, Page 19, Section 137.073, Line 188, by inserting immediately after the word "**increase**" the following: "**and, so adjusted, shall be the current tax rate ceiling**"; and

Further amend said bill, Page 30, Section 137.115, Lines 173 to 177, by deleting all of said lines; and

Further amend said bill, page and section, 30, Line 177, by inserting immediately after all of said line the following:

"137.122. 1. As used in this section, the following terms mean:

(1) "Business personal property", tangible personal property which is used in a trade or business or used for production of income and which has a determinable life of longer than one year except that supplies used by a business shall also be considered business personal property, but shall not include livestock, farm

machinery, grain and other agricultural crops in an unmanufactured condition, property subject to the motor vehicle registration provisions of chapter 301, RSMo, property assessed under section 137.078, the property of rural electric cooperatives under chapter 394, RSMo, or property assessed by the state tax commission under chapters 151, 153, and 155, RSMo, section 137.022, and sections 137.1000 to 137.1030;

(2) "Class life", the class life of property as set out in the federal Modified Accelerated Cost Recovery System life tables or their successors under the Internal Revenue Code as amended;

(3) "Economic or functional obsolescence", a loss in value of personal property above and beyond physical deterioration and age of the property. Such loss may be the result of economic or functional obsolescence or both;

(4) "Original cost", the price the current owner, the taxpayer, paid for the item without freight, installation, or sales or use tax. In the case of acquisition of items of personal property as part of an acquisition of an entity, the original cost shall be the historical cost of those assets remaining in place and in use and the placed in service date shall be the date of acquisition by the entity being acquired;

(5) "Placed in service", property is placed in service when it is ready and available for a specific use, whether in a business activity, an income-producing activity, a tax-exempt activity, or a personal activity. Even if the property is not being used, the property is in service when it is ready and available for its specific use;

(6) "Recovery period", the period over which the original cost of depreciable tangible personal property shall be depreciated for property tax purposes and shall be the same as the recovery period allowed for such property under the Internal Revenue Code.

2. To establish uniformity in the assessment of depreciable tangible personal property, each assessor shall use the standardized schedule of depreciation in this section to determine the assessed valuation of depreciable tangible personal property for the purpose of estimating the value of such property subject to taxation under this chapter.

3. For purposes of this section, and to estimate the value of depreciable tangible personal property for mass appraisal purposes, each assessor shall value depreciable tangible personal property by applying the class life and recovery period to the original cost of the property according to the following depreciation schedule. The percentage shown for the first year shall be the percentage of the original cost used for January first of the year following the year of acquisition of the property, and the percentage shown for each succeeding year shall be the percentage of the original cost used for January first of the respective succeeding year as follows:

| Year | Recovery Period in Years | | | | | |
|---|---|---|---|---|---|---|
| | 3 | 5 | 7 | 10 | 15 | 20 |
| 1 | 75.00 | 85.00 | 89.29 | 92.50 | 95.00 | 96.25 |
| 2 | 37.50 | 59.50 | 70.16 | 78.62 | 85.50 | 89.03 |
| 3 | 12.50 | 41.65 | 55.13 | 66.83 | 76.95 | 82.35 |
| 4 | 5.00 | 24.99 | 42.88 | 56.81 | 69.25 | 76.18 |
| 5 | | 10.00 | 30.63 | 48.07 | 62.32 | 70.46 |

| | | | | |
|---|---|---|---|---|
| 6 | 18.38 | 39.33 | 56.09 | 65.18 |
| 7 | 10.00 | 30.59 | 50.19 | 60.29 |
| 8 | | 21.85 | 44.29 | 55.77 |
| 9 | | 15.00 | 38.38 | 51.31 |
| 10 | | | 32.48 | 46.85 |
| 11 | | | 26.57 | 42.38 |
| 12 | | | 20.67 | 37.92 |
| 13 | | | 15.00 | 33.46 |
| 14 | | | | 29.00 |
| 15 | | | | 24.54 |
| 16 | | | | 20.08 |
| 17 | | | | 20.00 |

Depreciable tangible personal property in all recovery periods shall continue in subsequent years to have the depreciation factor last listed in the appropriate column so long as it is owned or held by the taxpayer. The state tax commission shall study and analyze the values established by this method of assessment and in every odd-numbered year make recommendations to the joint committee on tax policy pertaining to any changes in this methodology, if any, that are warranted.

4. Such estimate of value determined under this section shall be presumed to be correct for the purpose of determining the true value in money of the depreciable tangible personal property, but such estimation may be disproved by substantial and persuasive evidence of the true value in money under any method determined by the state tax commission to be correct, including, but not limited to, an appraisal of the tangible personal property specifically utilizing generally accepted appraisal techniques, and contained in a narrative appraisal report in accordance with the Uniform Standards of Professional Appraisal Practice or by proof of economic or functional obsolescence or evidence of excessive physical deterioration. For purposes of appeal of the provisions of this section, the salvage or scrap value of depreciable tangible personal property may only be considered if the property is not in use as of the assessment date.

5. This section shall not apply to business personal property placed in service before January 2, 2006. **Nothing in this section shall be found to create a presumption as to the proper method of determining the assessed valuation of business personal property placed in service before January 2, 2006.**

6. The provisions of this section are not intended to modify the definition of tangible personal property as defined in section 137.010."; and

Further amend said bill, Page 37, Section 137.720, Line 17, by inserting at the end of said line the following: "**The provisions of this subsection shall become effective July 1, 2009.**"; and

Further amend said bill, Page 43, Section 138.400, Line 9, by deleting all of said line and inserting in lieu thereof the following: "the several counties **[**so that it may be in the possession of county boards of equalization on or"; and

Further amend said bill, Page 45, Section 138.435, Lines 1 to 35, by deleting all of said lines and

inserting in lieu thereof the following:

"**138.435. 1. There is hereby established within the state tax commission the "Office of State Ombudsman for Property Assessment and Taxation", for the purpose of helping to assure the fairness, accountability, and transparency of the property tax process.**

**2. The office shall be administered by the state ombudsman, who shall devote his or her entire time to the duties of the position.**

**3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of taxpayers relating to assessments, valuation of property, tax levies of political subdivisions, and appeals before the assessor, board of equalization, or the state tax commission.**

**4. The ombudsman or representatives of the office shall have the authority to:**

**(1) Investigate any complaints or inquiries that come to the attention of the office. The ombudsman shall have access to review documents within the offices of assessors, the state tax commission, the state auditor's office, political subdivisions, collectors, clerks, or county commissions. The ombudsman shall have access to review taxpayer records, if given permission by the taxpayer or the taxpayer's legal guardian. Taxpayers shall have the right to request, deny, or terminate any assistance that the ombudsman may provide;**

**(2) Make the necessary inquiries and review of such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.**

**5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.**

**6. The ombudsman may recommend to the relevant state or local governmental agency or political subdivision changes in the rules and regulations adopted or proposed by such governmental agency or political subdivision which do or may adversely affect the rights or privileges of taxpayers. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations, and policies with respect to property assessment and taxation, and shall recommend to the state tax commission changes in such laws, regulations, and policies deemed by the office to be appropriate.**

**7. The office shall promote community contact and involvement with taxpayers through the use of volunteers and volunteer programs to encourage citizen involvement in the property tax process.**

**8. The office shall prepare and distribute to each county written notices which set forth the address, telephone number, and e-mail address of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint, and other pertinent information.**

**9. The county shall ensure that such written notice is available upon request of any taxpayer.**

**10. The office shall inform taxpayers or their legal guardians of their rights and entitlements by means of the distribution of educational materials and group meetings.**"; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 711, Section 137.115, Page 25, Line 7 by inserting the letter, "**y**" at the end of the word, "possessor"; and

Further amend said bill, section, page, Line 9 by deleting the words, "**possessor interest**" and inserting in lieu thereof the words, "**possessory interest**"; and

Further amend said bill, section, page, Line 13, by deleting the words, "**possessor interest**" and inserting in lieu thereof the words, "**possessory interest**"; and

Further amend said bill, section, page, Line 16, by deleting the words, "**possessor interest**" and inserting in lieu thereof the words, "**possessory interest**"; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 3

Amend House Amendment No. 3 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 711, Page1, Line 8, by inserting immediately after all of said line the following:

"Further amend said bill, Sections 135.037 through 135.083, Pages 4-13 by deleting all of said sections from the bill, and

Further amend said bill, Section 137.073, Page 19, Line 163 by inserting after the word "a" the word "**recorded**"; and

Further amend said bill, section, and page, Line 164 by inserting after the word "majority" the words "**plus one**"; and

Further amend said bill, Section 137.082, Page 25, Line 83 by inserting after all of said section the following:

"137.106. 1. This section **[**may**]** **shall** be known and may be cited as "The Missouri Homestead Preservation Act".

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

(1) "Department", the department of revenue;

(2) "Director", the director of revenue;

(3) "Disabled", as such term is defined in section 135.010, RSMo;

(4) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to this section; or

(a) In the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses

have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to this section did not exceed the maximum upper limit; or

(b) In the case of joint ownership by unmarried persons or ownership by tenancy in common by two or more unmarried persons, such owners shall be considered an eligible owner if each person with an ownership interest individually satisfies the eligibility requirements for an individual eligible owner under this section and the combined income of all individuals with an interest in the property is equal to or less than the maximum upper limit in the year prior to completing an application under this section. If any individual with an ownership interest in the property fails to satisfy the eligibility requirements of an individual eligible owner or if the combined income of all individuals with interest in the property exceeds the maximum upper limit, then all individuals with an ownership interest in such property shall be deemed ineligible owners regardless of such other individual's ability to individually meet the eligibility requirements; or

(c) In the case of property held in trust, the eligible owner and recipient of the tax credit shall be the trust itself provided the previous owner of the homestead or the previous owner's spouse: is the settlor of the trust with respect to the homestead; currently resides in such homestead; and but for the transfer of such property would have satisfied the age, ownership, and maximum upper limit requirements for income as defined in subdivisions (7) and (8) of this subsection**[**;**] .**

No individual shall be an eligible owner if the individual has not paid **[**their**] such individual's** property tax liability, if any, in full by the payment due date in any of the three prior tax years, except that a late payment of a property tax liability in any prior year shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person filed a valid claim for the senior citizens property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

(5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as limited by provisions of this section to the contrary. No property shall be considered a homestead if such property was improved since the most recent annual assessment by more than five percent of the prior year appraised value, except where an eligible owner of the property has made such improvements to accommodate a disabled person;

(6) "Homestead exemption limit", a percentage increase, rounded to the nearest hundredth of a percent, which shall be equal to the percentage increase to tax liability, not including improvements, of a homestead from one tax year to the next that exceeds a certain percentage set pursuant to subsection **[**10**] 7** of this section. **[**For applications filed in 2005 or 2006, the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005. For applications filed between April 1, 2005, and September 30, 2006, an eligible owner, who otherwise satisfied the requirements of this section, shall not apply for the homestead exemption credit more than once during such period.**]** For applications filed **[**after 2006**] in 2008**, the homestead exemption limit shall be based on the increase to tax liability from two years prior to application to the year immediately prior to application**. For applications filed after 2008, the homestead exemption limit shall be based on the increase to tax liability from the base year to the year prior to the application year. For purposes of this subdivision, "base year" means the year prior to the first year in which the eligible owner's application was approved, or 2006, whichever is later**;

(7) "Income", federal adjusted gross income, and in the case of ownership of the homestead by trust,

the income of the settlor applicant shall be imputed to the income of the trust for purposes of determining eligibility with regards to the maximum upper limit;

(8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy thousand dollars; in each successive calendar year this amount shall be raised by the incremental increase in the general price level, as defined pursuant to article X, section 17 of the Missouri Constitution.

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit, without regard for any prior credit received due to the provisions of this section, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current tax year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's bill. The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent tax year.

4. **[**If application is made in 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application through their local assessor's office. Applications may be completed between April first and September thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property; and

(4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value. The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. If application is made in 2005, the assessor, upon request for an application, shall:

(1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;

(2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks for inclusion on the form;

(3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and

(4) Sign the application, certifying the accuracy of the assessor's entries.

6. If application is made after 2005,**]** Any potential eligible owner may apply for the homestead

exemption credit by completing an application. Applications may be completed between April first and October fifteenth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property;

(4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value**[**; and

(5)**] .**

The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the three prior tax years.

**[**7.**] 5.** Each applicant shall send the application to the department by **[**September thirtieth**] October fifteenth** of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the application was completed.

**[**8. If application is made in 2005, upon receipt of the applications, the department shall calculate the tax liability, adjusted to exclude new construction or improvements verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant has also filed a valid application for the senior citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county collectors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county collectors or county clerks in counties with a township form of government shall provide a list to the department of any verified eligible owners who failed to pay the property tax due for the tax year that ended immediately prior. Such eligible owners shall be disqualified from receiving the credit in the current tax year.

9. If application is made after 2005,**] 6.** Upon receipt of the applications, the department shall calculate the tax liability, verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant also has filed a valid application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit and provide a list of all verified eligible owners to the county assessors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county assessors shall provide a list to the department of any verified eligible owners who made improvements not for accommodation of a disability to the homestead and the dollar amount of the assessed value of such improvements. If the dollar amount of the assessed value of such improvements totaled more than five percent of the prior year appraised value, such eligible owners shall be disqualified from receiving the credit in the current tax year.

**[**10.**]** **7.** The director shall calculate the level of appropriation necessary **[**to**]** **and** set the homestead exemption limit at five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment for the homesteads of all verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

**[**11. For applications made in 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation.**]**

**8.** If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

**[**12. After setting the homestead exemption limit for applications made in 2005, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation and assessment fund allocation to the county collector's funds of each county or the treasurer ex officio collector's fund in counties with a township form of government where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector or the treasurer ex officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or the treasurer ex officio collector's fund or may be sent by mail to the collector of a county, or the treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued. In counties with a township form of government, the county clerk shall provide the treasurer ex officio collector a summary of the homestead exemption credit for each township for the purpose of distributing the total homestead exemption credit to each township collector in a particular county.

13.**]** **9.** If, in any given year after 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall**[**, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year**] determine the apportionment percentage by equally apportioning the appropriation among all eligible applicants on a percentage basis**. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

**[**14.**] 10.** After **[**setting the homestead exemption limit for applications made after 2005, the director shall apply the limit to the homestead of each verified eligible owner and**] determining the apportionment percentage, the director shall** calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's fund of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section. Funds, at the direction of the collector of the county or treasurer ex officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued.

**[**15.**] 11.** The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

**[**16.**] 12.** In the event that an eligible owner dies or transfers ownership of the property after the homestead exemption limit has been set in any given year, but prior to January first of the year in which the credit would otherwise be applied, the credit shall be void and any corresponding moneys**[**, pursuant to subsection 12 of this section,**]** shall lapse to the state to be credited to the general revenue fund. In the event

the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government determines prior to issuing the credit that the individual is not an eligible owner because the individual did not pay the prior three years' property tax liability in full, the credit shall be void and any corresponding moneys**[**, under subsection 11 of this section,**]** shall lapse to the state to be credited to the general revenue fund.

**[**17. This section shall apply to all tax years beginning on or after January 1, 2005. This subsection shall become effective June 28, 2004.

18.**] 13.** In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

(1) Any new program authorized under the provisions of this section shall automatically sunset six years after the effective date of this section; and

(2) This section shall terminate on September first of the year following the year in which any new program authorized under this section is sunset, and the revisor of statutes shall designate such sections and this section in a revision bill for repeal."; and"; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 711, Page 6, Section 135.047, Line 8, by deleting the word "**clerk**" and inserting in lieu thereof the following: "**recorder of deeds**"; and

Further amend said bill, Page 6, Section 135.047, Line 10, by deleting all of said line and inserting in lieu thereof the following:

"**3. The director shall be**"; 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. 711, Section 135.083, Page 13, Line 35, by inserting after all of said section the following:

"137.016. 1. As used in section 4(b) of article X of the Missouri Constitution, the following terms mean:

(1) "Residential property", all real property improved by a structure which is used or intended to be used for residential living by human occupants, vacant land in connection with an airport, land used as a golf course, and manufactured home parks, but residential property shall not include other similar facilities used primarily for transient housing. For the purposes of this section, "transient housing" means all rooms available for rent or lease for which the receipts from the rent or lease of such rooms are subject to state sales tax pursuant to section 144.020.1(6), RSMo;

(2) "Agricultural and horticultural property", all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding and management of

livestock which shall include breeding**, showing,** and boarding of horses; to dairying, or to any other combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. Agricultural and horticultural property shall also include land devoted to and qualifying for payments or other compensation under a soil conservation or agricultural assistance program under an agreement with an agency of the federal government. Agricultural and horticultural property shall further include land and improvements, exclusive of structures, on privately owned airports that qualify as reliever airports under the Nation Plan of Integrated Airports System, to receive federal airport improvement project funds through the Federal Aviation Administration. Real property classified as forest croplands shall not be agricultural or horticultural property so long as it is classified as forest croplands and shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution;

(3) "Utility, industrial, commercial, railroad and other real property", all real property used directly or indirectly, for any commercial, mining, industrial, manufacturing, trade, professional, business, or similar purpose, including all property centrally assessed by the state tax commission but shall not include floating docks, portions of which are separately owned and the remainder of which is designated for common ownership and in which no one person or business entity owns more than five individual units. All other real property not included in the property listed in subclasses (1) and (2) of section 4(b) of article X of the Missouri Constitution, as such property is defined in this section, shall be deemed to be included in the term "utility, industrial, commercial, railroad and other real property".

2. Pursuant to article X of the state constitution, any taxing district may adjust its operating levy to recoup any loss of property tax revenue, except revenues from the surtax imposed pursuant to article X, section 6.2 of the constitution, as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units if such adjustment of the levy does not exceed the highest tax rate in effect subsequent to the 1980 tax year. For purposes of this section, loss in revenue shall include the difference between the revenue that would have been collected on such property under its classification prior to enactment of this section and the amount to be collected under its classification under this section. The county assessor of each county or city not within a county shall provide information to each taxing district within its boundaries regarding the difference in assessed valuation of such property as the result of such change in classification.

3. All reclassification of property as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units shall apply to assessments made after December 31, 1994.

4. Where real property is used or held for use for more than one purpose and such uses result in different classifications, the county assessor shall allocate to each classification the percentage of the true value in money of the property devoted to each use; except that, where agricultural and horticultural property, as defined in this section, also contains a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to five acres immediately surrounding such farm dwelling shall be residential property, as defined in this section.

5. All real property which is vacant, unused, or held for future use; which is used for a private club, a not-for-profit or other nonexempt lodge, club, business, trade, service organization, or similar entity; or for which a determination as to its classification cannot be made under the definitions set out in subsection 1 of this section, shall be classified according to its immediate most suitable economic use, which use shall

be determined after consideration of:

(1) Immediate prior use, if any, of such property;

(2) Location of such property;

(3) Zoning classification of such property; except that, such zoning classification shall not be considered conclusive if, upon consideration of all factors, it is determined that such zoning classification does not reflect the immediate most suitable economic use of the property;

(4) Other legal restrictions on the use of such property;

(5) Availability of water, electricity, gas, sewers, street lighting, and other public services for such property;

(6) Size of such property;

(7) Access of such property to public thoroughfares; and

(8) Any other factors relevant to a determination of the immediate most suitable economic use of such property.

6. All lands classified as forest croplands shall not, for taxation purposes, be classified as subclass (1), subclass (2), or subclass (3) real property, as such classes are prescribed in section 4(b) of article X of the Missouri Constitution and defined in this section, but shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution."; and

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 711, Page 24, Section 137.082, Line 83, by inserting after all of said line the following:

"137.092. 1. As used in this section, the following terms mean:

(1) "Personal property", any house trailer, manufactured home, **[**boat, vessel, floating home, floating structure,**]** airplane, or aircraft;

(2) "Rental or leasing facility", any manufactured home park, manufactured home storage facility, **[**marina or comparable facility providing dockage or storage space,**]** or any hangar or similar aircraft storage facility.

2. For all calendar years beginning on or after January 1, 2008, every owner of a rental or leasing facility shall, by January thirtieth of each year, furnish the assessor of the county in which the rental or leasing facility is located a list of the **[**personal property**] lessees** located at the rental or leasing facility on January first of each year. The list shall include:

(1) The name of the **[**owner of the personal property**] lessee**;

(2) The **[**owner's**] lessee's** address and county of residency**[**, if known;

(3) A description of the personal property located at the facility if the owner of the rental or leasing

facility knows of or has been made aware of the nature of such personal property.

3. If the owner of a rental or leasing facility fails to submit the list by January thirtieth of each year, or fails to include all the information required by this section on the list, the valuation of the personal property that is not listed as required by this section and that is located at the rental or leasing facility shall be assessed to the owner of the rental or leasing facility.

4. The assessor of the county in which the rental or leasing facility is located shall also collect a penalty as additional tax on the assessed valuation of such personal property that is not listed as required by this section. The penalty shall be collected as follows:

| Assessed valuation | Penalty |
|---|---|
| $0 to $1,000 | $ 10.00 |
| $1,001 to $2,000 | $ 20.00 |
| $2,001 to $3,000 | $ 30.00 |
| $3,001 to $4,000 | $ 40.00 |
| $4,001 to $5,000 | $ 50.00 |
| $5,001 to $6,000 | $ 60.00 |
| $6,001 to $7,000 | $ 70.00 |
| $7,001 to $8,000 | $ 80.00 |
| $8,001 to $9,000 | $ 90.00 |
| $9,001 and above | $100.00 |

5. The funds derived from the penalty collected under this section shall be disbursed proportionately to any taxing entity authorized to levy a tax on such personal property. No rental or leasing facility owner penalized under this section shall be subject to any penalty authorized in section 137.280 or 137.345 for the same personal property in the same tax year**]**.”; and

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

HOUSE AMENDMENT NO. 2 TO
HOUSE AMENDMENT NO. 6

Amend House Amendment No. 6 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 711, Line 5, by deleting the word “two” and replacing with “.5”.

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 711, Section 163.044, Page 50, Line 13, by inserting after all of said line, the following:

“**Section 1. The director of the department of revenue shall collect a maximum fee of two cents per motor vehicle or driver license record for batch/bulk customer requests that meet the criteria enumerated in the Drivers Privacy and Protection Act.**”; and

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

accordingly.

In which the concurrence of the Senate is respectfully requested.

## PRIVILEGED MOTIONS

Senator Gibbons moved that the Senate refuse to concur in **HCS** for **SS** for **SCS** for **SB 711**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

## HOUSE BILLS ON THIRD READING

Senator Rupp moved that **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, with **SS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

**SS** for **HCS** for **HBs 1549**, **1771**, **1395** and **2366** was again taken up.

Senator Smith offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 4, Section 208.009, Line 13 of said page, by inserting at the end of said line the following: "**The requirements of this section shall not apply to a custodial parent applying for a public benefit on behalf of his or her child who is lawfully present in the United States.**".

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

Senator Wilson offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 27, Section 577.900, Line 17 of said page, by inserting at the end of said line the following: "**If a person is held under the provisions of this section at a county jail that does not meet the federal requirements of a detention facility, and therefore does not qualify to receive reimbursement from the federal government for housing of the person, then the state shall reimburse the county for any housing costs at a rate equal to or greater than the federal government's housing reimbursement rate.**".

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

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

SENATE AMENDMENT NO. 3

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 29, Section 650.681, Line 14, by inserting immediately after all of said line the following:

"**Section 1. Notwithstanding any other provision of law to the contrary, any person who is a victim of an offense as provided in sections 566.200 to 566.221, RSMo, shall not be considered an illegal alien or unlawfully present in this state.**"; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

Senator Dempsey assumed the Chair.

At the request of Senator Bray, **SA 3** was withdrawn.

Senator Smith offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 4, Section 208.009, Line 13, by inserting at the end of said line, the following: "**In processing applications for public benefits, an employee of an agency of state or local government shall not inquire about the legal status of a custodial parent or guardian applying for a public benefit on behalf of his or her dependent child who is a citizen or permanent resident of the United States.**".

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

Senator Smith offered **SA 5**, which was read:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 3, Section 208.009, Line 16 of said page, by inserting after "care," the following: "**prenatal care, services offering alternatives to abortion,**".

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

Senator Rupp offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 26, Section 577.722, Line 19, by inserting immediately after the word "of", the following: "**8**".

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

Senator Rupp offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 29, Section 650.681, Line 14, by inserting after all of said line, the following:

"**5. The provisions of subsections 1 and 2 of this section shall not apply to any state or local agency administering one or more federal public benefit programs as such term is defined in 8 U.S.C. 1612.**".

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

Senator Rupp offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 11, Section 285.535, Line 28, by striking the word "ten" and inserting in lieu thereof the following: "**fifteen**"; and further amend page 12, line 10 by striking the word "ten" and inserting in lieu thereof the following: "**fifteen**".

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

Senator Green offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 1, In the Title, Line 4 of said page, by inserting immediately after "provisions" the following: ", an emergency clause for certain sections,"; and

Further amend said bill, page 5, section 208.009, line 24 of said page, by inserting after all of said line the following:

"**285.309. 1. Every employer doing business in this state who employs five or more employees shall, if applicable, submit federal 1099 miscellaneous forms to the department of revenue. Such forms shall be submitted to the department of revenue within the time lines established for the filing of Missouri Form 99 forms.**

**2. Any employer who intentionally, on five or more occasions, fails to submit information on any employee required under subsection 1 of this section is guilty of a class A misdemeanor and shall be fined not more than one hundred dollars for each time the employer fails to submit the information on or after the fifth occurrence. If the failure is the result of a conspiracy between the employer and the employee or worker to not supply the required report or to supply a false or incomplete report, the fine shall be one thousand dollars for each failure to report or each false or incomplete report on and after the fifth occurrence.**

**285.500. For the purposes of sections 285.500 to 285.515 the following terms mean:**

**(1) "Employee", any individual who performs services for an employer that would indicate an employer-employee relationship in satisfaction of the factors in IRS Rev. Rule 87-41, 1987-1 C.B.296.;**

**(2) "Employer", any individual, organization, partnership, political subdivision, corporation, or other legal entity which has or had in the entity's employ five or more individuals performing any of the following services within this state:**

**(a) Construction as defined in section 290.210, RSMo;**

**(b) Public works as defined in section 290.210, RSMo;**

**(c) Maintenance work as defined in section 290.210, RSMo.**

**285.503. 1. An employer knowingly misclassifies a worker if that employer fails to claim the worker as an employee but knows, or has reason to know, that worker is an employee.**

**2. The attorney general may investigate alleged or suspected violations of sections 285.500 to 285.515 and shall have all powers provided by sections 407.040 to 407.090, RSMo, in connection with any investigation of an alleged or suspected violation of sections 285.500 to 285.515 as if the acts enumerated in sections 285.500 to 285.515 are unlawful acts proscribed by chapter 407, RSMo.**

**3. In addition to the powers set out in subsection 1 of this section, the attorney general may serve and enforce subpoenas related to the enforcement of sections 285.500 to 285.515.**

**285.506. 1. In any action brought under sections 285.500 to 285.515, the state shall have the burden of proving that the employer misclassified the worker. If the state is unable to produce any evidence supporting its contention that the alleged misclassified worker is misclassified, the court shall**

**find that the worker is not an employee for purposes of that action.**

**2. In any action brought under sections 285.500 to 285.515, there is a rebuttable presumption that a worker is an employee if the worker is an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3). To rebut this presumption, the employer must produce an I-9 form to establish that the worker is not an unauthorized alien or other documentation to show that the worker is an independent contractor. If the employer fails to produce such evidence, the court shall find that the worker is an employee for purposes of that action.**

**285.509. 1. The department of labor and industrial relations shall establish a complaint form to receive complaints about alleged misclassification of workers. The form shall be made available on the Internet. Upon receiving a complaint, the department shall cross-check the complaint against any employer records it maintains and shall also cross-check the complaint against any records maintained by the department of revenue.**

**2. If the department determines, after conducting the review set out in subsection 1 of this section, that an employer appears to have misclassified a worker, it shall forward its determination along with supporting documentation to the attorney general.**

**3. Upon receiving the department's determination, the attorney general may request additional information or records from the department of labor and industrial relations, the department of revenue, or any other state agency that may have information or records relevant to the matter. Upon request, the department or other state agency shall provide the information or records requested. If the attorney general receives records that are otherwise closed pursuant to law, the attorney general shall likewise treat any such records obtained in the course of an investigation as closed records, except that such records may be used in the course of any action brought under sections 285.500 to 285.515.**

**4. The department of labor and industrial relations shall have the authority to promulgate rules necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**285.512. 1. Whenever the attorney general has reason to believe that an employer has engaged in, is engaging in, or is about to engage in any conduct that would be a violation of sections 285.500 to 285.515, the attorney general may seek an injunction prohibiting the employer from engaging in such conduct.**

**2. The attorney general may bring an action for injunctive relief in the circuit court of any county where the alleged violation is occurring or about to occur.**

**3. In seeking injunctive relief, the attorney general may petition the court to order that all work contracted for by the employer at any site of the employer be halted if the court determines that the employer has engaged in, or is about to engage in, any conduct that would be a violation of sections**

**285.500 to 285.515. In addition to such relief, the court may issue any other order or judgment necessary to prevent the employer from committing any further violations of sections 285.500 to 285.515.**

**285.515. 1. If a court determines that an employer has knowingly misclassified a worker, the court shall enter a judgment in favor of the state and award penalties in the amount of fifty dollars per day per misclassified worker up to a maximum of fifty thousand dollars to the Missouri worker protection fund established in section 285.518.**

**2. If a court determines that an employer has knowingly misclassified a worker after having been previously adjudicated for knowing misclassification of a worker, the court shall enter a judgment in favor of the state and award penalties in the amount of one hundred dollars per day per misclassified worker up to a maximum of one hundred thousand dollars to the Missouri worker protection fund established in section 285.518.**

**3. The court may, in addition to the penalties authorized by this section, order that attorneys' fees and costs be paid to the state.**

**4. The attorney general may enter into a consent judgment with any person alleged to have violated sections 285.500 to 285.515.**

**285.518. There is hereby created in the state treasury the "Missouri Worker Protection Fund", which shall consist of money collected under sections 285.500 to 285.515. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 285.500 to 285.515. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. This fund shall be administered by the attorney general for the purposes of ensuring that Missouri employers hire employees and subcontract with workers who are not misclassified. The fund shall consist of:**

**(1) All amounts ordered to be paid into the fund pursuant to section 285.515;**

**(2) Any amounts appropriated to the fund; and**

**(3) Any voluntary contributions, gifts, or bequests to the fund.**"; and

Further amend said bill, section C, page 30, line 25 of said page, by inserting immediately after all of said line the following:

"Section D. Because of the need to provide a level playing field for Missouri employers and workers, the provisions of sections 285.309 and 285.500 to 285.518 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency within the meaning of the constitution, and sections 285.309 and 285.500 to 285.518 of this act shall be in full force and effect upon its passage and approval."; and

Further amend the title and enacting clause accordingly.

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

Senator Bray offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 29, Section 650.681, Line 14, by inserting immediately after all of said line the following:

"**Section 1. Notwithstanding any other provision of law to the contrary, no benefit administered by the state or a political subdivision that is denied to an individual on the basis of unlawful presence in the United States shall be denied to any person who is the victim of an offense under sections 566.200 to 566.221, RSMo, so long as such person is otherwise eligible.**"; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

At the request of Senator Rupp, **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, with **SS** and **SA 10** (pending), was placed on the Informal Calendar.

## MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SCS** for **SB 901**.

With House Substitute Amendment No. 1 for House Amendment No. 1.

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

Amend Senate Committee Substitute for Senate Bill No. 901, Section 287.230, Page 6, Line 20, by inserting immediately after said line the following:

"**Section 1. 1. The provisions of chapter 287, RSMo, shall not be construed as prohibiting an employer with fewer than fifty employees from procuring disability insurance for his or her workers provided the insurance the employer purchases is registered with and approved by the division of workers' compensation.**

**2. The division shall establish insurance requirements and verification procedures for employers who obtain disability insurance.**

**3. Any employer purchasing disability insurance shall not be required to pay the second injury fund surcharge as required by section 287.715.**"; and

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

Emergency clause defeated.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SS** for **SCS** for **SB 711** as amended and grants the Senate a conference thereon and the House conferees be bound to **HA 6** 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 **SB 932**, entitled:

An Act to repeal sections 590.050 and 650.120, RSMo, and to enact in lieu thereof two new sections relating to Internet sex crimes investigation grant program.

With House Amendment No. 1

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 932, Page 1, Section A, Line 2, by inserting after all of said line the following:

"542.276. 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant.

2. The application shall:

(1) Be in writing;

(2) State the time and date of the making of the application;

(3) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(4) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(5) State facts sufficient to show probable cause for the issuance of a search warrant;

(6) Be verified by the oath or affirmation of the applicant;

(7) Be filed in the proper court;

(8) Be signed by the prosecuting attorney of the county where the search is to take place, or his or her designated assistant.

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the person, place, or thing to be searched or of the property, article, material, substance, or person to be seized. Oral testimony shall not be considered. The application may be submitted by facsimile or other electronic means.

4. The judge shall determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. The warrant shall be issued in the form of an original and two copies.

5. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the court from which the warrant was issued.

6. The search warrant shall:

(1) Be in writing and in the name of the state of Missouri;

(2) Be directed to any peace officer in the state;

(3) State the time and date the warrant is issued;

(4) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized or photographed or copied and within ten days after filing of the application, any photographs or copies of the items may be filed with the issuing court;

(7) Be signed by the judge, with his or her title of office indicated.

7. A search warrant issued under this section may be executed only by a peace officer. The warrant shall be executed by conducting the search and seizure commanded. The search warrant issued under this section may be issued by facsimile or other electronic means.

8. A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application. **A search and any subsequent searches of the contents of any property, article, material, or substance seized and removed from the location of the execution of any search warrant during its execution may be conducted at any time during or after the execution of the warrant, subject to the continued existence of probable cause to search the property, article, material, or substance seized and removed. A search and any subsequent searches of the property, article, material, or substance seized and removed may be conducted after the time for delivering the warrant, return, and receipt to the issuing judge has expired. A supplemental return and receipt shall be delivered to the issuing judge upon final completion of any search which concludes after the expiration of time for delivering the original return and receipt.**

9. After execution of the search warrant, the warrant with a return thereon, signed by the officer making the search, shall be delivered to the judge who issued the warrant. The return shall show the date and manner of execution, what was seized, and the name of the possessor and of the owner, when he or she is not the same person, if known. The return shall be accompanied by a copy of the itemized receipt required by subsection 6 of section 542.291. The judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose possession the property was taken and to the applicant for the warrant.

10. A search warrant shall be deemed invalid:

(1) If it was not issued by a judge; or

(2) If it was issued without a written application having been filed and verified; or

(3) If it was issued without probable cause; or

(4) If it was not issued in the proper county; or

(5) If it does not describe the person, place, or thing to be searched or the property, article, material,

substance, or person to be seized with sufficient certainty; or

(6) If it is not signed by the judge who issued it; or

(7) If it was not executed within the time prescribed by subsection 8 of this section."; and

Further amend the title and enacting clause accordingly.

In which the concurrence of the Senate is respectfully requested.

President Pro Tem Gibbons assumed the Chair.

## CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Gibbons appointed the following conference committee to act with a like committee from the House on **HCS** for **SS** for **SCS** for **SB 711**, as amended: Senators Gibbons, Vogel, Griesheimer, Kennedy and Callahan.

## REPORTS OF STANDING COMMITTEES

Senator Goodman, 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 **SS No. 2** for **SCS** for **SBs 1021** and **870**; **HCS** for **HBs 2062** and **1518**, with **SCS**; **HCS** for **HB 2058**, with **SCS**; **HCS** for **HBs 1788** and **1882**; **HCS** for **HBs 1595** and **1668**; **HCS** for **HBs 1321** and **1695**, with **SCS**; **HB 2191**, with **SCS**; **HCS** for **HBs 1831** and **1472**; and **HCS** for **HB 1700**, with **SCS**, begs leave to report that it has considered the same and recommends that the bills do pass.

Senator Griesheimer, 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 **HB 1320**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Purgason, Chairman of the Committee on Health and Mental Health, submitted the following report:

Mr. President: Your Committee on Health and Mental Health, to which was referred **HCS** for **HB 1332**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

On motion of Senator Shields, the Senate recessed until 8:30 p.m.

## RECESS

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

## RESOLUTIONS

Senator Green offered Senate Resolution No. 2721, regarding Nicholas Friedrich, St. Louis, which was adopted.

Senator Green offered Senate Resolution No. 2722, regarding Taylor Barnett, St. Louis, which was

adopted.

Senator Green offered Senate Resolution No. 2723, regarding Larry Jerrod, St. Louis, which was adopted.

Senator Dempsey offered Senate Resolution No. 2724, regarding Beverly Pierce, St. Peters, which was adopted.

Senator Crowell offered Senate Resolution No. 2725, regarding Brooke Borders, East Prairie, which was adopted.

Senator Shields offered Senate Resolution No. 2726, regarding Michael Gorski, Kansas City, which was adopted.

Senator Shields offered Senate Resolution No. 2727, regarding Christopher Saving, which was adopted.

Senator Shields offered Senate Resolution No. 2728, regarding William S. Robbins, III, Parkville, which was adopted.

Senator Gibbons offered Senate Resolution No. 2729, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Berry DeBres, Kirkwood, which was adopted.

Senator Gibbons offered Senate Resolution No. 2730, regarding Kathryn J. "Kelly" O'Neill, St. Louis, which was adopted.

Senator Gibbons offered Senate Resolution No. 2731, regarding Travis Ewing, Fulton, which was adopted.

Senator Gibbons offered Senate Resolution No. 2732, regarding Daniel M. Thode, Raytown, which was adopted.

Senator Gibbons offered Senate Resolution No. 2733, regarding Kathryn A. "Kate" Millington, Springfield, which was adopted.

Senator Coleman offered Senate Resolution No. 2734, regarding Nate Parker, which was adopted.

Senator Goodman offered Senate Resolution No. 2735, regarding Taylor Burks, which was adopted.

Senator Goodman offered Senate Resolution No. 2736, regarding William Lynch, which was adopted.

Senator Justus offered Senate Resolution No. 2737, regarding Good Samaritan Project, which was adopted.

Senator Goodman offered Senate Resolution No. 2738, regarding the Eightieth Birthday of Pat Hemphill, Columbia, which was adopted.

## PRIVILEGED MOTIONS

Senator Stouffer moved that the Senate refuse to concur in **HCS** for **SCS** for **SBs 930** and **947**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Shields moved that the Senate refuse to concur in **HCS** for **SB 1288**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Coleman moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 720**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Engler assumed the Chair.

Senator Loudon moved that the Senate refuse to concur in **HSA 1** for **HA 1** to **SCS** for **SB 901**, and request the House to recede from its position on the amendment and take up and pass **SCS** for **SB 901**, which motion prevailed.

## HOUSE BILLS ON THIRD READING

Senator Rupp moved that **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, with **SS** and **SA 10** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

**SA 10** was again taken up.

Senator Ridgeway offered **SSA 1** for **SA 10**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 10

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 26, Section 577.722, Line 28, by inserting immediately after all of said line, the following:

"**3. Nothing in this section shall be construed to deny any victim of an offense under sections 566.200 to 566.215, RSMo, of rights afforded by the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.**".

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

Senator Graham offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 28, Section 650.681, Line 16 of said page by adding immediately thereafter the following

"**2. Municipalities and political subdivisions may collect and share the identity of persons by the same means the Federal Bureau of Investigation or its successor agency uses in its Integrated Automated Fingerprint Identification System or its successor program.**"; and renumber the remaining subsections accordingly.

Senator Graham moved that the above amendment be adopted.

Senator Bray raised the point of order that **SA 11** is out of order as it goes beyond the scope and title of the bill.

The point of order was referred to the President Pro Tem who ruled it not well taken.

**SA 11** was again taken up.

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

Senator Days offered **SA 12**, which was read:

SENATE AMENDMENT NO. 12

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 5, Section 208.009, Line 1 of said page, by striking "ninety" and inserting in lieu thereof the following: "**one hundred eighty**"; and

Further amend said bill and section, Page 5, Lines 6 to 10 of said page, by striking said lines and inserting in lieu thereof the following: "**Missouri or some other state or any document accepted for application or renewal of a Missouri driver's license, nondriver's license, or instruction permit as issued by the department of revenue.**".

Senator Days moved that the above amendment be adopted.

Senator Rupp requested a roll call vote be taken on the adoption of **SA 12** and was joined in his request by Senators Champion, Nodler, Ridgeway and Stouffer.

**SA 12** failed of adoption by the following vote:

YEAS—Senators

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Bray | Coleman | Days | Graham | Green | Justus | Kennedy | Smith |
| Wilson—9 | | | | | | | |

NAYS—Senators

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Barnitz | Bartle | Callahan | Champion | Clemens | Crowell | Dempsey | Engler |
| Gibbons | Goodman | Griesheimer | Koster | Lager | Loudon | Mayer | McKenna |
| Nodler | Purgason | Ridgeway | Rupp | Scott | Shields | Shoemyer | Stouffer |
| Vogel—25 | | | | | | | |

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

Senator Kennedy offered **SA 13**, which was read:

SENATE AMENDMENT NO. 13

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 29, Section 650.681, Line 14, by inserting immediately after said line, the following:

"**Section 1. The state shall indemnify, defend, and hold harmless any political subdivision, public official, or employee who is sued for violation of federal civil rights statutes when attempting to comply with the provisions of this act.**"; and

Further amend the title and enacting clause accordingly.

Senator Kennedy moved that the above amendment be adopted.

Senator Bray raised the point of order that **SS** for **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, as amended, is out of order as it goes beyond the single subject rule.

The point of order was referred to the President Pro Tem who ruled it not well taken.

**SA 13** was again taken up.

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

Senator Kennedy offered **SA 14**, which was read:

SENATE AMENDMENT NO. 14

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 5, Section 208.009, Line 21, by inserting after the word "section", the following: "**, section 285.525, or section 285.530, RSMo,**"; and further amend line 23 by inserting after the word "section", the following: "**, section 285.525, or section 285.530, RSMo**".

Senator Kennedy moved that the above amendment be adopted.

At the request of Senator Kennedy, **SA 14** was withdrawn.

Senator Justus offered **SA 15**, which was read:

SENATE AMENDMENT NO. 15

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 30, Section C, Line 25 of said page, by inserting immediately after said line the following:

"Section D. Notwithstanding the provisions of section 1.140, RSMo, to the contrary, the provisions of this act shall be nonseverable, and if any provision is for any reason held to be invalid, such decision shall invalidate all of the remaining provisions of this act.".

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

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

SENATE AMENDMENT NO. 16

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 4, Section 208.009, Line 23 of said page, by striking the following: "**the applicant's Social Security number and**".

Senator Justus moved that the above amendment be adopted.

Senator Dempsey assumed the Chair.

At the request of Senator Justus, **SA 16** was withdrawn.

Senator Justus offered **SA 17**, which was read:

SENATE AMENDMENT NO. 17

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 4, Section 208.009, Line 23, by inserting after the word "number" the following: "**or any applicable federal identification number**".

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

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

SENATE AMENDMENT NO. 18

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 5, Section 208.009, Line 21, by inserting after the word "section", the following: "**, section 285.525, RSMo, or section 285.530, RSMo,**"; and further amend line 23 by inserting after the word "section", the following: "**, section 285.525, RSMo, or section 285.530, RSMo**".

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

Senator Bray offered **SA 19**:

SENATE AMENDMENT NO. 19

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 5, Section 208.009, Line 24 of said page, by inserting after all of said line the following:

"**8. Any agency that administers public benefits shall provide assistance in obtaining appropriate documentation to persons applying for public benefits who sign the affidavit required by subsection 4 of this section stating they are eligible for such benefits but lack the documents required under subsection 3 of this section.**".

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

Senator Bray offered **SA 20**, which was read:

SENATE AMENDMENT NO. 20

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 6, Section 285.525, Line 20, by striking the words, "or applying for".

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

Senator Bray offered **SA 21**, which was read:

SENATE AMENDMENT NO. 21

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 27, Section 578.570, Line 22, by striking the words "Knowing or in reckless disregard of the truth," and insert in lieu thereof, the following: "**Knowingly**".

Senator Bray moved that the above amendment be adopted.

At the request of Senator Bray, **SA 21** was withdrawn.

Senator Coleman offered **SA 22**:

SENATE AMENDMENT NO. 22

Amend Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 and 2366, Page 5, Section 208.009, Line 24, by inserting after all of said line, the following:

"**8. The state shall provide at least one form of the identification required to receive benefits at no cost to any otherwise qualified citizen or lawful permanent resident who does not already possess such identification and who desires the identification in order to receive benefits.**".

Senator Coleman moved that the above amendment be adopted.

Senator Rupp raised the point of order that **SA 22** is out of order as it attempts to amend previously

amended material.

The point of order was referred to the President Pro Tem who ruled it not well taken.

**SA 22** was again taken up.

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

Senator Rupp moved that **SS** for **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, as amended, be adopted, which motion prevailed.

Senator Rupp moved that **SS** for **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, as amended, be read the 3rd time and finally passed and was recognized to close.

President Pro Tem Gibbons referred **SS** for **HCS** for **HBs 1549**, **1771**, **1395** and **2366**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

Senator Callahan moved that **HB 2081**, with **SCS**, **SS** for **SCS** and **SA 5** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

**SA 5** was again taken up.

At the request of Senator Barnitz, **SA 5** was withdrawn.

Senator Purgason offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Page 69, Section 376.811, Line 7, by deleting "**licensed marital and family therapist**".

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

Senator Bartle assumed the Chair.

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

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Pages 70-71, Section 194.233, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Dempsey offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Page 70, Section 376.811, Line 5 of said page, by inserting after all of said line the following:

"429.015. 1. Every registered architect or corporation registered to practice architecture, every registered professional engineer or corporation registered to practice professional engineering, every registered landscape architect or corporation registered to practice landscape architecture, and every registered land surveyor or corporation registered to practice land surveying, who does any landscape architectural, architectural, engineering or land surveying work upon or performs any landscape

architectural, architectural, engineering or land surveying service directly connected with the erection or repair of any building or other improvement upon land under or by virtue of any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying with the provisions of this chapter, shall have for such person's landscape architectural, architectural, engineering or land surveying work or service so done or performed, a lien upon the building or other improvements and upon the land belonging to the owner or lessee on which the building or improvements are situated, to the extent of **[**one acre**] three acres**. If the building or other improvement is upon any lot of land in any town, city or village, then the lien shall be upon such building or other improvements, and the lot or land upon which the building or other improvements are situated, to secure the payment for the landscape architectural, architectural, engineering or land surveying work or service so done or performed. For purposes of this section, a corporation engaged in the practice of architecture, engineering, landscape architecture, or land surveying, shall be deemed to be registered if the corporation itself is registered under the laws of this state to practice architecture, engineering**, landscape architecture,** or land surveying.

2. Every mechanic or other person who shall do or perform any work or labor upon or furnish any material or machinery for the digging of a well to obtain water under or by virtue of any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, upon complying with the provisions of sections 429.010 to 429.340 shall have for such person's work or labor done, or materials or machinery furnished, a lien upon the land belonging to such owner or lessee on which the same are situated, to the extent of one acre, to secure the payment of such work or labor done, or materials or machinery furnished as aforesaid.

3. Every mechanic or other person who shall do or perform any work or labor upon, or furnish any material, fixtures, engine, boiler or machinery, for the purpose of demolishing or razing a building or structure under or by virtue of any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying with the provisions of sections 429.010 to 429.340, shall have for such person's work or labor done, or materials, fixtures, engine, boiler or machinery furnished, a lien upon the land belonging to such owner or lessee on which the same are situated, to the extent of one acre. If the building or buildings to be demolished or razed are upon any lot of land in any town, city or village, then the lien shall be upon the lot or lots or land upon which the building or other improvements are situated, to secure the payment for the labor and materials performed.

4. The provisions of sections 429.030 to 429.060 and sections 429.080 to 429.430 applicable to liens of mechanics and other persons shall apply to and govern the procedure with respect to the liens provided for in subsections 1, 2 and 3 of this section.

5. Any design professional or corporation authorized to have lien rights under subsection 1 of this section shall have a lien upon the building or other improvement and upon the land, whether or not actual construction of the planned work or improvement has commenced if:

(1) The owner or lessee thereof, or such owner's or lessee's agent or trustee, contracted for such

professional services directly with the design professional or corporation asserting the lien; and

(2) The owner or lessee is the owner or lessee of such real property either at the time the contract is made or at the time the lien is filed.

6. Priority between a design professional or corporation lien claimant and any other mechanic's lien claimant shall be determined pursuant to the provisions of section 429.260 on a pro rata basis.

7. In any civil action, the owner or lessee may assert defenses which include that the actual construction of the planned work or improvement has not been performed in compliance with the professional services contract, is impracticable or is economically infeasible.

8. The agreement is in writing."; and

Further amend the title and enacting clause accordingly.

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

Senator Purgason offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 2081, Page 8, Section 194.119, Line 1, by inserting immediately after said line the following:

"**324.1230. As used in sections 324.1230 to 324.1245, the following terms shall mean:**

**(1) "Antepartum", before birth;**

**(2) "Board", the board of professional midwives;**

**(3) "Client", a person who retains the services of a professional midwife;**

**(4) "Division", the division of professional registration;**

**(5) "Intrapartum", during birth;**

**(6) "Postpartum", after birth;**

**(7) "Practice of professional midwifery", the science and art of examination, evaluation, assessment, counseling, and treatment of women and infants by a professional midwife in the antepartum, intrapartum, and postpartum period by those methods commonly taught in any midwifery school, or midwifery program in a university or college which has been accredited by the Midwifery Education Accreditation Council, its successor entity or approved by the board; including identifying and referring women who require obstetrical or other professional care. It shall not include the use of operative surgery, nor the prescribing of drugs. The practice of professional midwifery is not the practice of medicine or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter. The practice of professional midwifery is not the practice of nurse-midwifery or nursing within the meaning of chapter 335, RSMo, and not subject to the provisions of the chapter;**

**(8) "Professional midwife", any person who is certified by the North American Registry of Midwives (NARM) as a certified professional midwife (CPM) and provides for compensation those skills relevant to the care of women and infants in the antepartum, intrapartum, and postpartum period.**

**324.1231. 1. There is hereby created and established within the division of professional registration a "Board of Professional Midwives" which consists of five members appointed by the governor with the advice and consent of the senate. Each member shall be a United States citizen and a resident of this state for at least one year immediately preceding their appointment. Of these five members, one member shall be a public member, four members shall be licensed professional midwives who attend births in homes or other out-of-hospital settings, provided that the first midwife members appointed need not be licensed at the time of appointment if they are actively working toward licensure under the provisions of sections 324.1230 to 324.1245.**

**2. The initial appointments to the board shall be one member for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years, and one member for a term of five years. After the initial terms, each member shall serve a five-year term. No member of the board shall serve more than two consecutive five-year terms. All successor members shall be appointed for five-year terms. All members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the board for any reason shall be filled by appointment by the governor for the unexpired term.**

**3. The public member shall not be, nor have previously been, a member of any profession regulated by chapter 334 or 335, RSMo, or under sections 324.1230 to 324.1245, or the spouse or immediate family member of such person. The public member is subject to the provisions of section 620.132, RSMo.**

**4. The board may sue and be sued in its own name and its members need not be named parties. Members of the board shall not be personally liable, either jointly or severally, for any act or acts committed in the performance of their official duties as board members. No board member shall be personally liable for any court costs which accrue in any action by or against the board.**

**5. Notwithstanding any other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division not to exceed seventy dollars per day for board business plus actual and necessary expenses.**

**6. The division shall employ administrative and clerical personnel necessary to enforce the provisions of sections 324.1230 to 324.1245.**

**7. The board shall hold an annual meeting at which time it shall elect from its membership a chairperson and a vice chairperson. The board may hold such additional meetings as may be required in the performance of its duties. A quorum of the board shall consist of a majority of its members.**

**8. Pursuant to section 620.106, RSMo, no new licensing activity or other statutory requirements shall become effective until expenditures or personnel are specifically appropriated for the purpose of conducting the business as required to administer the provisions of sections 324.1230 to 324.1245 and the initial rules filed have become effective.**

**324.1233. 1. Applications for licensure as a professional midwife shall be in writing, submitted to the board on forms prescribed by the board, and furnished to the applicant. Each application shall contain a statement that it is made under oath or affirmation that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the board.**

**2. Each applicant for licensure shall:**

**(1) Present evidence of current certification by the North American Registry of Midwives as a certified professional midwife;**

**(2) Present evidence of current certification in basic life support for healthcare providers, and either infant cardiopulmonary resuscitation or neonatal resuscitation; and**

**(3) Comply with the written disclosure requirement under subsection 1 of section 324.1239.**

**3. The division shall mail a renewal notice to the last known address of each licensee prior to the renewal date. Failure to provide the board with the information required for renewal, or to pay the renewal fee after such notice, shall result in the license expiring. The license shall be reinstated if, within two years of the renewal date, the applicant submits the required documentation and pays the applicable fees as approved by the board.**

**4. Each license issued pursuant to the provisions of this section shall expire three years after the date of its issuance. Each applicant for renewal shall submit:**

**(1) Evidence of attendance at a minimum of ten hours per year of continuing education in midwifery or related fields;**

**(2) Evidence of attendance at a minimum of three hours per year of peer review;**

**(3) Evidence of current certification in basic life support for healthcare providers, and either infant cardiopulmonary resuscitation or neonatal resuscitation; and**

**(4) The renewal fee set by the board.**

**5. The board may refuse to issue or renew any certificate of registration or authority, permit, or license required pursuant to this chapter for one or any combination of causes stated in subsection 6 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration, or authority, the board may, at its discretion, issue a license which is subject to probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 6 of this section. The board's order of probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefore, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.**

**6. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered the person's certificate or registration or authority, permit, or license for any one or any combination of the following causes:**

**(1) Engaging in conduct detrimental to the health or safety of either the mother or infant, or both, as determined by the board;**

**(2) Having an unpaid judgment resulting from providing professional midwifery services;**

**(3) Procuring or attempting to procure a license under sections 324.1230 to 324.1245 by making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for licensure, or through any form of fraud or misrepresentation;**

**(4) Failing to meet the minimum qualifications for licensure or renewal established under sections 324.1230 to 324.1245;**

**(5) Paying money or other valuable consideration, other than as provided for under sections 324.1230 to 324.1245, to any member or employee of the board to procure a license under sections 324.1230 to 324.1245;**

**(6) Incompetency, misconduct, negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of professional midwives as prescribed under sections 324.1230 to 324.1245;**

**(7) Violating, assisting, or enabling any person to willfully disregard any of the provisions of sections 324.1230 to 324.1245, or the rules of the board for the administration and enforcement of the provisions of sections 324.1230 to 324.1245;**

**(8) Violating any term or condition of a license issued by the board under the authority of sections 324.1230 to 324.1245;**

**(9) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;**

**(10) Assisting or enabling a person to practice or offer to practice any profession licensed or regulated by sections 324.1230 to 324.1245 who is not licensed and currently eligible to practice under sections 324.1230 to 324.1245; or**

**(11) Using any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.**

**7. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 6 of this section for disciplinary action are met, the board may, singly or in combination, warn, censure, or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate, or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or restrict or limit the person's license, certificate, or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling, or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.**

**8. The division may promulgate rules as necessary in accordance with the provisions of chapter**

**536, RSMo, to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**324.1235. 1. The board shall promulgate rules as necessary in accordance with the provisions of chapter 536, RSMo, to establish:**

**(1) An application process and administrative procedures for processing applications and issuing professional midwife licenses and for conducting disciplinary proceedings under the provisions of sections 324.1230 to 324.1245;**

**(2) Practice guidelines consistent with standards regarding the practice of midwifery established by the North American Registry of Midwives and the National Association of Certified Professional Midwives, or a successor organization whose essential documents include without limitation subject matter concerning scope of practice, standards of practice, informed consent, appropriate consultation, collaboration or referral, including the development of collaborative relationships with other healthcare practitioners who can provide care outside the scope of midwifery practice when necessary; and**

**(3) Reasonable rules as deemed necessary by the board to carry out and enforce the provisions of sections 324.1230 to 324.1245.**

**2. The board shall:**

**(1) Investigate to verify such applicant's qualifications. If the results of the investigation are satisfactory to the board and the applicant is otherwise qualified, the board shall issue to the applicant a license authorizing the applicant to act as a professional midwife in Missouri;**

**(2) Set the amount of fees authorized by sections 324.1230 to 324.1245 and required by rules promulgated under section 536.021, RSMo. The fees shall be set at a level to produce revenue that does not substantially exceed the cost and expense of administering sections 324.1230 to 324.1245;**

**(3) Perform such other functions and duties as necessary to carry out the provisions of sections 324.1230 to 324.1245;**

**(4) Provide a form for use in the event of transfer to emergency care detailing for the mother:**

**(a) Name, age, and birth date;**

**(b) Parity;**

**(c) Estimated delivery date;**

**(d) Results of routine blood tests;**

**(e) Results of any lab tests;**

**(f) Reason for transfer of care; and**

**(g) Vital signs;**

**(5) Provide a form for use in the event of transfer to emergency care detailing for the baby:**

**(a) Name of the mother and the baby;**

**(b) Sex of the baby;**

**(c) Estimated gestational age;**

**(d) Vital signs;**

**(e) APGAR scores; and**

**(f) Reason for transfer of care.**

**3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**324.1237. There is hereby established in the treasury a fund to be known as the "Board of Professional Midwives Fund" which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly. All funds received by the board pursuant to the provisions of sections 324.1230 to 324.1245 shall be collected by the director of the department who shall transmit the funds to the department of revenue for deposit in the state treasury to the credit of the board of professional midwives fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys in the fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the fund for the preceding fiscal year.**

**324.1239. 1. Every licensed professional midwife shall present a written disclosure statement to each client, which shall be signed by the client and kept with the client's records, and which shall include but not be limited to, the following:**

**(1) A description of professional midwifery education and related training;**

**(2) Licensure as a professional midwife, including the effective dates of the licensure;**

**(3) The benefits and risks associated with childbirth in the setting selected by the client;**

**(4) A statement concerning the licensed professional midwife's collaborative arrangements with other healthcare professionals, including licensed physicians;**

**(5) A statement concerning the licensed professional midwife's malpractice or liability insurance coverage; and**

**(6) A written plan, specific to the client, for obtaining medical care, when necessary, which shall include:**

**(a) The name and phone number of the hospital or other healthcare facility to which transfer is preferred should emergency care become necessary; and**

**(b) The plan, protocol, or standing order for fulfilling maternal screening tests and laboratory work required by state statute.**

**2. Licensed professional midwives shall carry medical malpractice insurance under the same conditions described for physicians in section 383.500, RSMo.**

**3. Licensed professional midwives may be reimbursed for professional midwifery services under the MO HealthNet program.**

**324.1240. 1. Nothing in sections 324.1230 to 324.1245 shall be construed to apply to a person who provides information and support in preparation for labor and delivery and assists in the delivery of an infant if that person does not do the following:**

**(1) Advertise as a midwife or as a provider of midwife services;**

**(2) Accept compensation for midwife services; and**

**(3) Use any words, letters, signs, or figures to indicate that the person is a midwife.**

**2. Nothing in sections 324.1230 to 324.1245 shall be construed to prohibit the attendance at birth of the mother's choice of family, friends, or other uncompensated labor support attendants.**

**324.1241. 1. Any hospital, physician, nurse, emergency services personnel, or any other licensed health care professional who renders emergency care, treatment, or assistance to any person or persons, when the need of such care, treatment, or assistance arises from care provided by a licensed professional midwife, shall not be held liable for any civil damages except for acts of negligence or those occasioned by willful and wanton acts by such person in rendering such emergency care, treatment, or assistance.**

**2. A licensed health care provider or facility shall not be disciplined for assisting, enabling, aiding, procuring, advising, or encouraging any person licensed to practice professional midwifery who is practicing within the confines of sections 324.1230 to 324.1245.**

**324.1242. 1. When a birth or stillbirth occurs without a physician in attendance at or immediately after the birth or stillbirth, but with a licensed professional midwife in attendance at or immediately after the birth, it shall be the responsibility of the licensed professional midwife to prepare and file the certificate of birth as required by section 193.085, RSMo, and the reports required under section 193.165, RSMo, and section 210.050, RSMo.**

**2. Licensed professional midwives shall follow the newborn screening requirements for health care providers with respect to infants born in this state as described under subsections 1, 2, and 5 of section 191.331, RSMo.**

**3. Licensed professional midwives shall be required to retain patient records for a period of six years and keep such records confidential consistent with the provisions of the federal Health Insurance Portability and Accountability Act, as amended.**

**324.1243. No licensed professional midwife shall be permitted to:**

**(1) Prescribe drugs;**

**(2) Perform medical inductions or cesarean sections during the delivery of an infant;**

**(3) Use forceps during the delivery of an infant;**

**(4) Perform vacuum delivery of an infant;**

**(5) Perform an abortion as defined in chapter 188, RSMo; or**

**(6) Administer prescription drugs, with exceptions limited to:**

**(a) Neonatal use of prophylactic ophthalmic medications as required in section 210.070, RSMo, vitamin K, and oxygen; and**

**(b) Maternal use of Rho (D) immune globulin, oxygen, local anesthetic, and oxytocin and methylergonovine maleate as postpartum antihemorrhagics.**

**324.1244. 1. Notwithstanding any other provision of law, a licensed professional midwife providing a service of professional midwifery shall not be deemed to be engaged in the practice of medicine, nursing, nurse-midwifery, or any other medical or healing practice.**

**2. The provisions of sections 324.1230 to 324.1245 shall be remedial and curative in nature.**

**324.1245. Any person who violates the provisions of sections 324.1230 to 324.1245, or any rule or order promulgated under authority granted by sections 324.1230 to 324.1245 is guilty of a class A misdemeanor.**"; and

Further amend said bill, page 9, section 333.011, line 6, by inserting immediately after said line the following:

"334.010. 1. It shall be unlawful for any person not now a registered physician within the meaning of the law to practice medicine or surgery in any of its departments, to engage in the practice of medicine across state lines or to profess to cure and attempt to treat the sick and others afflicted with bodily or mental infirmities, **[**or engage in the practice of midwifery**]** in this state, except as herein provided. **The practice of professional midwifery is not the practice of medicine or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter.**

2. For the purposes of this chapter, the "practice of medicine across state lines" shall mean:

(1) The rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or physician's agent; or

(2) The rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or physician's agent.

3. A physician located outside of this state shall not be required to obtain a license when:

(1) In consultation with a physician licensed to practice medicine in this state; and

(2) The physician licensed in this state retains ultimate authority and responsibility for the diagnosis or diagnoses and treatment in the care of the patient located within this state; or

(3) Evaluating a patient or rendering an oral, written or otherwise documented medical opinion, or when providing testimony or records for the purpose of any civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state; or

(4) Participating in a utilization review pursuant to section 376.1350, RSMo.

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

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure."; and

Further amend said bill, page 70, section 376.811, line 5, by inserting immediately after said line the following:

"376.1753. **[**Notwithstanding any law to the contrary, any person who holds current ministerial or tocological certification by an organization accredited by the National Organization for Competency Assurance (NOCA) may provide services as defined in 42 U.S.C. 1396 r-6(b)(4)(E)(ii)(I).**]** **Licensed professional midwives under sections 324.1230 to 324.1245, RSMo, may be compensated for**

**professional midwife services by a health benefit plan or insurer under this chapter.**"; and

Further amend said bill, page 71, section 194.233, line 8, by inserting immediately after said line the following:

"**[**334.260. On August 29, 1959, all persons licensed under the provisions of chapter 334, RSMo 1949, as midwives shall be deemed to be licensed as midwives under this chapter and subject to all the provisions of this chapter.**]**"; and

"Section B. Because of the need to provide clarity on the issue of the practice of midwifery, the enactment of sections 324.1230, 324.1231, 324.1233, 324.1235, 324.1237, 324.1239, 324.1240, 324.1241, 324.1242, 324.1243, 324.1244, and 324. 1245, and the repeal and reenactment of sections 334.010, 334.120, 334.260, and 376.1753 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and enactment of sections 324.1230, 324.1231, 324.1233, 324.1235, 324.1237, 324.1239, 324.1240, 324.1241, 324.1242, 324.1243, 324.1244, and 324. 1245, and the repeal and reenactment of sections 334.010, 334.120, 334.260, and 376.1753 of this act shall be in full force and effect upon its passage and approval."; and

Further amend the title and enacting clause accordingly.

Senator Purgason moved that the above amendment be adopted.

Senator Rupp assumed the Chair.

At the request of Senator Callahan, **HB 2081**, with **SCS**, **SS** for **SCS** and **SA 9** (pending), was placed on the Informal Calendar.

At the request of Senator Mayer, **HCS** for **HBs 1595** and **1668** was placed on the Informal Calendar.

At the request of Senator Coleman, **HB 2191**, with **SCS**, was placed on the Informal Calendar.

At the request of Senator Gibbons, **HCS** for **HBs 1321** and **1695**, with **SCS**, was placed on the Informal Calendar.

**HB 1832**, with **SCS**, was placed on the Informal Calendar.

**HCS** for **HB 2058**, with **SCS**, entitled:

An Act to repeal sections 32.105, 67.1501, 67.1545, 135.967, 137.115, 137.1018, 447.708, 620.495, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof fourteen new sections relating to tax incentives for business development, with an emergency clause for a certain section.

Was taken up by Senator Kennedy.

**SCS** for **HCS** for **HB 2058**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2058

An Act to repeal sections 32.105, 67.1501, 67.1545, 99.820, 135.155, 135.535, 135.562, 135.815, 135.967, 137.115, 137.1018, 144.030, 348.434, 348.436, 353.150, 407.1240, 407.1249, 447.708, 620.495, 620.1039, 620.1220, 620.1878, and 620.1881, RSMo, section 99.825 as enacted by senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular

session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, and to enact in lieu thereof thirty-one new sections relating to tax incentives for business development, with an emergency clause for a certain section.

Was taken up.

Senator Kennedy moved that **SCS** for **HCS** for **HB 2058** be adopted.

Senator Kennedy offered **SS** for **SCS** for **HCS** for **HB 2058**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2058

An Act to repeal sections 32.105, 67.1501, 67.1545, 99.820, 135.535, 135.562, 135.815, 135.967, 137.115, 348.436, 353.150, 447.708, 620.1878, and 620.1881, RSMo, section 99.825 as enacted by senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, and to enact in lieu thereof eighteen new sections relating to tax incentives for business development.

Senator Kennedy moved that **SS** for **SCS** for **HCS** for **HB 2058** be adopted.

Senator Scott offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 11, Section 67.1545, Line 18, by inserting after all of said line the following:

"96.160. 1. Each facility established or operated and maintained under the provisions of sections 96.150 to 96.228 shall be governed by a board of trustees who shall serve without compensation. Each such board of trustees shall consist of five trustees, who shall be citizens of the city, unless the council shall provide by ordinance for a larger board of not more than fifteen trustees. Trustees shall be appointed by the mayor with the approval of the council and shall be chosen with reference to their fitness for such position; provided no member of the city council and no member of the immediate family of a member of the city council shall be a member of the board.

2. An ordinance providing for a larger board of trustees **[**shall require that three-fifths of such trustees shall be citizens of the city and**]** may provide that **some or all of** the **[**remaining**]** trustees need not be citizens of the city, but shall be citizens of the state of Missouri.

3. Any city establishing or maintaining and operating more than one health care facility may provide by ordinance that one board of trustees shall manage and operate two or more health care facilities."; and

Further amend the title and enacting clause accordingly.

Senator Scott moved that the above amendment be adopted.

Senator Dempsey raised the point of order that **SA 1** is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Stouffer offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 54, Section 353.150, Line 3, by inserting after all of said line the following:

"414.255. 1. This section shall be known and may be cited as the "Missouri Renewable Fuel Standard Act".

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

(1) "Aviation fuel", any motor fuel specifically compounded for use in reciprocating aircraft engines;

(2) **"Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100) blend stock for distillate fuels;**

**(3)** "Distributor", a person who either produces, refines, blends, compounds or manufactures motor fuel, imports motor fuel into a state or exports motor fuel out of a state, or who is engaged in distribution of motor fuel;

**[**(3)**] (4)** "Fuel ethanol-blended gasoline", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the fuel ethanol meets ASTM International Specification D4806, as amended. The ten percent fuel ethanol portion may be derived from any agricultural source;

**[**(4)**] (5)** "Position holder", the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal;

**[**(5)**] (6)** "Premium gasoline", gasoline with an antiknock index number of ninety-one or greater;

**[**(6)**] (7)** "Price", the cost of the fuel ethanol plus fuel taxes and transportation expenses less tax credits, if any; or the cost of the fuel ethanol-blended gasoline plus fuel taxes and transportation expenses less tax credits, if any; or the cost of the unblended gasoline plus fuel taxes and transportation expenses less tax credits, if any;

**[**(7)**] (8)** "Qualified terminal", a terminal that has been assigned a terminal control number (tcn) by the Internal Revenue Service;

**[**(8)**] (9)** "Supplier", a person that is:

(a) Registered or required to be registered pursuant to 26 U.S.C., Section 4101, for transactions in motor fuels in the bulk transfer/terminal distribution system; and

(b) One or more of the following:

a. The position holder in a terminal or refinery in this state;

b. Imports motor fuel into this state from a foreign country;

c. Acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

d. The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to this state into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

**[**(9)**] (10)** "Terminal", a bulk storage and distribution facility which includes:

(a) For the purposes of motor fuel, is a qualified terminal;

(b) For the purposes of fuel grade alcohol, is supplied by truck, rail car, boat, barge or pipeline and the products are removed at a rack; and

**[**(10)**] (11)** "Unblended gasoline", gasoline that has not been blended with fuel ethanol.

3. Except as otherwise provided under subsections 4 and 5 of this section, on and after January 1, 2008, all gasoline sold or offered for sale in Missouri at retail shall be fuel ethanol-blended gasoline.

4. If a distributor is unable to obtain fuel ethanol or fuel ethanol-blended gasoline from a position holder or supplier at the terminal at the same or lower price as unblended gasoline, then the purchase of unblended gasoline by the distributor and the sale of the unblended gasoline at retail shall not be deemed a violation of this section. The position holder, supplier, distributor, and ultimate vendor shall, upon request, provide the required documentation regarding the sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline to the department of agriculture and the department of revenue. All information obtained by the departments from such sources shall be confidential and not disclosed except by court order or as otherwise provided by law.

5. The following shall be exempt from the provisions of this section:

(1) Aviation fuel and automotive gasoline used in aircraft;

(2) Premium gasoline;

(3) E75-E85 fuel ethanol;

(4) Any specific exemptions declared by the United States Environmental Protection Agency; and

(5) Bulk transfers between terminals.

The director of the department of agriculture may by rule exempt or rescind additional gasoline uses from the requirements of this section. The governor may by executive order waive the requirements of this section or any part thereof in part or in whole for all or any portion of this state for reasons related to air quality. Any regional waiver shall be issued and implemented in such a way as to minimize putting any region of the state at a competitive advantage or disadvantage with any other region of the state.

6. The provisions of section 414.152 shall apply for purposes of enforcement of this section.

7. The department of agriculture is hereby authorized to promulgate rules to ensure implementation of, and compliance and consistency with, this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,

section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

8. All terminals in Missouri that sell gasoline shall offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline. Terminals that only offer for sale federal reformulated gasolines, in cooperation with position holders and suppliers, shall not be required to offer for sale unblended gasoline.

9. Notwithstanding any other law to the contrary, all fuel retailers, wholesalers, distributors, and marketers shall be allowed to purchase fuel ethanol **or biodiesel** from any terminal, position holder, fuel ethanol **or biodiesel** producer, fuel ethanol **or biodiesel** wholesaler, or supplier. In the event a court of competent jurisdiction finds that this subsection does not apply to or improperly impairs existing contractual relationships, then this subsection shall only apply to and impact future contractual relationships."; and

Further amend the title and enacting clause accordingly.

Senator Stouffer moved that the above amendment be adopted.

Senator Dempsey raised the point of order that **SA 2** is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

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

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 52, Section 144.030, Line 4 of said page, by striking the word "and" at the end of said line; and further amend line 9 of said page, by inserting after "accessories" the following: ";

**(41) Sales of radios designed for the primary purpose of receiving transmissions of weather forecasts and warnings provided by the National Oceanic and Atmospheric Administration.**".

Senator Shoemyer moved that the above amendment be adopted.

At the request of Senator Shoemyer, **SA 3** was withdrawn.

Senator Griesheimer offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 11, Section 67.1545, Line 18, by inserting immediately after all of said line the following:

"72.080. 1. **[**Notwithstanding any provision of law to the contrary, and as an alternative to, and not in lieu of, the procedure established in section 80.020, RSMo,**]** Any unincorporated city, town, **[**village,**]** or other area of the state may, except as otherwise provided in sections 72.400 to 72.420, become a city**[**, town, or village**]** of the class to which its population would entitle it pursuant to this chapter, and be incorporated pursuant to the law for the government of cities**[**, towns, or villages**]** of that class, in the following manner:

**[**(1)**]** Whenever a number of voters equal to fifteen percent of the **[**registered voters**]** **votes cast in the**

**last gubernatorial election** in the area proposed to be incorporated shall present a petition to the governing body of the county in which such city, town, **[**village,**]** or area is situated, such petition shall describe, by metes and bounds, the area to be incorporated and be accompanied by a plat thereof, shall state the approximate population and the assessed valuation of all real and personal property in the area and shall state facts showing that the proposed city**[**, town, or village, if such village has at least one hundred inhabitants residing in it,**]** shall have the ability to furnish normal municipal services within a reasonable time after its incorporation is to become effective and praying that the question be submitted to determine if it may be incorporated**[**;

(2) The governing body shall submit the question to the voters if it is satisfied the number of voters signing such petition is equal to fifteen percent of the registered voters in the area proposed to be incorporated.

As used in this section, "village" means any small group or assemblage of houses in an unincorporated area, being generally less than in a town or city, or any small group or assemblages of houses or buildings built for dwelling or for business, or both, in an unincorporated area, regardless of whether they are situated upon regularly laid out streets or alleys dedicated to public use, having no minimum number of registered voters in the area, and without regard to the existence of churches, parks, schools, or commercial establishments in that area or whether the proposed village is devoted to community purposes**]**. **If the governing body shall be satisfied that a number of voters equal to fifteen percent of the votes cast in the last gubernatorial election in the area proposed to be incorporated have signed such petition, the governing body shall submit the question to the voters.**

2. The **[**governing body**] county** may make changes in the petition to correct technical errors or to redefine the metes and bounds of the area to be incorporated to reflect other boundary changes occurring within six months prior to the time of filing the petition. Petitions submitted by proposing agents may be submitted with exclusions for the signatures collected in areas originally included in the proposal but subsequently annexed or incorporated separately as a city, town or village, although the governing body shall be satisfied as to the sufficiency of the signatures for the final proposed area. If a majority of the voters voting on the question vote for incorporation, the governing body shall declare such city, town, **[**village,**]** or other area incorporated, designating in such order the metes and bounds thereof, and thenceforth the inhabitants within such bounds shall be a body politic and incorporate, by the name and style of "the city of .....", **or** "the town of .....", **[**"the village of .....".**] and** the first officers of such city**[**,**] or** town**[**, or village**]** shall be designated by the order of the governing body, who shall hold their offices until the next municipal election and until their successors shall be duly elected and qualified. **[**The city, town, or village shall have perpetual succession, unless disincorporated; may sue and be sued; may plead and be impleaded; may defend and be defended in all courts and in all actions, pleas, and matters whatsoever; may grant, purchase, hold, and receive property, real and personal, within such place and no other, burial grounds and cemeteries excepted; and may lease, sell, and dispose of such property for the benefit of the city, town, or village; and may have a common seal, and alter such seal at pleasure.**]** The county shall pay the costs of the election.

3. In any county with a charter form of government where fifty or more cities, towns and villages have been incorporated, an unincorporated city, town or other area of the state shall not be incorporated except as provided in sections 72.400 to 72.420.

4. Any unincorporated area with a private eighteen-hole golf course community and with at least a one

hundred acre lake located within any county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may incorporate as a city of the class to which its population would entitle it pursuant to this chapter notwithstanding any proposed annexation of the unincorporated area by any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county. If any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county proposes annexation by ordinance or resolution of any unincorporated area as defined in this subsection, no such annexation shall become effective until and only after a majority of the qualified voters in the unincorporated area proposed to be incorporated fail to approve or oppose the proposed incorporation by a majority vote in the election described in subsection 2 of this section.

5. Prior to the election described in subsection 2 of this section, if the owner or owners of either the majority of the commercial or the majority of the agricultural classification of real property in the proposed area to be incorporated object to such incorporation, such owner or owners may file an action in the circuit court of the county in which such unincorporated area is situated, pursuant to chapter 527, RSMo, praying for a declaratory judgment requesting that such incorporation be declared unreasonable by the court. As used in this subsection, a "majority of the commercial or agricultural classification" means a majority as determined by the assessed valuation of the tracts of real property in either classification to be determined by the assessments made according to chapter 137, RSMo. The petition in such action shall state facts showing that such incorporation including the real property owned by the petitioners is not reasonable based on the same criteria as specified in subsection 3 of section 72.403 and is not necessary to the proper development of the city or town. If the circuit court finds that such inclusion is not reasonable and necessary, it may enjoin the incorporation or require the petition requesting the incorporation to be resubmitted excluding all or part of the property of the petitioners from the proposed incorporation.

**6. Any village incorporated under this section in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants after August 28, 2007, and before the effective date of this section, shall be subject to and shall comply with all county building codes.**"; and

Further amend said bill, page 90, section 620.1881, line 2 by inserting immediately after all of said line the following:

"Section B. Because of the need to protect Missouri citizens' right to choose their form of government, section 72.080 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 72.080 of this act shall be in full force and effect upon its passage and approval.

Section C. If any provision of section 72.080 or the application thereof to anyone or to any circumstances is held invalid, the remainder of section 72.080 and the application of such provisions to others or other circumstances shall not be affected thereby."; and

Further amend the title and enacting clause accordingly.

Senator Griesheimer moved that the above amendment be adopted.

Senator Callahan raised the point of order that **SA 4** is out of order as it goes beyond the title and subject matter of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Lager offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Pages 26-31, Section 135.535, by striking all of said section from the bill; and

Further amend said Bill, Pages 31-33, Section 135.562, by striking all of said section from the Bill; and

Further amend the title and enacting clause accordingly.

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

Senator Lager offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 2, Section A, Line 4, by inserting immediately after said line the following:

"32.057. 1. Except as otherwise specifically provided by law, it shall be unlawful for the director of revenue, any officer, employee, agent or deputy or former director, officer, employee, agent or deputy of the department of revenue, any person engaged or retained by the department of revenue on an independent contract basis, any person to whom authorized or unauthorized disclosure is made by the department of revenue, or any person who lawfully or unlawfully inspects any report or return filed with the department of revenue or to whom a copy, an abstract or a portion of any report or return is furnished by the department of revenue to make known in any manner, to permit the inspection or use of or to divulge to anyone any information relative to any such report or return, any information obtained by an investigation conducted by the department in the discharge of official duty, or any information received by the director in cooperation with the United States or other states in the enforcement of the revenue laws of this state. Such confidential information is limited to information received by the department in connection with the administration of the tax laws of this state.

2. Nothing in this section shall be construed to prohibit:

(1) The disclosure of information, returns, reports, or facts shown thereby, as described in subsection 1 of this section, by any officer, clerk or other employee of the department of revenue charged with the custody of such information:

(a) To a taxpayer or the taxpayer's duly authorized representative under regulations which the director of revenue may prescribe;

(b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue laws of this state;

(c) To the state auditor or the auditor's duly authorized employees as required by subsection 4 of this section;

(d) To any city officer designated by ordinance of a city within this state to collect a city earnings tax, upon written request of such officer, which request states that the request is made for the purpose of determining or enforcing compliance with such city earnings tax ordinance and provided that such information disclosed shall be limited to that sufficient to identify the taxpayer, and further provided that

in no event shall any information be disclosed that will result in the department of revenue being denied such information by the United States or any other state. The city officer requesting the identity of taxpayers filing state returns but not paying city earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax, and the director shall compare the list submitted with the director's records and return to such city official the name and address of any taxpayer who is a resident of such city who has filed a state tax return but who does not appear on the list furnished by such city. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information;

(e) To any employee of any county or other political subdivision imposing a sales tax which is administered by the state department of revenue whose office is authorized by the governing body of the county or other political subdivision to receive any and all records of the state director of revenue pertaining to the administration, collection and enforcement of its sales tax. The request for sales tax records and reports shall include a description of the type of report requested, the media form including electronic transfer, computer tape or disk, or printed form, and the frequency desired. The request shall be made by annual written application and shall be filed with the director of revenue. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information. Such city or county or any employee thereof shall be subject to the same standards for confidentiality as required for the department of revenue in using the information contained in the reports;

(f) To the director of the department of economic development or the director's duly authorized employees in discharging the director's official duties to certify taxpayers eligibility to claim state tax credits as prescribed by statutes;

(g) To any employee of any political subdivision, such records of the director of revenue pertaining to the administration, collection and enforcement of the tax imposed in chapter 149, RSMo, as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by such political subdivision. The request for such records shall be made in writing to the director of revenue, and shall include a description of the type of information requested and the desired frequency. The director of revenue may charge a fee to reimburse the department for costs reasonably incurred in providing such information;

(2) The publication by the director of revenue or of the state auditor in the audit reports relating to the department of revenue of:

(a) Statistics, statements or explanations so classified as to prevent the identification of any taxpayer or of any particular reports or returns and the items thereof;

(b) The names and addresses without any additional information of persons who filed returns and of persons whose tax refund checks have been returned undelivered by the United States Post Office;

(3) The director of revenue from permitting the Secretary of the Treasury of the United States or the Secretary's delegates, the proper officer of any state of the United States imposing a tax equivalent to any of the taxes administered by the department of revenue of the state of Missouri or the appropriate representative of the multistate tax commission to inspect any return or report required by the respective tax provision of this state, or may furnish to such officer an abstract of the return or report or supply the officer with information contained in the return or disclosed by the report of any authorized investigation. Such permission, however, shall be granted on condition that the corresponding revenue statute of the United States or of such other state, as the case may be, grants substantially similar privileges to the director of revenue and on further condition that such corresponding statute gives confidential status to the material with which it is concerned;

(4) The disclosure of information, returns, reports, or facts shown thereby, by any person on behalf of the director of revenue, in any action or proceeding to which the director is a party or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state when such information is directly involved in the action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such information as is pertinent to the action or proceeding and no more;

(5) The disclosure of information, returns, reports, or facts shown thereby, by any person to a state or federal prosecuting official, including, but not limited to, the state and federal attorneys general, or the official's designees involved in any criminal, quasi-criminal, or civil investigation, action or proceeding pursuant to the laws of this state or of the United States when such information is pertinent to an investigation, action or proceeding involving the administration of the revenue laws or duties of public office or employment connected therewith;

(6) Any school district from obtaining the aggregate amount of the financial institution tax paid pursuant to chapter 148, RSMo, by financial institutions located partially or exclusively within the school district's boundaries, provided that the school district request such disclosure in writing to the department of revenue;

(7) The disclosure of records which identify all companies licensed by this state pursuant to the provisions of subsections 1 and 2 of section 149.035, RSMo. The director of revenue may charge a fee to reimburse the department for the costs reasonably incurred in providing such records;

(8) The disclosure to the commissioner of administration pursuant to section 34.040, RSMo, of a list of vendors and their affiliates who meet the conditions of section 144.635, RSMo, but refuse to collect the use tax levied pursuant to chapter 144, RSMo, on their sales delivered to this state**;**

**(9) The disclosure to the public of any information, or facts shown thereby regarding the claiming of a state tax credit by a member of the Missouri general assembly or any state-wide elected public official**.

3. Any person violating any provision of subsection 1 or 2 of this section shall, upon conviction, be guilty of a class D felony.

4. The state auditor or the auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070, RSMo, shall have the right to inspect any report or return filed with the department of revenue if such inspection is related to and for the purpose of auditing the department of revenue; except that, the state auditor or the auditor's duly authorized employees shall have no greater right of access to, use and publication of information, audit and related activities with respect to income tax information obtained by the department of revenue pursuant to chapter 143, RSMo, or federal statute than specifically exists pursuant to the laws of the United States and of the income tax laws of the state of Missouri.

Further amend said bill, page 26, section 99.825, line 27, by inserting immediately after said line the following:

"105.485. 1. Each financial interest statement required by sections 105.483 to 105.492 shall be on a form prescribed by the commission and shall be signed and verified by a written declaration that it is made under penalties of perjury; provided, however, the form shall not seek information which is not specifically required by sections 105.483 to 105.492.

2. Each person required to file a financial interest statement pursuant to subdivisions (1) to (12) of section 105.483 shall file the following information for himself, his spouse and dependent children at any time during the period covered by the statement, whether singularly or collectively; provided, however, that said person, if he does not know and his spouse will not divulge any information required to be reported by this section concerning the financial interest of his spouse, shall state on his financial interest statement that he has disclosed that information known to him and that his spouse has refused or failed to provide other information upon his bona fide request, and such statement shall be deemed to satisfy the requirements of this section for such financial interest of his spouse; and provided further if the spouse of any person required to file a financial interest statement is also required by section 105.483 to file a financial interest statement, the financial interest statement filed by each need not disclose the financial interest of the other, provided that each financial interest statement shall state that the spouse of the person has filed a separate financial interest statement and the name under which the statement was filed:

(1) The name and address of each of the employers of such person from whom income of one thousand dollars or more was received during the year covered by the statement;

(2) The name and address of each sole proprietorship which he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or coparticipant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partners' units; and the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system in which the person owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

(3) The name and address of any other source not reported pursuant to subdivisions (1) and (2) and subdivisions (4) to (9) of this subsection from which such person received one thousand dollars or more of income during the year covered by the statement, including, but not limited to, any income otherwise required to be reported on any tax return such person is required by law to file; except that only the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system need be reported pursuant to this subdivision;

(4) The location by county, the subclassification for property tax assessment purposes, the approximate size and a description of the major improvements and use for each parcel of real property in the state, other than the individual's personal residence, having a fair market value of ten thousand dollars or more in which such person held a vested interest including a leasehold for a term of ten years or longer, and, if the property was transferred during the year covered by the statement, the name and address of the persons furnishing or receiving consideration for such transfer;

(5) The name and address of each entity in which such person owned stock, bonds or other equity interest with a value in excess of ten thousand dollars; except that, if the entity is a corporation listed on a regulated stock exchange, only the name of the corporation need be listed; and provided that any member of any board or commission of the state or any political subdivision who does not receive any compensation for his services to the state or political subdivision other than reimbursement for his actual expenses or a per diem allowance as prescribed by law for each day of such service need not report interests in publicly traded corporations or limited partnerships which are listed on a regulated stock exchange or automated

quotation system pursuant to this subdivision; and provided further that the provisions of this subdivision shall not require reporting of any interest in any qualified plan or annuity pursuant to the Employees' Retirement Income Security Act;

(6) The name and address of each corporation for which such person served in the capacity of a director, officer or receiver;

(7) The name and address of each not-for-profit corporation and each association, organization, or union, whether incorporated or not, except not-for-profit corporations formed to provide church services, fraternal organizations or service clubs from which the officer or employee draws no remuneration, in which such person was an officer, director, employee or trustee at any time during the year covered by the statement, and for each such organization, a general description of the nature and purpose of the organization;

(8) The name and address of each source from which such person received a gift or gifts, or honorarium or honoraria in excess of two hundred dollars in value per source during the year covered by the statement other than gifts from persons within the third degree of consanguinity or affinity of the person filing the financial interest statement. For the purposes of this section, a "gift" shall not be construed to mean political contributions otherwise required to be reported by law or hospitality such as food, beverages or admissions to social, art, or sporting events or the like, or informational material. For the purposes of this section, a "gift" shall include gifts to or by creditors of the individual for the purpose of canceling, reducing or otherwise forgiving the indebtedness of the individual to that creditor;

(9) The lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of office of such official, except that such statement shall not include travel or lodging expenses:

(a) Paid in the ordinary course of business for businesses described in subdivisions (1), (2), (5) and (6) of this subsection which are related to the duties of office of such official; or

(b) For which the official may be reimbursed as provided by law; or

(c) Paid by persons related by the third degree of consanguinity or affinity to the person filing the statement; or

(d) Expenses which are reported by the campaign committee or candidate committee of the person filing the statement pursuant to the provisions of chapter 130, RSMo; or

(e) Paid for purely personal purposes which are not related to the person's official duties by a third person who is not a lobbyist, a lobbyist principal or member, or officer or director of a member, of any association or entity which employs a lobbyist. The statement shall include the name and address of such person who paid the expenses, the date such expenses were incurred, the amount incurred, the location of the travel and lodging, and the nature of the services rendered or reason for the expenses;

(10) The assets in any revocable trust of which the individual is the settlor if such assets would otherwise be required to be reported under this section;

(11) The name, position and relationship of any relative within the first degree of consanguinity or affinity to any other person who:

(a) Is employed by the state of Missouri, by a political subdivision of the state or special district, as defined in section 115.013, RSMo, of the state of Missouri;

(b) Is a lobbyist; or

(c) Is a fee agent of the department of revenue;

(12) The name and address of each campaign committee, political committee, candidate committee, or continuing committee for which such person or any corporation listed on such person's financial interest statement received payment**; and**

**(13) For members of the general assembly or any state-wide elected public official, their spouses, and their dependent children, whether any state tax credits were claimed on the member's, spouse's, or dependent child's most recent state income tax return**.

3. For the purposes of subdivisions (1), (2) and (3) of subsection 2 of this section, an individual shall be deemed to have received a salary from his employer or income from any source at the time when he shall receive a negotiable instrument whether or not payable at a later date and at the time when under the practice of his employer or the terms of an agreement, he has earned or is entitled to anything of actual value whether or not delivery of the value is deferred or right to it has vested. The term "income" as used in this section shall have the same meaning as provided in the Internal Revenue Code of 1986, and amendments thereto, as the same may be or becomes effective, at any time or from time to time for the taxable year, provided that income shall not be considered received or earned for purposes of this section from a partnership or sole proprietorship until such income is converted from business to personal use.

4. Each official, officer or employee or candidate of any political subdivision described in subdivision (11) of section 105.483 shall be required to file a financial interest statement as required by subsection 2 of this section, unless the political subdivision biennially adopts an ordinance, order or resolution at an open meeting by September fifteenth of the preceding year, which establishes and makes public its own method of disclosing potential conflicts of interest and substantial interests and therefore excludes the political subdivision or district and its officers and employees from the requirements of subsection 2 of this section. A certified copy of the ordinance, order or resolution shall be sent to the commission within ten days of its adoption. The commission shall assist any political subdivision in developing forms to complete the requirements of this subsection. The ordinance, order or resolution shall contain, at a minimum, the following requirements with respect to disclosure of substantial interests:

(1) Disclosure in writing of the following described transactions, if any such transactions were engaged in during the calendar year:

(a) For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars, if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision;

(b) The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars, if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision;

(2) The chief administrative officer and chief purchasing officer of such political subdivision shall disclose in writing the information described in subdivisions (1), (2) and (6) of subsection 2 of this section;

(3) Disclosure of such other financial interests applicable to officials, officers and employees of the political subdivision, as may be required by the ordinance or resolution;

(4) Duplicate disclosure reports made pursuant to this subsection shall be filed with the commission and the governing body of the political subdivision. The clerk of such governing body shall maintain such disclosure reports available for public inspection and copying during normal business hours.

135.305. A Missouri wood energy producer shall be eligible for a tax credit on taxes otherwise due under chapter 143, RSMo, except sections 143.191 to 143.261, RSMo, as a production incentive to produce processed wood products in a qualified wood producing facility using Missouri forest product residue. The tax credit to the wood energy producer shall be five dollars per ton of processed material. The credit may be claimed for a period of five years and is to be a tax credit against the tax otherwise due. **No new tax credits, provided for under sections 135.300 to 135.311, shall be authorized after June 30, 2013.**"; and

Further amend said Bill, Section 135.682, Line 18, Page 35, by inserting after all of said line the following:

"135.800. 1. The provisions of sections 135.800 to 135.830 shall be known and may be cited as the "Tax Credit Accountability Act of 2004".

2. As used in sections 135.800 to 135.830, the following terms mean:

(1) "Administering agency", the state agency or department charged with administering a particular tax credit program, as set forth by the program's enacting statute; where no department or agency is set forth, the department of revenue;

(2) "Agricultural tax credits", the agricultural product utilization contributor tax credit created pursuant to section 348.430, RSMo, the new generation cooperative incentive tax credit created pursuant to section 348.432, RSMo, and the wine and grape production tax credit created pursuant to section 135.700;

(3) "All tax credit programs", the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, housing tax credits, redevelopment tax credits, and training and educational tax credits;

(4) "Business recruitment tax credits", the business facility tax credit created pursuant to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development programs created pursuant to sections 100.700 to 100.850, RSMo, the development tax credits created pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax credit created pursuant to section 135.535, and the film production tax credit created pursuant to section 135.750;

(5) "Community development tax credits", the neighborhood assistance tax credit created pursuant to sections 32.100 to 32.125, RSMo, the family development account tax credit created pursuant to sections 208.750 to 208.775, RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo, and the transportation development tax credit created pursuant to section 135.545;

(6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the shelter for victims of domestic violence created pursuant to section 135.550, the senior citizen or disabled person property tax credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit created pursuant to sections 135.325 to

135.339, the maternity home tax credit created pursuant to section 135.600, and the shared care tax credit created pursuant to section 660.055, RSMo;

(7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax credit created pursuant to section 620.1039, RSMo, the small business incubator tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit created pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(8) "Environmental tax credits", the charcoal producer tax credit created pursuant to section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311**[**, and the manufacturing and recycling flexible cellulose casing tax credit created pursuant to section 260.285, RSMo**]**;

(9) "Housing tax credits", the neighborhood preservation tax credit created pursuant to sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(10) "Recipient", the individual or entity who is the original applicant for and who receives proceeds from a tax credit program directly from the administering agency, the person or entity responsible for the reporting requirements established in section 135.805;

(11) "Redevelopment tax credits", the historic preservation tax credit created pursuant to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax credit created pursuant to sections 447.700 to 447.718, RSMo, the community development corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit created pursuant to section 100.297, RSMo, and the disabled access tax credit created pursuant to section 135.490;

(12) "Training and educational tax credits", the community college new jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo**[**, the skills development account tax credit created pursuant to sections 620.1400 to 620.1460, RSMo, the mature worker tax credit created pursuant to section 620.1560, RSMo, and the sponsorship and mentoring tax credit created pursuant to section 135.348**]**.

135.805. 1. A recipient of a community development tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the title and location of the corresponding project, the estimated or actual time period for completion of the project, and all geographic areas impacted by the project.

2. A recipient of a redevelopment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming whether the property is used for residential, commercial, or governmental purposes, and the projected or actual project cost, labor cost, and date of completion.

3. A recipient of a business recruitment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the annual update, an updated estimate of the number of employees projected to increase as a result of the completion of the project, and the estimated or actual project cost.

4. A recipient of a training and educational tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the name and address of the educational institution used, the average salary of workers served as of such annual update, the estimated or actual project cost, and the number of employees and number of students served as of such annual update.

5. A recipient of a housing tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the address of the property, the fair market value of the property, as defined in subsection 6 of section 135.802, and the projected or actual labor cost and completion date of the project.

6. A recipient of an entrepreneurial tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the amount of investment and the names of the project, fund, and research project.

7. A recipient of an agricultural tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility, except that if the agricultural credit is issued as a result of a producer member investing in a new generation processing entity then the new generation processing entity, and not the recipient, shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

8. A recipient of an environmental tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information detailing any change to the type of equipment purchased, if applicable, and any change to any environmental impact statement, if such statement is required by state or federal law.

9. The reporting requirements established in this section shall be due annually on June thirtieth of each year. No person or entity shall be required to make an annual report until at least one year after the credit issuance date.

10. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the reporting requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

11. Where the enacting statutes of a particular tax credit program or the rules of a particular administering agency require reporting of information that includes the information required in sections 135.802 to 135.810, upon reporting of the required information, the applicant shall be deemed to be in compliance with the requirements of sections 135.802 to 135.810. The administering agency shall notify in writing the department of economic development of the administering agency's status as custodian of any particular tax credit program and that all records pertaining to the program are available at the administering agency's office for review by the department of economic development.

12. The provisions of subsections 1 to 10 of this section shall apply beginning on June 30, 2005.

**13. Notwithstanding provisions of law to the contrary, every agency of this state charged with administering a tax credit program authorized under the laws of this state shall make available for**

**public inspection the name of each tax credit recipient and the amount of tax credits issued to each such recipient.**"; and

Further amend said bill, page 90, section 620.1881, line 2, by inserting immediately after said line the following:

**"[**135.348. 1. As used in this section, the following terms mean:

(1) "Approved program", a sponsorship and mentoring program established pursuant to this section and approved by the department of elementary and secondary education;

(2) "Eligible student", a resident pupil of a school district who is determined by the local school board to be eligible to participate in a sponsorship and mentoring program pursuant to this section and who participates in such program for no less than eight calendar months in the tax year for which a return is filed claiming a credit authorized in this section;

(3) "Net expenditures", only those amounts paid or incurred for the participation of an eligible student participating in an approved sponsorship and mentoring program less any amounts received by the qualified taxpayer from any source for the provision of a sponsorship and mentoring program for an eligible student;

(4) "Qualified taxpayer", an employer who makes expenditures pursuant to this section.

2. For taxable years commencing on or after January 1, 1998, a qualified taxpayer shall be allowed a credit against the tax imposed by chapter 143, RSMo, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, RSMo, to the extent of the lesser of two thousand dollars times the number of eligible students for which the qualified taxpayer is allowed a credit pursuant to this section or the net expenditures made directly or through a fund during a taxable year by the qualified taxpayer for the participation of an eligible student in an approved sponsorship and mentoring program established pursuant to this section. No credit shall be allowed for any amounts for which any other credit is claimed or allowed under any other provision of state law for the same net expenditures.

3. The tax credit allowed by this section shall be claimed by the qualified taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after all other credits provided by law have been applied. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability shall not be refundable but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. The department of elementary and secondary education shall establish, by rule, guidelines and criteria for approval of sponsorship and mentoring programs established by school districts and for determining the eligibility of students for participation in sponsorship and mentoring programs established pursuant to this section. Such determinations for eligibility of students shall be based upon a definition of an at-risk student as established by the department by rule.

5. A local school board may establish a sponsorship and mentoring program and apply to the department of elementary and secondary education for approval of such program. A tax credit may only be received pursuant to this section for expenditures for sponsorship and mentoring programs approved by the department. The school board of each district which has an approved program

shall annually certify to the department of elementary and secondary education the number of eligible students participating in the program. The principal of any school in a district which has an approved program may recommend, to the local school board, those students who do not meet the definition of "at-risk" students established pursuant to this section, and the school board may submit the names of such students and the circumstances which justify the student's participation in an approved program to the department of elementary and secondary education for approval of such student's participation. If approved by the department, such students shall be considered eligible students for participation in an approved program.

6. The department of elementary and secondary education shall provide written notification to the department of revenue of each eligible student participating in an approved program pursuant to this section, the student's school district, the name of the qualified taxpayer approved to receive a tax credit on the basis of such eligible student's participation in an approved program pursuant to this section and the amount of such credit as determined in subsection 2 of this section. This section is subject to appropriations.**]**

**[**260.285. 1. Any manufacturer engaged in this state in production of a meat or poultry food product intended for human consumption that is recycling flexible cellulose casing manufactured from cotton linters used and consumed directly in the production of such food product shall be eligible for a credit as defined in subsection 2 of this section. For purposes of this section, "cotton linters" means fibers from any plant or wood pulp material used for the creation of flexible cellulose casings.

2. The credit authorized in subsection 1 shall be equal to the amount of state sales or use taxes paid by a manufacturer to a retailer on such packaging material which is subsequently recycled by either the manufacturer or other person or entity to which the manufacturer conveys such packaging materials, less any consideration received by the manufacturer for such conveyance.

3. A manufacturer shall claim the refund in the month following the month in which the material has been recycled or conveyed for recycling. When claiming a credit pursuant to this section, a manufacturer shall provide a detailed accounting of the amount of packaging material recycled, amount of sales or use tax paid on such material, an affidavit attesting that the manufacturer is eligible pursuant to the provisions of this section for the credit being claimed, documentation that the activity constitutes recycling as certified by the director of the department of natural resources and any other documentation determined necessary by the director of the department of revenue. The director shall refund any valid credit claims within sixty days of receipt. If the director determines that a fraudulent claim for the credit has been filed, the director may assess a penalty in an amount not to exceed twice the amount of fraudulent credits claimed.

4. Payment of credits authorized by this section shall not alter the liability of a retailer regarding sales tax on such material. Credits authorized by this section shall be paid from funds appropriated for the refund of taxes.**]**"; and

Further amend the title and enacting clause accordingly.

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

Senator Clemens offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 26, Section 99.825, Line 27, by inserting immediately after said line the following:

"**105.1270. 1. Notwithstanding any provision to the contrary, a corporation, partnership, firm, trust, association, or other entity shall not be disqualified from receiving any state authorized tax credit, abatement, exemption, or loan on the basis that there exists a conflict of interest due to a relationship of any degree or affinity to any statewide elected official or member of the general assembly, when the person of relation holds less than a two percent equity interest in the entity standing to benefit from the credit, abatement, exemption, or loan.**"; and

Further amend said bill, Page 35, Section 135.682, Line 18, by inserting after all of said line the following:

"**135.803. A taxpayer shall not be deemed ineligible for any state tax credit program in effect or hereinafter established on the basis that there exists a conflict of interest due to a relationship of any degree or affinity to any statewide elected official or member of the general assembly, when the person of relation holds less than a two percent equity interest in the taxpayer.**"; and

Further amend the title and enacting clause accordingly.

Senator Clemens moved that the above amendment be adopted.

Senator Kennedy raised the point of order that **SA 7** is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it not well taken.

**SA 7** was again taken up.

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

Senator Loudon offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 90, Section 620.1881, Line 2 of said page, by inserting immediately after said line the following:

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

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

**(2) "Department", the department of revenue;**

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

**(4) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.**

**2. For all tax years beginning on or after January 1, 2008, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to twenty-five percent of the amount such taxpayer contributed to birthing centers where physicians supervise certified professional midwives after January 1, 2008.**

**3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed. However, any tax credit that cannot be claimed in the taxable year the monetary gift was made may be carried forward to the next three succeeding taxable years until the full credit has been claimed. The tax credit allowed under this section shall be nontransferable.**

**4. The cumulative amount of tax credits which may be issued under this section in any one fiscal year shall not exceed two hundred and fifty thousand dollars. If the amount of tax credits claimed under this section exceeds two hundred and fifty thousand dollars in any one fiscal year, the director of the department of revenue shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all taxpayers allowed a tax credit under this section. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.**

**5. Not less than one hundred and twenty days from the effective date of this act, the department shall promulgate rules necessary for the implementation of the provisions of this act. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**6. The provisions of this section shall automatically sunset two years after August 28, 2008, unless reauthorized.**"; and

Further amend the title and enacting clause accordingly.

Senator Loudon moved that the above amendment be adopted.

Senator Dempsey raised the point of order that **SA 8** is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it not well taken.

**SA 8** was again taken up.

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

Senator Shoemyer offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 51, Section 137.115, Line 14, by inserting immediately after all of said line the following:

"144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes

of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations

which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential

apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or

college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo**;**

**(40) Sales of radios designed for the primary purpose of receiving transmissions of weather forecasts and warnings provided by the National Oceanic and Atmospheric Administration**."; and

Further amend the title and enacting clause accordingly.

Senator Shoemyer moved that the above amendment be adopted.

Senator Dempsey raised the point of order that **SA 9** is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Koster offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 33, Section 135.562, Line 25, by inserting immediately after all of said line the following:

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

**(1) "Class 8 truck", a heavy duty vehicle, as defined in 42 U.S.C. Section 16104, as amended, that has a gross vehicle weight in excess of thirty three thousand pounds;**

**(2) "Department", the department of revenue;**

**(3) "Idle reduction technology", shall have the same meaning ascribed in 42 U.S.C. Section 16104, as amended;**

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

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

**2. For all tax years beginning on or after January 1, 2008, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the amount such taxpayer paid to purchase and install idle reduction technology on a class 8 truck after January 1, 2008. In no case shall the tax credit exceed thirty five hundred dollars per truck.**

**3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed. However, any tax credit that cannot be claimed in the taxable year the purchase and installation was made may be carried over to the next three succeeding taxable years until the full credit has been claimed. The tax credit allowed under this section shall be nontransferable.**

**4. The cumulative amount of tax credits which may be issued under this section in any one fiscal year shall not exceed ten million dollars, and the total amount of tax credits which may be issued under this section shall not exceed twenty million dollars. If the amount of tax credits claimed under this section exceeds ten million dollars in any one fiscal year, the director of the department of revenue shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all taxpayers allowed a tax credit under this section. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.**

**5. Not less than one hundred and twenty days from the effective date of this act, the department shall promulgate rules necessary for the implementation of the provisions of this act. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**6. The provisions of this section shall automatically sunset two years after August 28, 2008, unless reauthorized.**"; and

Further amend the title and enacting clause accordingly.

Senator Koster moved that the above amendment be adopted.

Senator Dempsey raised the point of order that **SA 10** is out of order as it goes beyond the scope of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Goodman offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 2058, Page 51, Section 144.057, Line 23 of said page, by inserting after all of said line the following:

"305.230. 1. The state highways and transportation commission shall administer an aeronautics program within this state. The commission shall encourage, foster and participate with the political subdivisions of this state in the promotion and development of aeronautics. The commission may provide

financial assistance in the form of grants from funds appropriated for such purpose to any political subdivision or instrumentality of this state acting independently or jointly or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.

2. Any political subdivision or instrumentality of this state or the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration receiving state funds for the purchase, construction, or improvement, except maintenance, of an airport shall agree before any funds are paid to it to control by ownership or lease the airport for a period equal to the useful life of the project as determined by the commission following the last payment of state or federal funds to it. In the event an airport authority ceases to exist for any reason, this obligation shall be carried out by the governing body which created the authority.

3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration shall be made from the aviation trust fund. In making grants, the commission shall consider whether the local community has given financial support to the airport in the past. Priority shall be given to airports with local funding for the past five years with no reduction in such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be deposited to the credit of the same fund.

4. The moneys in the aviation trust fund shall be administered by the commission and, when appropriated, shall be used for the following purposes:

(1) As matching funds on an up to ninety percent state/ten percent local basis, except in the case where federal funds are being matched, when the ratio of state and local funds used to match the federal funds shall be fifty percent state/fifty percent local:

(a) For preventive maintenance of runways, taxiways and aircraft parking areas, and for emergency repairs of the same;

(b) For the acquisition of land for the development and improvement of airports;

(c) For the earthwork and drainage necessary for the construction, reconstruction or repair of runways, taxiways, and aircraft parking areas;

(d) For the construction, or restoration of runways, taxiways, or aircraft parking areas;

(e) For the acquisition of land or easements necessary to satisfy Federal Aviation Administration safety requirements;

(f) For the identification, marking or removal of natural or manmade obstructions to airport control zone surfaces and safety areas;

(g) For the installation of runway, taxiway, boundary, ramp, or obstruction lights, together with any work directly related to the electrical equipment;

(h) For the erection of fencing on or around the perimeter of an airport;

(i) For purchase, installation or repair of air navigational and landing aid facilities and communication equipment;

(j) For engineering related to a project funded under the provisions of this section and technical studies or consultation related to aeronautics;

(k) For airport planning projects including master plans and site selection for development of new airports, for updating or establishing master plans and airport layout plans at existing airports;

(l) For the purchase, installation, or repair of safety equipment and such other capital improvements and equipment as may be required for the safe and efficient operation of the airport;

(2) As total funds, with no local match:

(a) For providing air markers, windsocks, and other items determined to be in the interest of the safety of the general flying public;

(b) For the printing and distribution of state aeronautical charts and state airport directories on an annual basis, and a newsletter on a quarterly basis or the publishing and distribution of any public interest information deemed necessary by the commission;

(c) For the conducting of aviation safety workshops;

(d) For the promotion of aerospace education;

(3) As total funds with no local match, up to five hundred thousand dollars per year may be used for the cost of operating existing air traffic control towers that do not receive funding from the Federal Aviation Administration or the United States Department of Defense, except no more than one hundred sixty-seven thousand dollars per year may be used for any individual control tower.

5. In the event of a natural or manmade disaster which closes any runway or renders inoperative any electronic or visual landing aid at an airport, any funds appropriated for the purpose of capital improvements or maintenance of airports may be made immediately available for necessary repairs once they are approved by the commission. For projects designated as emergencies by the commission, all requirements relating to normal procurement of engineering and construction services are waived.

6. As used in this section, the term "instrumentality of the state" shall mean any state educational institution as defined in section 176.010, RSMo, or any state agency which owned or operated an airport on January 1, 1997, and continues to own or operate such airport.

**7. Notwithstanding any provision of this section or any other provision of the law to the contrary, the commission may provide financial assistance in the form of grants appropriated for such purpose to any privately-financed and operated commercial airport that has a runway which is at least seven thousand feet long and has been given a class D airspace designation by the Federal Aviation Administration. Any grants to any airport described in this subsection shall be made from the aviation trust fund and such grants may only be used by such airport for advertising purposes to promote the use of the airport's facilities and to attract tourists to the surrounding area.**"; and

Further amend the title and enacting clause accordingly.

Senator Goodman moved that the above amendment be adopted.

Senator Graham raised the point of order that **SA 11** is out of order as it goes beyond the title and scope of the bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Kennedy moved that **SS** for **SCS** for **HCS** for **HB 2058**, as amended, be adopted, which motion prevailed.

On motion of Senator Kennedy, **SS** for **SCS** for **HCS** for **HB 2058**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Barnitz | Bray | Champion | Clemens | Coleman | Crowell | Days | Dempsey |
| Engler | Gibbons | Goodman | Graham | Green | Griesheimer | Justus | Kennedy |
| Koster | Lager | Mayer | McKenna | Nodler | Ridgeway | Rupp | Scott |
| Shields | Shoemyer | Smith | Stouffer | Vogel | Wilson—30 | | |

NAYS—Senators

| | | | |
|---|---|---|---|
| Bartle | Callahan | Loudon | Purgason—4 |

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

## INTRODUCTIONS OF GUESTS

Senator Graham introduced to the Senate, Adam Kidwell and Hannah Wedemeyer, Columbia.

On motion of Senator Shields, the Senate adjourned until 10:30 a.m., Wednesday, May 14, 2008.

## SENATE CALENDAR

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## SIXTY-EIGHTH DAY–WEDNESDAY, MAY 14, 2008

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## FORMAL CALENDAR

### THIRD READING OF SENATE BILLS

SS for SCS for SB 898-Clemens
(In Fiscal Oversight)

SB 1099-Graham

SS#2 for SCS for SBs 1021 & 870-Loudon

## HOUSE BILLS ON THIRD READING

1. HCS for HB 1700, with SCS (Scott)
2. HCS for HJR 43, with SCS (Gibbons)
3. HB 1995-Schieffer, et al (Rupp)
4. HB 1716-Guest, et al (Purgason)
5. HCS for HBs 1831 & 1472 (Mayer)
6. HCS#2 for HB 1423, with SCS (Goodman)
7. HCS for HB 1626 (Ridgeway)
8. HCS for HBs 1788 & 1882 (Crowell)
9. HCS for HB 1314, with SCS (Callahan)
10. HCS for HBs 2062 & 1518, with SCS (Stouffer)
11. HCS for HB 1883, with SCS (Loudon)
12. HCS for HJR 48 (Scott)
13. HCS for HB 2321, with SCS (Crowell)
14. HCS for HJR 41, with SCS (Rupp)
15. HB 1320-Brown (50) (Dempsey)
16. HCS for HB 1332, with SCS (Goodman)

## INFORMAL CALENDAR

## SENATE BILLS FOR PERFECTION

SBs 712 & 882-Gibbons and Rupp, with SCS
SB 713-Gibbons, with SCS
SB 716-Loudon, et al
SB 717-Kennedy and Shields
SB 729-Griesheimer, with SCS
SB 749-Ridgeway, with SCS
SB 756-Engler and Rupp, with SCS (pending)
SB 776-Justus and Koster, with SCS
SB 809-Stouffer, with SCS, SS for SCS & SA 1 (pending)
SB 811-Stouffer, with SCS, SA 1 & point of order (pending)
SB 815-Goodman
SB 821-Shoemyer, with SCS (pending)
SBs 840 & 857-Engler, with SCS & SS for SCS (pending)
SB 861-Shoemyer, with SCS
SB 874-Graham, with SCS
SB 877-Mayer
SB 881-Green
SB 904-Griesheimer, with SCS
SBs 909, 954, 934 & 1003-Engler, with SCS
SB 915-Ridgeway
SB 917-Goodman, et al
SB 929-Green and Callahan, with SCS
SB 957-Goodman
SBs 982, 834 & 819-Purgason, with SCS
SB 990-Champion
SBs 993 & 770-Crowell, with SCS, SS for SCS, SA 4 & SSA 1 for SA 4 (pending)
SB 996-Crowell, with SCS
SB 997-Crowell
SB 1000-Justus
SB 1007-Loudon, with SA 2 (pending)
SB 1035-Scott, with SCS
SB 1046-Mayer, with SA 1 & SSA 1 for SA 1 (pending)
SB 1052-Rupp
SB 1054-Dempsey, with SCS
SB 1057-Scott, with SCS
SB 1058-Mayer
SB 1067-Ridgeway, et al
SB 1077-Goodman, with SS (pending)
SB 1093-Loudon, et al
SB 1094-Loudon, with SCS
SB 1101-Bray, et al
SB 1103-Gibbons
SB 1138-McKenna, with SCS
SB 1158-Mayer, with SCS
SB 1164-Loudon
SB 1180-Crowell
SB 1183-Bray, with SCS
SB 1194-Goodman
SB 1197-Crowell

SBs 1234 & 1270-Shields, with SCS & SS#2 for SCS (pending)
SB 1240-Dempsey
SB 1244-Barnitz and Purgason
SB 1275-Vogel
SB 1278-Shields
SJR 43-Loudon

## HOUSE BILLS ON THIRD READING

HCS for HBs 1321 & 1695, with SCS (Gibbons)
HB 1358-Flook, et al (Ridgeway)
HCS for HB 1393 (Ridgeway)
HCS#2 for HB 1463, with SCS
HCS for HB 1474, with SCS (Scott)
HCS for HB 1516, with SCS (Goodman)
HB 1532-Davis, with SCS (Rupp)
SS for HCS for HBs 1549, 1771, 1395 & 2366 (Rupp) (In Fiscal Oversight)
HCS for HB 1550 (Dempsey)
HCS for HBs 1595 & 1668 (Mayer)
HB 1617-Cunningham (86), et al (Dempsey)
HB 1656-Nance and Cooper (155), with SCS (Stouffer)
HB 1661-LeVota, et al (Ridgeway)
HB 1711-Weter, et al, with SCS, SS#2 for SCS & SA 10 (pending) (Clemens)
HCS for HB 1722, with SCS (Mayer)
HCS for HB 1763, with SS, SA 5 & SA 2 to SA 5 (pending) (Engler)
HCS for HB 1790, HB 1805 & HCS for HB 1546, with SCS (Shields)
HB 1832-Cooper (120), et al, with SCS (Griesheimer)
HCS for HBs 1876 & 1877, with SCS (Mayer)
HCS for HB 1904, with SCS (Goodman)
HB 1923-Jones (117) and Pratt (Barnitz)
HB 1937-Pearce, et al, with SCS (Scott)
HB 1973-Franz, with SCS (Engler)
HB 1983-Pratt, with SCS (Goodman)
HCS for HB 2041, with SCS (Scott)
HCS for HB 2068 (Scott)
HB 2081-Dougherty, with SCS, SS for SCS and SA 9 (pending) (Callahan)
HCS for HB 2104, HB 1574, HB 1706, HCS for HB 1774, HB 2055 & HCS for HB 2056, with SCS (Crowell)
HB 2191-Nasheed, et al, with SCS (Coleman)
HB 2226-Muschany (Rupp)
HCS for HJR 55 (Crowell)

## CONSENT CALENDAR

### House Bills

### Reported 4/10

HB 1628-Cooper (120) (Scott)
HB 1670-Cooper (120) (Dempsey)
HB 1828-Sutherland (Vogel)
HB 1410-Flook, et al (Ridgeway)
HCS for HB 1888 (Clemens)
HB 1368-Thomson (Lager)
HB 1869-Wilson (130), et al (Goodman)
HB 2213-Kraus, et al (Shields)
HB 1354-Wilson (119), et al (Scott)
HCS for HB 1575 (Vogel)
HB 1952-Loehner, et al (Barnitz)
HB 1887-Parson (Scott)
HCS for HB 2360 (Lager)
HB 1426-Kraus (Green)

Reported 4/14

HB 1608-Ervin (Ridgeway)
HB 2233-Page, et al (Shields)
HB 1419-Portwood (Loudon)
HB 1791-Cooper (155), et al (Barnitz)

Reported 4/15

HCS for HB 1380 (Goodman)
HCS for HB 2036 (Stouffer)
HB 1849-Pratt and Curls (Justus)
HB 1469-Pratt (Goodman)
HB 1710-Flook (Ridgeway)
HCS for HB 1783 (Engler)
HB 1784-Meadows, et al (McKenna)
HB 1313-Wright, et al (Mayer)
HCS for HB 1893 (Dempsey)
HB 1881-Schlottach (Kennedy)

## SENATE BILLS WITH HOUSE AMENDMENTS

SB 932-Loudon, with HCS, as amended
SCS for SBs 1034 & 802-Mayer, with HCS

## BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SS for SCS for SB 711-Gibbons, et al, with HCS, as amended
SB 841-Stouffer, with HCS, as amended
SS for SCS for SB 931-Purgason, with HCS, as amended (Senate adopted CCR and passed CCS)
SB 1068-Mayer, with HA 1 & HA 3
SB 1074-Dempsey, with HCS, as amended
HB 2224-Jones (117), with SS for SCS (Griesheimer)
HCS for HB 2279, with SCS, as amended (Engler)

Requests to Recede or Grant Conference

SCS for SB 720-Coleman, with HCS, as amended (Senate requests House recede or grant conference)
SCS for SB 901-Loudon, et al, with HSA 1 for HA 1 (Senate requests House recede and pass bill)
SCS for SBs 930 & 947-Stouffer, with HCS, as amended (Senate requests House recede or grant conference)
SB 1288-Shields, with HCS, as amended (Senate requests House recede or grant conference)

RESOLUTIONS

Reported from Committee

SCR 27-Champion
SCR 32-Purgason
SCR 33-Bray

HCR 7-Pearce, et al (Rupp)
HCR 23-Dixon, et al, with SCA 1 (Loudon)

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