Journal of the Senate

SECOND REGULAR SESSION

SIXTY-THIRD DAY—TUESDAY, MAY 4, 2010

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

"I am in perpetual anxiety lest...an accidental quarrel, a personal insult, an imprudent order...make a breach that can never afterward be healed." (Benjamin Franklin)

Heavenly Father, we pray that in these closing two weeks that we would always be known for who and what we are for and not what we are against. We trust in You who sees beyond today to guide our steps and help us clearly to be known for the openness and forgiveness we convey as we deal with each other and serve our people. Grant us patience and love to willingly protect the reputation and interest of others as we seek to do Your will this day and every day. 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.

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

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Keaveny
Lager	Lembke	Mayer	McKenna	Nodler	Pearce	Purgason	Ridgeway
Rupp	Schaefer	Schmitt	Scott	Shields	Shoemyer	Stouffer	Vogel
Wilson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Wilson offered Senate Resolution No. 2401, regarding Marc Wilson, Kansas City, which was adopted.

Senator Wilson offered Senate Resolution No. 2402, regarding Elizabeth A. Briscoe Wilson, Jefferson City, which was adopted.

Senator Bartle offered Senate Resolution No. 2403, regarding Daniel Evan Philyaw, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 2404, regarding Kevin Andrew Brandon, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 2405, regarding Jefferson Louis Cowing, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 2406, regarding Garrett David Cudmore, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 2407, regarding Kyle Eugene Dyer, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 2408, regarding Brock Steven Martin, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 2409, regarding Sean William Miller, Lee's Summit, which was adopted.

Senator Bartle offered Senate Resolution No. 2410, regarding Mathew Riley Muller, Amoret, which was adopted.

Senator Bartle offered Senate Resolution No. 2411, regarding Brendon Wayne Bolden, Pleasant Hill, which was adopted.

HOUSE BILLS ON THIRD READING

Senator Bartle moved that **HB 1609**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

Senator Stouffer assumed the Chair.

At the request of Senator Bartle, **SS** for **SCS** for **HB 1609** was withdrawn.

Senator Bartle offered **SS No. 2** for **SCS** for **HB 1609**, entitled:

SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1609

An Act to repeal sections 32.056, 58.370, 193.125, 193.135, 193.255, 211.031, 452.340, 452.377, 452.430, 453.121, 454.475, 454.517, 454.557, 454.1003, 455.038, 455.040, 455.501, 476.682, 484.350, 494.455, 517.081, 537.296, 542.286, 559.036, 563.031, 565.035, and 571.030, RSMo, and to enact in lieu thereof thirty-nine new sections relating to court procedures, with penalty provisions and an emergency clause for certain sections.

Senator Bartle moved that **SS No. 2** for **SCS** for **HB 1609** be adopted.

Senator Days offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Bill No. 1609, Page 3, Section 193.125, Line 28 of said page, by striking the opening bracket "**[**" and the closing bracket "**]**" from said line; and

Further amend said bill, page 49, section 453.510, line 9 of said page, by inserting immediately after "registrar" the following: "**in the department of health and senior services**"; and further amend line 12 of said page, by inserting immediately after the word "object" the following: "**to the disclosure of the original birth certificate of the adopted person**"; and further amend line 19 of said page, by inserting immediately after the words "services" the following: "**, the child placing agency, or the juvenile court personnel**"; and

Further amend said bill and section, page 50, line 2 of said page, by inserting immediately after the words "services" the following: "**, the child placing agency, or the juvenile court personnel**"; and further amend line 6 of said page, by inserting immediately after "birth," the following: "**or cannot be located,**"; and further amend line 7 of said page, by inserting immediately after the words "services" the following: "**, the child placing agency, or the juvenile court personnel**"; and

Further amend said bill, page 50, section 453.515, line 24 of said page, by inserting immediately after the words "services" the following: "**, the child placing agency, or the juvenile court personnel**"; and

Further amend said bill and section, page 51, line 7 of said page, by inserting immediately after the words "services" the following: "**, the child placing agency, or the juvenile court personnel**"; and further amend line 10 of said page, by inserting immediately after "birth," the following: "**or cannot be located**"; and further amend line 12 of said page, by inserting immediately after the words "services" the following: "**, the child placing agency, or the juvenile court personnel**".

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

Senator Rupp offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Bill No. 1609, Page 94, Section 571.030, Line 13 of said page, by inserting after all of said line the following:

"595.036. 1. **For any claim filed on or after August 28, 2010,** any party aggrieved by a decision of the department **of public safety** on a claim under the provisions of sections 595.010 to **[**595.070**] 595.075** may, within thirty days following the date of notification **[**of mailing**]** of such decision, file a petition with the **[**division of workers' compensation of the**]** department **[**of labor and industrial relations**]** to have such decision heard de novo by **[**an administrative law judge**] the director**. The **[**administrative law judge**] director** may affirm**[**,**] or** reverse**[**, or set aside**]** the **department's** decision **[**of the department of public safety**]** on the basis of the evidence previously submitted in such case or may take additional evidence **[**or may remand the matter to the department of public safety with directions**]**. The **[**division of workers' compensation**] department** shall promptly notify the **[**parties**] party** of its decision and the reasons therefor.

2. Any **[**of the parties to a**] party aggrieved by the director's** decision **[**of an administrative law judge

of the division of workers' compensation, as provided by subsection 1 of this section, on a claim heard under the provisions of sections 595.010 to 595.070**]** may, within thirty days following the date of notification **[**or mailing**]** of such decision, file a petition with the **[**labor and industrial relations**] administrative hearing** commission to **[**have**] appeal** such decision **[**reviewed by the commission**] as provided in section 621.275**. **[**The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse, or set aside the decision of the division of workers' compensation on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the division of workers' compensation with directions. The commission shall promptly notify the parties of its decision and the reasons therefor.

3. Any petition for review filed pursuant to subsection 1 of this section shall be deemed to be filed as of the date endorsed by the United States Postal Service on the envelope or container in which such petition is received.

4. Any party who is aggrieved by a final decision of the labor and industrial relations commission pursuant to the provisions of subsections 2 and 3 of this section shall within thirty days from the date of the final decision appeal the decision to the court of appeals. Such appeal may be taken by filing notice of appeal with commission, whereupon the commission shall, under its certificate, return to the court all documents and papers on file in the matter, together with a transcript of the evidence, the findings and award, which shall thereupon become the record of the cause. Upon appeal no additional evidence shall be heard and, in the absence of fraud, the findings of fact made by the commission within its powers shall be conclusive and binding. The court, on appeal, shall review only questions of law and may modify, reverse, remand for rehearing, or set aside the award upon any of the following grounds and no other:

(1) That the commission acted without or in excess of its powers;

(2) That the award was procured by fraud;

(3) That the facts found by the commission do not support the award;

(4) That there was not sufficient competent evidence in the record to warrant the making of the award.**]**

595.037. 1. All information submitted to the department **[**or division of workers' compensation**]** and any hearing of the **[**division of workers' compensation**] department** on a claim filed pursuant to sections 595.010 to 595.075 shall be open to the public except for the following claims which shall be deemed closed and confidential:

(1) A claim in which the alleged assailant has not been brought to trial and disclosure of the information or a public hearing would adversely affect either the apprehension, or the trial, of the alleged assailant;

(2) A claim in which the offense allegedly perpetrated against the victim is rape, sodomy or sexual abuse and it is determined by the department **[**or division of workers' compensation**]** to be in the best interest of the victim or of the victim's dependents that the information be kept confidential or that the public be excluded from the hearing;

(3) A claim in which the victim or alleged assailant is a minor; or

(4) A claim in which any record or report obtained by the department **[**or division of workers' compensation**]**, the confidentiality of which is protected by any other law, shall remain confidential subject to such law.

2. The department **[**and division of workers' compensation, by separate order,**]** may close any record,

report or hearing if it determines that the interest of justice would be frustrated rather than furthered if such record or report was disclosed or if the hearing was open to the public.

595.060. The director shall promulgate rules and regulations necessary to implement the provisions of sections 595.010 to 595.220 as provided in this section and chapter 536, RSMo. **[**In the performance of its functions under section 595.036, the division of workers' compensation is authorized to promulgate rules pursuant to chapter 536, RSMo, prescribing the procedures to be followed in the proceedings under section 595.036.**]** 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, 2009, shall be invalid and void.

621.275. 1. Any person shall have the right to appeal to the administrative hearing commission from any decision made by the director of the department of public safety under section 595.036 regarding that person's claim for compensation as provided in sections 595.010 to 595.075.

2. Any person filing an appeal with the administrative hearing commission shall be entitled to a hearing before the commission. The person shall file a petition with the commission within thirty days after the decision of the director of the department of public safety is sent in the United States mail or within thirty days after the decision is delivered, whichever is earlier. The director's decision shall contain a notice of the person's right to appeal:

> **"If you were adversely affected by this decision, you may appeal to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was delivered or sent in the United States mail, whichever is earlier. If your petition is sent by registered or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered or certified mail, it will be deemed filed on the date it is received by the commission."**

3. Decisions of the administrative hearing commission under this section shall be binding, subject to appeal by either party. The procedures established by chapter 536 shall apply to any hearings and determinations under this section."; and

Further amend the title and enacting clause accordingly.

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

Senator Rupp offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Bill No. 1609, Page 10, Section 193.255, Line 27 of said page, by inserting after all of said line the following:

"210.487. 1. When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

(1) Conduct a search for all persons over the age of seventeen in the applicant's household and for any

child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime for evidence of full orders of protection. The office of state courts administrator shall allow access to the automated court information system by the division. The clerk of each court contacted by the division shall provide the division information within ten days of a request; and

(2) Obtain two sets of fingerprints for any person over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. The highway patrol shall assist the division and provide the criminal fingerprint background information, upon request; and

(3) Determine whether any person over the age of seventeen residing in the home and any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime is listed on the child abuse and neglect registry. For any children less than seventeen years of age residing in the applicant's home, the children's division shall inquire of the applicant whether any children less than seventeen years of age residing in the home have ever been certified as an adult and been convicted of or pled guilty or nolo contendere to any crime.

2. **[**After the initial investigation is completed under subsection 1 of this section, the children's division and the department of health and senior services may waive the requirement for a fingerprint background check for any subsequent recertification.**] The children's division and the department of health and senior services shall waive the requirement for a fingerprint background check for any subsequent licensure investigation of any applicant, or member of the applicant's household, when the applicant has provided fingerprints for a previous investigation.**

3. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

4. The division may make arrangements with other executive branch agencies to obtain any investigative background information.

5. The division may promulgate rules that are necessary 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, 2004, shall be invalid and void.”; and

Further amend the title and enacting clause accordingly.

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

Senator Justus offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Substitute No. 2 for Senate Committee Substitute for House Bill No. 1609, Page 69, Section 537.296, Line 24 of said page, by striking the word "shall" and inserting in lieu thereof the following: "**may**".

Senator Justus moved that the above amendment be adopted.

Senator Lager requested a roll call vote be taken on the adoption of **SA 4**. He was joined in his request by Senators Justus, Keaveny, Schaefer and Shoemyer.

SA 4 failed of adoption by the following vote:

YEAS—Senators

Barnitz	Bray	Callahan	Days	Green	Justus	Keaveny	McKenna
Schmitt	Shoemyer	Wilson	Wright-Jones—12				

NAYS—Senators

Bartle	Champion	Clemens	Crowell	Cunningham	Dempsey	Engler	Goodman
Griesheimer	Lager	Lembke	Mayer	Nodler	Pearce	Purgason	Rupp
Schaefer	Scott	Shields	Stouffer	Vogel—21			

Absent—Senator Ridgeway—1

Absent with leave—Senators—None

Vacancies—None

At the request of Senator Bartle, **HB 1609**, with **SCS** and **SS No. 2** for **SCS**, as amended (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 630**.

With House Amendment Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 630, Page 40, Section 700.111, Line 268, by inserting after all of said line the following:

"**6. The provisions of this section shall become effective no later than March 1, 2011.**"; and

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

HOUSE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 630, Page 35, Section 700.111, Line 79, by inserting after the word, "**application**" the words, "**in the form prescribed by the director**"; and

Further amend said bill, Page 52, Section 700.527, Lines 26 to 27, by deleting all of said lines and inserting in lieu thereof the word, "rule**]**"; 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.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SS** for **SCS** for **HB 1442**, as amended. Representatives: Jones (89), Schoeller, Day, Skaggs and Roorda.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SCS** for **SB 605**, entitled:

An Act to repeal sections 48.020, 48.030, 94.510, 94.550, 94.577, and 137.016, RSMo, and to enact in lieu thereof six new sections relating to powers of political subdivisions, with an emergency clause for a certain section.

With House Amendment Nos. 1, 2, 3, House Amendment No. 1 to House Amendment No. 4, House Amendment No. 4, as amended, House Amendment Nos. 5, 6, 7, House Amendment No. 1 to House Amendment No. 8, House Amendment No. 8, as amended, House Amendment No. 1 to House Amendment No. 9 and House Amendment No. 9, as amended.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 10, Section 137.016, Line 77, by inserting after all of said line the following:

"**246.310. The provisions of section 262.802 shall not apply to any drainage district or levee district formed under the laws of this state.**"; 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. 605, Page 3, Section 48.030, Line 25 by inserting after all of said line the following:

"50.622. **1.** Any county may amend the annual budget during any fiscal year in which**:**

(1) The county receives additional funds, and such amount or source, including but not limited to**[**,**]** federal or state grants or private donations, could not be estimated **or anticipated** when the budget was adopted**; or**

(2) The county experiences a verifiable decline in funds, and such amount or source, including but not limited to federal or state grants or private donations, could not be estimated or anticipated when the budget was adopted; provided that, any decrease in appropriations shall be allocated among the

county departments, offices, institutions, commissions, and boards in a fair and equitable manner under all the circumstances, and shall not unduly affect any one department, office, institution, commission, or board.

2. Any decrease in an appropriation authorized under subdivision (2) of subsection 1 of this section shall not impact any dedicated fund otherwise provided by law.

3. The county shall follow the same procedures as required in sections 50.525 to 50.745 for adoption of the annual budget to amend its budget during a fiscal year**, except that the notice provided for in section 50.600 shall be extended to thirty days for purposes of this section**.

4. The general assembly shall review subdivision (2) of subsection 1 of this section and subsection 2 of this section in the regular session of the general assembly beginning in January, 2015, for the purpose of determining whether such provisions are no longer applicable and should be repealed.

50.830. 1. Except as provided in subsection 2 of this section, following each quarter of the fiscal year, the county shall hold at least one public hearing to review the budget, including the records of the receipts and disbursements of every office of the county which receives or disburses money on behalf of the county. At least five days' notice of the hearing shall be given.

2. This section shall not apply to any county that reviews the county budget on a monthly basis.

3. The general assembly shall review this section in the regular session of the general assembly beginning in January, 2015, for the purpose of determining whether the section is no longer applicable and should be repealed."; 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. 605, Section 137.016, Page 10, Line 77 by inserting after all of said Section, Page, and Line the following:

"**Section 1. All gratuities, whether mandatory or voluntary, provided in conjunction with the receipt of property or services regardless of whether such property or service may be subject to tax under the provisions of chapter 144, are specifically exempted from the provisions of local sales tax law as defined in section 32.085, section 238.235, 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, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745.**"; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 4

Amend House Amendment No. 4 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 1, Line 7, by inserting after all of said line the following:

"Further amend said bill, Page 9, Section 137.016, Lines 21-22, by deleting the words "**[**available**]** **which, when in use, are primarily used**" and inserting in lieu thereof the word "available"; and"; 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 Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 9, Section 137.016, Line 16, by inserting after the word, "Constitution"; the following:

"**. Agricultural and horticultural property shall also include any sawmill or planing mill that alters logs from their original form and defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC numbers 2421, 2426, or 2429**"; 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. 605, Page 3, Section 48.030, Line 25 by inserting after all of said line the following:

"67.1000. 1. The governing body of any county or of any city which is the county seat of any county or which now or hereafter has a population of more than three thousand five hundred inhabitants and which has heretofore been authorized by the general assembly, or of any other city which has a population of more than eighteen thousand and less than forty-five thousand inhabitants located in a county of the first classification with a population over two hundred thousand adjacent to a county of the first classification with a population over nine hundred thousand, may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county, which shall be not more than **[**five**]** **seven** percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at an election permitted under section 115.123, RSMo, a proposal to authorize the governing body of the city or county to impose a tax under the provisions of this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.

2. In any county of the third classification without a township form of government and with more than forty-one thousand one hundred but fewer than forty-one thousand two hundred inhabitants, "transient guests", as used in this section and section 67.1002, means a person or persons who occupy a room or rooms in a hotel or motel for ninety days or less during any calendar quarter."; and

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

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 3, Section 48.030, Line 25 by inserting after all of said line the following:

"49.272. **1.** The county commission of any **of the following counties may impose a civil fine as provided in this section:**

(1) Any county of the first classification without a charter form of government and with more than one

hundred thirty-five thousand four hundred but **[**less**]** **fewer** than one hundred thirty-five thousand five hundred inhabitants**[**, and in**];**

(2) Any county of the first classification without a charter form of government having a population of at least eighty-two thousand inhabitants, but **[**less**]** **fewer** than eighty-two thousand one hundred inhabitants**[**,**];**

(3) Any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants**[**,**];**

(4) Any county of the first classification with more than one hundred ninety-eight thousand but fewer than one hundred ninety-nine thousand two hundred inhabitants**[**, and**];**

(5) Any county of the first classification with more than two hundred forty thousand three hundred but **[**less**]** **fewer** than two hundred forty thousand four hundred inhabitants**[**,**];**

(6) Any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants.

2. Any county listed in subsection 1 of this section which has an appointed county counselor and which adopts or has adopted rules, regulations or ordinances under authority of a statute which prescribes or authorizes a violation of such rules, regulations or ordinances to be a misdemeanor **or infraction** punishable as provided by law, may by rule, regulation or ordinance impose a civil fine not to exceed one thousand dollars for each violation. Any fines imposed and collected under such rules, regulations or ordinances shall be payable to the county general fund to be used to pay for the cost of enforcement of such rules, regulations or ordinances."; and

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

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 10, Section 137.016, Line 77, by inserting after all of said line the following:

"137.243. 1. To determine the "projected tax liability" required by subsections 2 and 3 of section 137.180, subsection 2 of section 137.355, and subsection 2 of section 137.490, the assessor, on or before March first of each **odd-numbered** tax year, shall provide the clerk with the assessment book which for this purpose shall contain the real estate values for that year, the prior year's state assessed values, and the prior year's personal property values. On or before March fifteenth, the clerk shall make out an abstract of the assessment book showing the aggregate amounts of different kinds of real, personal, and other tangible property and the valuations of each for each political subdivision in the county, or in the city for any city not within a county, entitled to levy ad valorem taxes on property except for municipalities maintaining their own tax or assessment books. The governing body of each political subdivision or a person designated by the governing body shall use such information to informally project a nonbinding tax levy for that year and return such projected tax levy to the clerk no later than April eighth. The clerk shall forward such information to the collector who shall then calculate and, no later than April thirtieth, provide to the assessor the projected tax liability for each real estate parcel for which the assessor intends to mail a notice of increase pursuant to sections 137.180, 137.355, and 137.490.

2. Political subdivisions located at least partially within two or more counties, which are subject to divergent time requirements, shall comply with all requirements applicable to each such county and may

utilize the most recent available information to satisfy such requirements.

3. Failure by an assessor to timely provide the assessment book or notice of increased assessed value, as provided in this section, may result in the state tax commission withholding all or a part of the moneys provided under section 137.720 and all state per-parcel reimbursement funds which would otherwise be made available to such assessor.

4. Failure by a political subdivision to provide the clerk with a projected tax levy in the time prescribed under this section shall result in a twenty percent reduction in such political subdivision's tax rate for the tax year, unless such failure is a direct result of a delinquency in the provision of, or failure to provide, information required by this section by the assessor or the clerk. If a political subdivision fails to provide the projected tax rate as provided in this section, the clerk shall notify the state auditor who shall, within seven days of receiving such notice, estimate a nonbinding tax levy for such political subdivision and return such to the clerk. The clerk shall notify the state auditor of any applicable reduction to a political subdivision's tax rate.

5. Any taxing district wholly within a county with a township form of government may, through a request submitted by the county clerk, request that the state auditor's office estimate a nonbinding projected tax rate based on the information provided by the county clerk. The auditor's office shall return the projected tax rate to the county clerk no later than April eighth.

6. The clerk shall deliver the abstract of the assessment book to each taxing district with a notice stating that their projected tax rates be returned to the clerk by April eighth."; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 8

Amend House Amendment No. 8 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 1, Line 5, by inserting before all of said line the following:

"Further amend said bill Page 8, Section 94.577, Line 134, by inserting after said line the following:

"94.834. 1. The governing body of **the following cities may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof as provided in this section:**

(1) Any city of the third classification with more than twelve thousand four hundred but less than twelve thousand five hundred inhabitants**[**, the governing body of**];**

(2) Any city of the fourth classification with more than two thousand three hundred but less than two thousand four hundred inhabitants and located in any county of the fourth classification with more than thirty-two thousand nine hundred but less than thirty-three thousand inhabitants**[**, and the governing body of**];**

(3) Any city of the fourth classification with more than one thousand six hundred but less than one thousand seven hundred inhabitants and located in any county of the fourth classification with more than twenty-three thousand seven hundred but less than twenty-three thousand eight hundred inhabitants **[**may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof, which**];**

(4) Any city of the fourth classification with more than three thousand eight hundred but fewer than four thousand inhabitants and located in more than one county; provided, however, that motels owned by not-for-profit organizations are exempt.

2. Such tax shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general or primary election a proposal to authorize the governing body of the city to impose a tax pursuant to this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and the proceeds of such tax shall be used by the city solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

[2.**] 3.** The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in ..... (name of city) at a rate of ..... (insert rate of percent) percent for the sole purpose of promoting tourism?

[☐ YES ☐ NO**]**

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by this section shall not become effective unless and until the question is resubmitted pursuant to this section to the qualified voters of the city and such question is approved by a majority of the qualified voters of the city voting on the question.

[3.**] 4.** As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.”; and”; 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 Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 8, Section 94.577, Line 134, by inserting immediately after said line the following:

“94.1011. 1. The governing body of any city of the third classification with more than three thousand five hundred but fewer than three thousand six hundred inhabitants may impose, by order or ordinance, a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof. The tax shall be not more than five percent per occupied room per night, and shall be imposed solely for the purpose of economic development initiatives to include the construction, maintenance, and repair of a multipurpose conference and convention center. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such order or ordinance shall become effective unless the governing body of the city submits to the voters of the city at a state general, primary, or special election a proposal to authorize the

governing body of the city to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue generated by the tax shall be collected by the city collector of revenue, shall be deposited in a special trust fund, and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund that are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any city that has adopted the tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the proposal are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city, and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any city that has adopted the tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least ten percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters of the city and the repeal is approved by a majority of the qualified voters voting on the question.

6. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter."; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 9

Amend House Amendment No. 9 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 1, Line 8, by deleting the brackets around the words, "of the first classification"; and

Further amend said amendment, page, Line 24, by deleting the brackets around the words, "of the first classification"; and

Further amend said amendment, page, Line 28, by deleting the brackets around the words, "of the first classification"; 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 Substitute for Senate Committee Substitute for Senate Bill No. 605, Page 3, Section 48.030, Line 25 by inserting after all of said line the following:

"50.1020. 1. The board may accept gifts, donations, grants and bequests from private or public sources to the county employees' retirement system fund.

2. No state moneys shall be used to fund sections 50.1000 to 50.1300.

3. In all counties, except counties **[**of the first classification**]** having a charter form of government and any city not within a county, the penalties provided in sections 137.280 and 137.345, RSMo, shall be deposited in the county employees' retirement fund. Any interest derived from the collection and investment of any part of the penalties shall also be credited to the county employees' retirement fund. All penalties and interest shall be transmitted to the board monthly by the county treasurer. The county assessor shall maintain a written or electronic log reflecting number of assessment notices sent, number of personal property lists that were not returned by the deadline established by law, number of penalties waived and the reason for waiving such penalty.

4. Other provisions of law to the contrary notwithstanding, pending final settlement of taxes collected by the county collector, the county collector shall deposit all money collected in interest-bearing deposits within twenty-four hours after the close of business each day collections are received, except on Fridays of each week or on days prior to a state or national holiday, in a financial institution and all interest or other gain on such deposits shall be paid to the county treasurer and shall be credited to the political subdivision for which the funds were collected.

5. Each county clerk **or a designee of the county clerk who is responsible for payroll and personnel records**, except in counties **[**of the first classification**]** having a charter form of government and any city not within a county, shall make the payroll deductions mandated pursuant to subsection 2 or 3 of section 50.1040, and the county treasurer shall transmit these moneys monthly to the board for deposit into the county employees' retirement fund.

6. Each county, except counties **[**of the first classification**]** with a charter form of government and any city not within a county, shall deposit in the county employees' retirement fund each payroll period ending after December 31, 2002, an amount equal to four percent of the compensation paid in such payroll period to each employee hired or rehired by that county on or after February 25, 2002. Such deposit shall be paid out of the county funds or, at the county's election, in whole or in part through payroll deduction as described in subsection 2 of section 50.1040. All amounts due pursuant to this subsection shall be transmitted by the county treasurer to the county employees' retirement fund immediately following the payroll period for which such amounts are due. Each county clerk **or other county official responsible for payroll and personnel records** shall maintain a written or electronic log reflecting the employees hired or rehired by such county on or after February 25, 2002, the amount of each such employee's compensation, and the dollar amount due each payroll period by the county pursuant to this subsection with respect to each such employee, and shall provide such log to the county employees' retirement fund immediately following the payroll period for which such amounts are due."; and

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

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

President Pro Tem Shields assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Goodman, Chairman of the Committee on General Laws, submitted the following report:

Mr. President: Your Committee on General Laws, to which was referred **HB 1802**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Purgason, Chairman of the Committee on Governmental Accountability and Fiscal Oversight, submitted the following report:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **SS** for **SCS** for **SB 884**, begs leave to report that it has considered the same and recommends that the bill do pass.

REFERRALS

President Pro Tem Shields referred **HCS** for **HB 1316**, with **SCS**, and **HCS No. 2** for **HB 1543**, with **SCS**, to the Committee on Governmental Accountability and Fiscal Oversight.

Senator Stouffer assumed the Chair.

HOUSE BILLS ON SECOND READING

The following Bill was read the 2nd time and referred to the Committee indicated:

HB 2245—Education.

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 **SB 733**, entitled:

An Act to repeal sections 173.250, 173.1104, 173.1105, and 173.1108, RSMo, and to enact in lieu thereof four new sections relating to higher education student financial assistance, with an emergency clause for a certain section.

With House Amendment No. 1

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 733, Page 1, In the Title, Line 3, by deleting the words "student financial assistance"; and

Further amend said bill, Page 8, Section 173.1108, Line 11, by inserting after all of said line the following:

"**173.1205. 1. Notwithstanding any other provision of law, a for-profit or not-for-profit entity in**

which a public institution of higher education holds an ownership or membership interest shall not be deemed to be a public governmental body, quasi-public governmental body, or part of a public governmental body or quasi-public governmental body or otherwise subject to chapter 610, if such entity is engaged primarily in activities involving current or prospective commercialization of the skills or knowledge of the institution's faculty or of the institution's research, research capabilities, intellectual property, technology, or technological resources, provided that the public institution of higher education maintains as an open record an annual report, available no later than October first each year, identifying:

(1) The name and address of the entity, the amount of funds paid to such entity by the institution, any nonmonetary benefits received by the entity from the institution, and the purpose for which such funds were paid or benefits provided;

(2) The amount of funds received by the institution from such entity; and

(3) Any employees of the institution who received funds or other things of value from such entity and the purpose and amount of such funds or other things of value.

2. This provision shall not be construed to broaden the definition of public governmental body found in section 610.010, nor shall it otherwise be construed to mean, imply, or suggest that any entity constitutes a public governmental body unless such entity meets the definition of that term found in section 610.010.

3. Notwithstanding any other provision of law, meetings, records, and votes may be closed to the extent that they relate to records or information submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal or agreement to license intellectual property or perform sponsored research, in connection with opportunities for or results of collaboration involving students, faculty, or staff, or in connection with activities by the public institution of higher education to promote or pursue economic development and which contain sales projections or other business plan, financial information, or trade secrets the disclosure of which may endanger the competitiveness of a business." ; and

Further amend said bill and page, Section B, Line 1, by inserting after the letter "B." the following: "1." ; and

Further amend said bill, page, and section, Line 7, by inserting after all of said line the following:

"2. Because immediate action is necessary to protect the intellectual property of the state's higher education institutions while permitting its timely development through technology transfer, the enactment of section 173.1205 of section A 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 enactment of section 173.1205 of section A of this act shall be in full force and effect upon its passage and approval." ; and

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

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SCS** for **SB 644**.

With House Amendment Nos. 1, 2 and 3.

HOUSE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 644, Page 4, Section 67.1361, Line 61, by inserting after all of said line the following:

"67.2000. 1. This section shall be known as the "Exhibition Center and Recreational Facility District Act".

2. **[**Whenever not less than fifty owners of real property located within**] An exhibition center and recreational facility district may be created under this section in the following counties:**

(1) Any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants**[**, or**];**

(2) Any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants**[**, or**];**

(3) Any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants**[**, or**];**

(4) Any county of the second classification with more than fifty-two thousand six hundred but less than fifty-two thousand seven hundred inhabitants**[**, or**];**

(5) Any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants**[**, or**];**

(6) Any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants**[**, or**];**

(7) Any county of the first classification with more than thirty-seven thousand but less than thirty-seven thousand one hundred inhabitants**[**, or**];**

(8) Any county of the third classification without a township form of government and with more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants**[**, or**];**

(9) Any county of the third classification without a township form of government and with more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants**[**, or**];**

(10) Any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants**[**,**];**

(11) Any county of the third classification with a township form of government and with more than eight thousand nine hundred but fewer than nine thousand inhabitants;

(12) Any county of the third classification without a township form of government and with more than eighteen thousand nine hundred but fewer than nineteen thousand inhabitants;

(13) Any county of the third classification with a township form of government and with more

than eight thousand but fewer than eight thousand one hundred inhabitants;

(14) Any county of the third classification with a township form of government and with more than eleven thousand five hundred but fewer than eleven thousand six hundred inhabitants.

3. Whenever not less than fifty owners of real property located within any county listed in subsection 2 of this section desire to create an exhibition center and recreational facility district, the property owners shall file a petition with the governing body of each county located within the boundaries of the proposed district requesting the creation of the district. The district boundaries may include all or part of the counties described in this section. The petition shall contain the following information:

(1) The name and residence of each petitioner and the location of the real property owned by the petitioner;

(2) A specific description of the proposed district boundaries, including a map illustrating the boundaries; and

(3) The name of the proposed district.

[3.**] 4.** Upon the filing of a petition pursuant to this section, the governing body of any county described in this section may, by resolution, approve the creation of a district. Any resolution to establish such a district shall be adopted by the governing body of each county located within the proposed district, and shall contain the following information:

(1) A description of the boundaries of the proposed district;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The proposed sales tax rate to be voted on within the proposed district; and

(4) The proposed uses for the revenue generated by the new sales tax.

[4.**] 5.** Whenever a hearing is held as provided by this section, the governing body of each county located within the proposed district shall:

(1) Publish notice of the hearing on two separate occasions in at least one newspaper of general circulation in each county located within the proposed district, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Rule upon all protests, which determinations shall be final.

[5.**] 6.** Following the hearing, if the governing body of each county located within the proposed district decides to establish the proposed district, it shall adopt an order to that effect; if the governing body of any county located within the proposed district decides to not establish the proposed district, the boundaries of the proposed district shall not include that county. The order shall contain the following:

(1) The description of the boundaries of the district;

(2) A statement that an exhibition center and recreational facility district has been established;

(3) The name of the district;

(4) The uses for any revenue generated by a sales tax imposed pursuant to this section; and

(5) A declaration that the district is a political subdivision of the state.

[6.**]** **7.** A district established pursuant to this section may, at a general, primary, or special election, submit to the qualified voters within the district boundaries a sales tax of one-fourth of one percent, for a period not to exceed twenty-five years, on all retail sales within the district, which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities. The ballot of submission shall be in substantially the following form:

Shall the ..... (name of district) impose a sales tax of one-fourth of one percent to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities, for a period of ..... (insert number of years)?

☐ YES ☐ NO

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

If a majority of the votes cast in the portion of any county that is part of the proposed district favor the proposal, then the sales tax shall become effective in that portion of the county that is part of the proposed district on the first day of the first calendar quarter immediately following the election. If a majority of the votes cast in the portion of a county that is a part of the proposed district oppose the proposal, then that portion of such county shall not impose the sales tax authorized in this section until after the county governing body has submitted another such sales tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a sales tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters pursuant to this section sooner than twelve months from the date of the last proposal submitted pursuant to this section. If the qualified voters in two or more counties that have contiguous districts approve the sales tax proposal, the districts shall combine to become one district.

[7.**]** **8.** There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated pursuant to this section consisting of four individuals to represent each county approving the district, as provided in this subsection. The governing body of each county located within the district, upon approval of that county's sales tax proposal, shall appoint four members to the board of trustees; at least one shall be an owner of a nonlodging business located within the taxing district, or their designee, at least one shall be an owner of a lodging facility located within the district, or their designee, and all members shall reside in the district except that one nonlodging business owner, or their designee, and one lodging facility owner, or their designee, may reside outside the district. Each trustee shall be at least twenty-five years of age and a resident of this state. Of the initial trustees appointed from each county, two shall hold office for two years, and two shall hold office for four years. Trustees appointed after expiration of the initial terms shall be appointed to a four-year term by the governing body of the county the trustee represents, with the initially appointed trustee to remain in office until a successor is appointed, and shall take office upon being appointed. Each trustee may be reappointed. Vacancies shall be filled in the same manner in which the trustee vacating the office was originally appointed. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership. Trustees may be removed if:

(1) By a two-thirds vote, the board moves for the member's removal and submits such motion to the governing body of the county from which the trustee was appointed; and

(2) The governing body of the county from which the trustee was appointed, by a majority vote, adopts the motion for removal.

[8.**] 9.** The board of trustees shall have the following powers, authority, and privileges:

(1) To have and use a corporate seal;

(2) To sue and be sued, and be a party to suits, actions, and proceedings;

(3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a single exhibition center and recreational facilities or to assist in such activity. "Recreational facilities" means locations explicitly designated for public use where the primary use of the facility involves participation in hobbies or athletic activities;

(4) To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property and income of the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property of the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine;

(5) To acquire, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(6) To refund any bonds, notes, or other obligations of the district without an election. The terms and conditions of refunding obligations shall be substantially the same as those of the original issue, and the board shall provide for the payment of interest at not to exceed the legal rate, and the principal of such refunding obligations in the same manner as is provided for the payment of interest and principal of obligations refunded;

(7) To have the management, control, and supervision of all the business and affairs of the district, and the construction, installation, operation, and maintenance of district improvements therein; to collect rentals, fees, and other charges in connection with its services or for the use of any of its facilities;

(8) To hire and retain agents, employees, engineers, and attorneys;

(9) To receive and accept by bequest, gift, or donation any kind of property;

(10) To adopt and amend bylaws and any other rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects, and affairs of the board and of the district; and

(11) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted by this section.

[9.**] 10.** There is hereby created the "Exhibition Center and Recreational Facility District Sales Tax Trust Fund", which shall consist of all sales tax revenue collected pursuant to this section. The director of revenue shall be custodian of the trust fund, and moneys in the trust fund shall be used solely for the purposes authorized in this section. Moneys in the trust fund shall be considered nonstate funds pursuant to section 15, article IV, Constitution of Missouri. The director of revenue shall invest moneys in the trust fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the trust fund. All sales taxes collected by the director of revenue pursuant to this section on behalf of the district, less one percent for the cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in the trust fund. The director of revenue shall keep accurate records of the amount of moneys in the trust fund which was collected in the district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of the officers of each district and the general public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district. The director of revenue may authorize refunds from the amounts in the trust fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of the district.

[10.**] 11.** The sales tax authorized by this section is in addition to all other sales taxes allowed by law. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, apply to the sales tax imposed pursuant to this section.

[11.**] 12.** Any sales tax imposed pursuant to this section shall not extend past the initial term approved by the voters unless an extension of the sales tax is submitted to and approved by the qualified voters in each county in the manner provided in this section. Each extension of the sales tax shall be for a period not to exceed twenty years. The ballot of submission for the extension shall be in substantially the following form:

Shall the ..... (name of district) extend the sales tax of one-fourth of one percent for a period of ..... (insert number of years) years to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities?

☐ YES ☐ NO

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

If a majority of the votes cast favor the extension, then the sales tax shall remain in effect at the rate and for the time period approved by the voters. If a sales tax extension is not approved, the district may submit another sales tax proposal as authorized in this section, but the district shall not submit such a proposal to the voters sooner than twelve months from the date of the last extension submitted.

[12.**] 13.** Once the sales tax authorized by this section is abolished or terminated by any means, all funds

remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the sales tax. The sales tax shall not be abolished or terminated while the district has any financing or other obligations outstanding; provided that any new financing, debt, or other obligation or any restructuring or refinancing of an existing debt or obligation incurred more than ten years after voter approval of the sales tax provided in this section or more than ten years after any voter-approved extension thereof shall not cause the extension of the sales tax provided in this section or cause the final maturity of any financing or other obligations outstanding to be extended. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities. If the district abolishes the sales tax, the district shall notify the director of revenue of the action at least ninety days before the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the sales tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the sales tax in the district, the director of revenue shall remit the balance in the account to the district and close the account of the district. The director of revenue shall notify the district of each instance of any amount refunded or any check redeemed from receipts due the district.

[13.**] 14.** In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers, records, and deeds belonging to the dissolved district."; and

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

HOUSE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 644, Section 67.1000, Page 2, Line 48, by inserting after all of said section the following:

"67.1360. **1.** The governing body of **the following cities and counties may impose a tax as provided in this section**:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred

inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county through the creation of a tourism district which may include, in addition to the geographic area of such city, the area encompassed by the portion of the school district, located within a county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, having an average daily attendance for school year 2005-06 between one thousand eight hundred and one thousand nine hundred ;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than

ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants;

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants; **[**or**]**

(32) Any city of the fourth classification with more than three thousand eight hundred but fewer than three thousand nine hundred inhabitants and located in any county of the first classification with more than thirty-nine thousand seven hundred but fewer than thirty-nine thousand eight hundred inhabitants;

(33) Any county of the third classification without a township form of government and with more than twelve thousand one hundred but fewer than twelve thousand two hundred inhabitants.

2. The governing body of any city or county listed in subsection 1 of this section may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes."; and

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

HOUSE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bill No. 644, Section 67.1000, Page 2, Line 48, by inserting after all of said section the following:

"67.1003. 1. The governing body of **the following cities and counties may impose a tax as provided in this section:**

(1) Any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county;

[(1)**] (2)** A county of the third classification with a population of more than seven thousand but less than seven thousand four hundred inhabitants;

[(2) or**] (3)** A third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand;

[(3) or**] (4)** A county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand;

[(4) or**] (5)** Any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand;

[(5) or**] (6)** Any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants;

[(6) or**] (7)** Any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants**;**

(8) Any city of the third classification with more than ten thousand eight hundred but fewer than ten thousand nine hundred inhabitants and located in more than one county.

2. The governing body of any city or county listed in subsection 1 of this section may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

[2.**] 3.** Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

[3.**] 4.** The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

☐ YES ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

[4.**] 5.** As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter."; 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.

THIRD READING OF SENATE BILLS

SS for **SCS** for **SB 884**, introduced by Senator Schaefer, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 884

An Act to amend chapter 196, RSMo, by adding thereto six new sections relating to the tobacco master settlement agreement, with penalty provisions and an emergency clause.

Was taken up.

On motion of Senator Schaefer, **SS** for **SCS** for **SB 884** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Keaveny	Lager
Lembke	McKenna	Nodler	Pearce	Rupp	Schaefer	Schmitt	Scott
Shields	Shoemyer	Stouffer	Wilson	Wright-Jones—29			

NAYS—Senator Purgason—1

Absent—Senators

Barnitz	Mayer	Ridgeway	Vogel—4

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Barnitz	Bartle	Callahan	Champion	Clemens	Crowell	Cunningham	Days
Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Keaveny	Lager
Lembke	McKenna	Nodler	Pearce	Rupp	Schaefer	Schmitt	Scott
Shields	Shoemyer	Stouffer	Vogel	Wilson	Wright-Jones—30		

NAYS—Senator Purgason—1

Absent—Senators

Bray	Mayer	Ridgeway—3

Absent with leave—Senators—None

Vacancies—None

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

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

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

RESOLUTIONS

Senator Dempsey offered Senate Resolution No. 2412, regarding Susan Burns, which was adopted.

Senator Dempsey offered Senate Resolution No. 2413, regarding Laurie Harp and Jennifer Harp, which was adopted.

Senator Dempsey offered Senate Resolution No. 2414, regarding Tammie Hutto-Egloff, which was adopted.

Senator Dempsey offered Senate Resolution No. 2415, regarding Daniel Knickmeyer, which was adopted.

Senator Dempsey offered Senate Resolution No. 2416, regarding Richard Lueders, which was adopted.

Senator Dempsey offered Senate Resolution No. 2417, regarding Justin Oelger, which was adopted.

Senator Dempsey offered Senate Resolution No. 2418, regarding John Fischer, which was adopted.

Senator Dempsey offered Senate Resolution No. 2419, regarding Teresa Gilley, which was adopted.

Senator Dempsey offered Senate Resolution No. 2420, regarding Officer David P. Bauer, St. Charles County, which was adopted.

Senator Dempsey offered Senate Resolution No. 2421, regarding Detective Steve Everingham, which was adopted.

Senator Dempsey offered Senate Resolution No. 2422, regarding Officer David McNown, which was adopted.

Senator Dempsey offered Senate Resolution No. 2423, regarding Officer Paul Price, which was adopted.

Senator Dempsey offered Senate Resolution No. 2424, regarding Officer Tom Wilkison, which was adopted.

Senator Schaefer offered Senate Resolution No. 2425, regarding Rachel Jean Maerz, Columbia, which was adopted.

Senator Lager offered Senate Resolution No. 2426, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Donald Long, Maryville, which was adopted.

Senator Lager offered Senate Resolution No. 2427, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Willis Rich, Savannah, which was adopted.

Senator Vogel offered Senate Resolution No. 2428, regarding Aaron Trotter Lewis, California, which was adopted.

On motion of Senator Engler, the Senate recessed until 2:30 p.m.

RECESS

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

HOUSE BILLS ON THIRD READING

HCS for **HB 1764**, with **SCS**, entitled:

An Act to repeal section 375.1175, RSMo, and to enact in lieu thereof one new section relating to the liquidation of certain domestic insurance companies.

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

SCS for **HCS** for **HB 1764**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1764

An Act to repeal sections 375.1152, 375.1155, 375.1175, 375.1255, and 376.1109, RSMo, and to enact in lieu thereof ten new sections relating to insurance.

Was taken up.

Senator Rupp moved that **SCS** for **HCS** for **HB 1764** be adopted.

Senator Cunningham offered **SS** for **SCS** for **HCS** for **HB 1764**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1764

An Act to repeal section 375.1175, RSMo, and to enact in lieu thereof two new sections relating to insurance, with a referendum clause.

Senator Cunningham moved that **SS** for **SCS** for **HCS** for **HB 1764** be adopted, which motion prevailed.

On motion of Senator Rupp, **SS** for **SCS** for **HCS** for **HB 1764** was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Champion	Clemens	Crowell	Cunningham	Dempsey	Engler
Goodman	Griesheimer	Lager	Lembke	Mayer	McKenna	Nodler	Pearce
Purgason	Ridgeway	Rupp	Schaefer	Schmitt	Scott	Shields	Shoemyer
Stouffer	Vogel—26						

NAYS—Senators

Bray	Callahan	Days	Green	Justus	Keaveny	Wilson	Wright-Jones—8

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HB 1868, with **SCS**, introduced by Representative Scharnhorst, entitled:

An Act to repeal sections 37.320 and 109.250, RSMo, and to enact in lieu thereof two new sections relating to the state records commission.

Was taken up by Senator Shields.

SCS for **HB 1868**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1868

An Act to repeal sections 37.320 and 109.250, RSMo, and to enact in lieu thereof four new sections relating to the office of administration.

Was taken up.

Senator Shields moved that **SCS** for **HB 1868** be adopted.

Senator Shields offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, In the Title, Line 3, by striking the following: "the office of administration" and inserting in lieu thereof the following: "duties of agencies and officials operating within the executive branch"; and

Further amend said bill and page, section A, line 3, by inserting immediately after said line the following:

"32.028. 1. There is hereby created a department of revenue in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall collect all taxes and fees payable to the state as provided by law.

2. The powers, duties and functions of the department of revenue, chapter 32, RSMo and others, are transferred by type I transfer to the department of revenue. All powers, duties and function of the collector of revenue are transferred to the director of the department by type I transfer and the position of collector of revenue is abolished.

3. The powers, duties and functions of the state tax commission, chapter 138, RSMo and others, are transferred by type III transfer to the department of revenue.

4. All of the powers, duties and functions of the state tax commission relating to administration of the corporation franchise tax chapter 152, RSMo and others, are transferred by type I transfer to the department of revenue; provided, however, that the provision of section 138.430, RSMo relating to appeals from decisions of the director of revenue shall apply to these taxes.

5. All the powers, duties and functions of the highway reciprocity commission, chapter 301, RSMo, are transferred by type II transfer to the department of revenue.

6. All the powers, duties and functions of the division of alcohol and tobacco control, chapters 311

and 407, are transferred by type I transfer to the department of revenue. The supervisor of the division shall be appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor with the advice and consent of the director of the department, notwithstanding the provisions of section 311.670.

36.031. Any provision of law to the contrary notwithstanding, except for the elective offices, institutions of higher learning, the department of transportation, the department of conservation, those positions in the Missouri state highway patrol the compensation of which is established by subdivision (2) of subsection 2 of section 43.030, RSMo, and section 43.080, RSMo, **[**those positions in the Missouri state water patrol the compensation of which is established by section 306.229, RSMo,**]** those positions in the division of finance and the division of credit unions compensated through a dedicated fund obtained from assessments and license fees under sections 361.170 and 370.107, RSMo, and those positions for which the constitution specifically provides the method of selection, classification, or compensation, and the positions specified in subsection 1 of section 36.030, but including attorneys, those departments, agencies and positions of the executive branch of state government which have not been subject to these provisions of the state personnel law shall be subject to the provisions of sections 36.100, 36.110, 36.120 and 36.130, and the regulations adopted pursuant to sections 36.100, 36.110, 36.120 and 36.130 which relate to the preparation, adoption and maintenance of a position classification plan, the establishment and allocation of positions within the classification plan and the use of appropriate class titles in official records, vouchers, payrolls and communications. Any provision of law which confers upon any official or agency subject to the provisions of this section the authority to appoint, classify or establish compensation for employees shall mean the exercise of such authority subject to the provisions of this section. This section shall not extend coverage of any section of this chapter, except those specifically named in this section, to any agency or employee. In accordance with sections 36.100, 36.110, 36.120 and 36.130, and after consultation with appointing authorities, the director of the division of personnel shall conduct such job studies and job reviews and establish such additional new and revised job classes as the director finds necessary for appropriate classification of the positions involved. Such classifications and the allocation of positions to classes shall be maintained on a current basis by the division of personnel. The director of the division of personnel shall, at the same time, notify all affected agencies of the appropriate assignment of each job classification to one of the salary ranges within the pay plan then applicable to merit system agencies. The affected agencies and employees in the classifications set pursuant to this section shall be subject to the pay plan and rates of compensation established and administered in accordance with the provisions of this section, and the regulations adopted pursuant to this section, on the same basis as for merit agency employees. In addition, any elected official, institution of higher learning, the department of transportation, the department of conservation, the general assembly, or any judge who is the chief administrative officer of the judicial branch of state government may request the division of personnel to study salaries within the requestor's office, department or branch of state government for classification purposes."; and

Further amend said bill, page 2, section 37.900, line 14, by inserting after all of said line the following:

"43.040. The superintendent shall appoint from the membership of the patrol one lieutenant colonel and **[**five**]** **six** majors, who shall have the same qualifications as the superintendent, and who may be relieved of the rank of lieutenant colonel or major, as the case may be, and the duties of the position by the superintendent at his pleasure.

43.050. 1. The superintendent may appoint not more than **[**twenty-five**] thirty-four** captains and one director of radio, each of whom shall have the same qualifications as the superintendent, nor more than **[**sixty**] sixty-eight** lieutenants, and such additional force of sergeants, corporals and patrolmen, so that the total number of members of the patrol shall not exceed **[**nine hundred sixty-five**] one thousand sixty-four** officers and patrolmen and such numbers of radio personnel as the superintendent deems necessary.

2. In case of a national emergency the superintendent may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. The superintendent may enter into an agreement with the Missouri gaming commission to enforce any law, rule, or regulation, conduct background investigations under the laws of this state, and enforce the regulations of licensed gaming activities governed by chapter 313, RSMo. A notice of either party to terminate or modify the provisions of such agreement shall be in writing and executed not less than one year from the effective date of the termination or modification, unless mutually agreed upon by the superintendent and the Missouri gaming commission. Members of the patrol hired in conjunction with any agreement with the Missouri gaming commission shall not be subject to the personnel cap referenced in subsection 1 of this section. If such agreement is subsequently terminated or modified to reduce the number of personnel used in such agreement, those members affected by such termination or modification shall not be subject to the personnel cap referenced in subsection 1 of this section for a period of five years.

4. Member positions of the patrol originally acquired in conjunction with the community-oriented policing services federal grant or members assigned to fulfill the duties established in sections 43.350 to 43.380 shall not be subject to the personnel cap referenced in subsection 1 of this section.

5. Applicants shall not be discriminated against because of race, creed, color, national origin or sex.

43.390. 1. Notwithstanding the provisions of subsection 1 of section 43.025, there is hereby created within the Missouri state highway patrol a "Division of Water Patrol".

2. The superintendent of the Missouri state highway patrol shall appoint a director of the division of water patrol who shall be responsible for the operation of the division.

3. The superintendent of the Missouri state highway patrol may assign highway patrol members under the superintendent's command to serve in the division of water patrol on a permanent or temporary basis.

4. All officers assigned to the division of water patrol shall be vested with the powers prescribed in sections 306.165, 306.167, and 306.168.

5. All salaries, expenses, and other costs relating to the assignment of Missouri state highway patrol members to the division of water patrol shall be paid within the limits of appropriations from general revenue, the Missouri state water patrol fund established in section 306.185, or from such other funding as may be authorized by the general assembly.

58.445. 1. If any person within a coroner's or medical examiner's jurisdiction dies within eight hours of, and as a result of, an accident involving a motor vehicle, the coroner or medical examiner shall report the death and circumstances of the accident to the Missouri state highway patrol in writing. If any person within a coroner's or medical examiner's jurisdiction dies within eight hours of, and as a result of, an accident involving a motorized watercraft and was thought to have been the operator of such watercraft, the

coroner or medical examiner shall report the death and circumstances of the accident to the Missouri state **highway patrol,** water patrol **division,** in writing. The report required by this subsection shall be made within five days of the conclusion of the tests required in subsection 2 of this section.

2. The coroner or medical examiner shall make, or cause to be made, such tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs if feasible, in the blood of the deceased. The results of these tests shall be included in the coroner's or medical examiner's report to the state highway patrol **[**or the Missouri state water patrol,**]** as required by subsection 1 of this section.”; and

Further amend said bill, page 2, section 109.250, line 23, by inserting after all of said line the following:

“301.716. 1. Any violation of the provisions of sections 301.700 to 301.714 shall be an infraction. An arrest or service of summons for violations of the provisions of sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles may be made by the duly authorized law enforcement officer of any political subdivision of the state, the highway patrol **[**and the state water patrol**]**.

2. Violations of sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles or any rule or order hereunder may be referred to the proper prosecuting attorney or circuit attorney who may, with or without such reference, institute appropriate proceedings.

3. Nothing in sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

306.010. As used in this chapter the following terms mean:

(1) “Motorboat”, any vessel propelled by machinery, whether or not such machinery is a principal source of propulsion;

(2) “Operate”, to navigate or otherwise use a motorboat or a vessel;

(3) “Operator”, the person who operates or has charge of the navigation or use of a vessel;

(4) “Owner”, a person other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest of another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(5) “Parasailing”, the towing of any person equipped with a parachute or kite equipment by any watercraft operating on the waters of this state;

(6) “Personal watercraft”, a class of vessel, which is less than sixteen feet in length, propelled by machinery which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated by a person sitting or standing inside the vessel;

(7) “Skiing”, any activity that involves a person or persons being towed by a vessel, including but not limited to waterskiing, wake boarding, wake surfing, knee boarding, and tubing;

(8) “Vessel”, every motorboat and every description of motorized watercraft, and any watercraft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, used or capable of being used as a means of transportation on water, but not any watercraft having as the only

means of propulsion a paddle or oars;

(9) "Watercraft", any boat or craft, including a vessel, used or capable of being used as a means of transport on waters;

(10) **"Water patrol division of the state highway patrol" or "water patrol division", the division responsible for enforcing the provisions of this chapter on the waters of this state. The revisor of statutes is instructed to replace the terms "Missouri state water patrol" or "state water patrol" wherever those terms exist in this chapter with the term "water patrol division";**

(11) "Waters of this state", any waters within the territorial limits of this state and lakes constructed or maintained by the United States Army Corps of Engineers except bodies of water owned by a person, corporation, association, partnership, municipality or other political subdivision, public water supply impoundments, and except drainage ditches constructed by a drainage district, but the term does include any body of water which has been leased to or owned by the state department of conservation.

306.165. Each **[**water**]** patrol officer **[**appointed by the Missouri state water patrol and each of such other employees as may be designated by the patrol, before entering upon his or her duties, shall take and subscribe an oath of office to perform all duties faithfully and impartially, and shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting**] assigned to the water patrol division by the superintendent of the highway patrol as provided in section 43.390 shall possess** all the powers of a peace officer to enforce all laws of this state, upon all of the following:

(1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4), and (5) of this section;

(2) All federal land, where not prohibited by federal law or regulation, and state land adjoining the waterways of this state;

(3) All land within three hundred feet of the areas in subdivision (2) of this section;

(4) All land adjoining and within six hundred feet of any waters impounded in areas not covered in subdivision (2) with a shoreline in excess of four miles;

(5) All land adjoining and within six hundred feet of the rivers and streams of this state;

(6) Any other jurisdictional area, pursuant to the provisions of section 306.167;

(7) All premises leased or owned or under control of the Missouri state **[**water**] highway** patrol.

Each **[**water**]** patrol officer **assigned to the water patrol division** may board any watercraft at any time, with probable cause, for the purpose of making any inspection necessary to determine compliance with the provisions of this chapter. Each **[**water**]** patrol officer may arrest on view and without a warrant any person he or she sees violating or who such patrol officer has reasonable grounds to believe has violated any law of this state, upon any water or land area subject to his or her jurisdiction as provided in this section or may arrest anyone violating any law in his or her presence throughout the state. Each **[**water**]** patrol officer, while investigating an accident or crime that was originally committed within such patrol officer's jurisdiction, as set forth in this section, may arrest any person who he or she has probable cause to believe has committed such crime, even if the suspect is currently out of the **division of** water patrol's jurisdiction. **[**Water**]** Patrol officers, if practicable, shall notify the sheriff or the police department prior to making an arrest within their respective county or city. Each **[**water**]** patrol officer shall comply with the training and certification provisions of chapter 590, RSMo.

306.167. The uniformed members of the **[**state**]** water patrol **division**, with the exception of radio personnel, shall have full power and authority as now or hereafter vested by law in peace officers when working with and at the special request of the sheriff of any county, the chief park ranger of any first class county not having a charter form of government and containing a portion of a city with a population exceeding four hundred thousand inhabitants, the chief of police of any city, or the superintendent of the state highway patrol **[**as directed by the commissioner of the water patrol**]**; provided, however, that such power and authority shall be exercised only upon the prior notification of the chief law enforcement officer of each jurisdiction.

306.168. In the investigation of an accident or crime that was originally committed within such patrol officer's jurisdiction, as set forth in section 306.165, the members of the water patrol **division** may request that the prosecuting or circuit attorney apply for, and members of the water patrol **division** may serve, search warrants anywhere within the state of Missouri, provided the sheriff of the county in which the warrant is to be served, or his designee, shall be notified upon application by the applicant of the search warrant. **The sheriff or his designee shall participate in serving the search warrant except for offenses pertaining to boating while intoxicated and the investigation of vessel accidents. Any designee of the sheriff shall be a deputy sheriff or other person certified as a peace officer under chapter 590. The sheriff shall always have a designee available.**

306.185. 1. There is hereby created in the state treasury the "Missouri State Water Patrol Fund", which shall consist of money collected under section 306.030. 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 solely for the expenses of the Missouri state **highway patrol,** water patrol **division**, including but not limited to **[**personal**] personnel** expense, training expense, and equipment expense **for the purpose of enforcing the laws of this chapter**.

2. Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. 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.

4. Within available appropriations in this section, the commissioner of the water patrol shall establish with the advice of the director of personnel an equitable pay plan for the members of the water patrol and radio personnel taking into consideration ranks and length of service.

5. If in the immediate previous fiscal year, the state's net general revenue did not increase by two percent or more, the state treasurer shall deposit moneys, except for gifts, donations, or bequests, received under this section beginning January first of the current fiscal year into the state general revenue fund. Otherwise, the state treasurer shall deposit such moneys in accordance with the provisions of this section.

311.615. There shall be a division within the department of **[**public safety**] revenue** known as the "Division of Alcohol and Tobacco Control", which shall have as its chief executive officer the supervisor of alcohol and tobacco control appointed pursuant to section 311.610. All references to the division of liquor control and the supervisor of liquor control in the statutes shall mean the division of alcohol and tobacco control and the supervisor of alcohol and tobacco control.

407.924. 1. The division of **[**liquor**] alcohol and tobacco** control within the department of **[**public safety**] revenue** shall implement and enforce the provisions of sections 407.925 to 407.934.

2. Beginning January 1, 2003, the division of **[**liquor**]** **alcohol and tobacco** control shall submit an annual report to the general assembly on the effectiveness of sections 407.925 to 407.934 in reducing tobacco possession by minors and the enforcement activities by the division for violations of sections 407.925 to 407.934.

542.261. As used in sections 542.261 to 542.296 and section 542.301, the term "peace officer" means a police officer, member of the highway patrol **[**or water patrol**]** to the extent otherwise permitted by law to conduct searches, sheriff or deputy sheriff.

544.157. 1. Any law enforcement officer certified pursuant to chapter 590, RSMo, of any political subdivision of this state, any authorized agent of the department of conservation, any commissioned member of the Missouri capitol police**[**,**]** **and** any commissioned member of the Missouri state park rangers **[**and any authorized agent of the Missouri state water patrol**]** in fresh pursuit of a person who is reasonably believed by such officer to have committed a felony in this state or who has committed, or attempted to commit, in the presence of such officer or agent, any criminal offense or violation of a municipal or county ordinance, or for whom such officer holds a warrant of arrest for a criminal offense, shall have the authority to arrest and hold in custody such person anywhere in this state. Fresh pursuit may only be initiated from within the pursuing peace officer's, conservation agent's, capitol police officer's**[**,**]** **or** state park ranger's **[**or water patrol officer's**]** jurisdiction and shall be terminated once the pursuing peace officer is outside of such officer's jurisdiction and has lost contact with the person being pursued. If the offense is a traffic violation, the uniform traffic ticket shall be used as if the violator had been apprehended in the municipality or county in which the offense occurred.

2. If such an arrest is made in obedience to a warrant, the disposition of the prisoner shall be made as in other cases of arrest under a warrant; if the violator is served with a uniform traffic ticket, the violator shall be directed to appear before a court having jurisdiction to try the offense; if the arrest is without a warrant, the prisoner shall be taken forthwith before a judge of a court with original criminal jurisdiction in the county wherein such arrest was made or before a municipal judge thereof having original jurisdiction to try such offense, who may release the person as provided in section 544.455, conditioned upon such person's appearance before the court having jurisdiction to try the offense. The person so arrested need not be taken before a judge as herein set out if given a summons by the arresting officer.

3. The term "fresh pursuit", as used in this section, shall include hot or fresh pursuit as defined by the common law and also the pursuit of a person who has committed a felony or is reasonably suspected of having committed a felony in this state, or who has committed or attempted to commit in this state a criminal offense or violation of municipal or county ordinance in the presence of the arresting officer referred to in subsection 1 of this section or for whom such officer holds a warrant of arrest for a criminal offense. It shall include also the pursuit of a person suspected of having committed a supposed felony in this state, though no felony has actually been committed, if there is reasonable ground for so believing. "Fresh pursuit" as used herein shall imply instant pursuit.

4. A public agency electing to institute vehicular pursuits shall adopt a policy for the safe conduct of vehicular pursuits by peace officers. Such policy shall meet the following minimum standards:

(1) There shall be supervisory control of the pursuit;

(2) There shall be procedures for designating the primary pursuit vehicle and for determining the total number of vehicles to be permitted to participate at one time in the pursuit;

(3) There shall be procedures for coordinating operation with other jurisdictions; and

(4) There shall be guidelines for determining when the interests of public safety and effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be initiated or should be terminated.

577.090. Any law enforcement officer shall and any agent of the conservation commission or deputy or **member of the highway patrol,** water patrol **[**officer**] division,** may enforce the provisions of sections 577.070 and 577.080 and arrest violators thereof; except that conservation agents **[**and water patrolmen**]** may enforce such provisions only upon the water, the banks thereof or upon public land.

650.005. 1. There is hereby created a "Department of Public Safety" in charge of a director appointed by the governor with the advice and consent of the senate. The department's role will be to provide overall coordination in the state's public safety and law enforcement program, to provide channels of coordination with local and federal agencies in regard to public safety, law enforcement and with all correctional and judicial agencies in regard to matters pertaining to its responsibilities as they may interrelate with the other agencies or offices of state, local or federal governments.

2. All the powers, duties and functions of the state highway patrol, chapter 43, RSMo, and others, are transferred by type II transfer to the department of public safety. The governor by and with the advice and consent of the senate shall appoint the superintendent of the patrol. With the exception of sections 43.100 to 43.120, RSMo, relating to financial procedures, the director of public safety shall succeed the state highways and transportation commission in approving actions of the superintendent and related matters as provided in chapter 43, RSMo. Uniformed members of the patrol shall be selected in the manner provided by law and shall receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to affect the funding of appropriations or the operation of chapter 104, RSMo, relating to retirement system coverage or section 226.160, RSMo, relating to workers' compensation for members of the patrol.

3. **[**All the powers, duties and functions of the supervisor of liquor control, chapter 311, RSMo, and others, are transferred by type II transfer to the department of public safety. The supervisor shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor or director of the department as provided in section 311.670, RSMo.

4. The director of public safety, superintendent of the highway patrol and transportation division of the department of economic development are to examine the motor carrier inspection laws and practices in Missouri to determine how best to enforce the laws with a minimum of duplication, harassment of carriers and to improve the effectiveness of supervision of weight and safety requirements and to report to the governor and general assembly by January 1, 1975, on their findings and on any actions taken.

5. The Missouri division of highway safety is transferred by type I transfer to the department of public safety. The division shall be in charge of a director who shall be appointed by the director of the department.

6.**]** All the powers, duties and functions of the safety and fire prevention bureau of the department of public health and welfare are transferred by type I transfer to the director of public safety.

[7.**] 4.** All the powers, duties and functions of the state fire marshal, chapter 320, RSMo, and others, are transferred to the department of public safety by a type I transfer.

[8.**] 5.** All the powers, duties and functions of the law enforcement assistance council administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and related acts of Congress are transferred by type I transfer to the director of public safety. The director of public safety shall appoint such advisory bodies as are required by federal laws or regulations. The council is abolished.

[9.**] 6.** The director of public safety shall promulgate motor vehicle regulations and be ex officio a member of the safety compact commission in place of the director of revenue and all powers, duties and functions relating to chapter 307, RSMo, are transferred by type I transfer to the director of public safety.

[10.**] 7.** The office of adjutant general and the state militia are assigned to the department of public safety; provided, however, nothing herein shall be construed to interfere with the powers and duties of the governor as provided in article IV, section 6 of the Constitution of the state of Missouri or chapter 41, RSMo.

[11.**] 8.** All the powers, duties and functions of the Missouri boat commission, chapter 306, RSMo, and others, are transferred by type I transfer to the "Missouri State Water Patrol", which is hereby created, in the department of public safety. The Missouri boat commission and the office of secretary to the commission are abolished. **[**The Missouri state water patrol shall be headed by a boat commissioner who shall be appointed by the governor, with the advice and consent of the senate.**]** All deputy boat commissioners and all other employees of the commission who were employed on February 1, 1974, shall be transferred to the water patrol without further qualification. **Effective January 1, 2011, all the powers, duties, and functions of the Missouri state water patrol are transferred to the division of water patrol within the Missouri state highway patrol as set out in section 43.390.**

[12.**] 9.** The **[**division of veterans affairs**] Missouri veterans's commission**, chapter 42, RSMo, is assigned to the **[**office of adjutant general. The adjutant general, with the advice of the veterans' board, shall appoint the director of the division of veterans affairs who shall serve at the pleasure of the adjutant general**] department of public safety**.

[13.**] 10.** 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, 2009, shall be invalid and void."; and

Further amend said bill, page 3, section 1, line 7, by inserting after all of said line the following:

"**[**306.161. The Missouri state water patrol is authorized to employ, within the limits of appropriations and notwithstanding any other provision of law to the contrary, such personnel as may be necessary to properly perform the duties of the water patrol, and the water patrol shall prescribe the duties and responsibilities of such personnel.**]**

[306.163. 1. The governor, by and with the advice and consent of the senate, shall appoint a commissioner of the Missouri state water patrol to serve at the pleasure of the governor. The commissioner shall take and subscribe an oath of office to perform the commissioner's duties faithfully and impartially. The commissioner appointed by the governor shall have at least ten years of experience in law enforcement similar to the duties

exercised by uniformed officers of the state water patrol or at least five years of experience as a uniformed officer of the state water patrol.

2. The commissioner shall prescribe rules for instruction and discipline and make administrative rules and regulations and fix the hours of duty for the members of the patrol. The commissioner shall have charge of the office of the patrol, shall be custodian of the records of the patrol, and shall direct the day-to-day activities of the officers, patrolmen and office personnel.

3. The commissioner shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting him or her all the powers of a peace officer to enforce all the laws of this state within the jurisdiction of the water patrol as listed in section 306.165, provided that he has completed a law enforcement training course which meets the standards established in chapter 590, RSMo.

4. In the absence, or upon the disability, of the commissioner, or at the time the commissioner designates, the lieutenant colonel shall assume the duties of the commissioner. In case of the disability of the commissioner and the lieutenant colonel, the governor may designate a major as acting commissioner and when so designated, the acting commissioner shall have all the powers and duties of the commissioner.**]**

[306.227. Patrolmen and radio personnel of the water patrol shall not be less than twenty-one years of age. No person shall be appointed as commissioner or as a member of the patrol or as a member of the radio personnel who:

(1) Has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime;

(2) Is not of good character;

(3) Is not a citizen of the United States;

(4) At the time of appointment is not a citizen of the state of Missouri;

(5) Has not completed a high school program of education under chapter 167, RSMo, or has not obtained a General Educational Development (GED) certificate, and who has not obtained advanced education and experience as approved by the commissioner; or

(6) Does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the commissioner prescribes.**]**

[306.228. 1. The commissioner may appoint from within the membership not more than one assistant commissioner, two majors, nine captains, nine lieutenants, and one director of radio, each of whom shall have the same qualifications as the commissioner, and such additional force of sergeants, corporals and patrolmen and such numbers of radio personnel as the commissioner deems necessary.

2. In case of a national emergency the commissioner may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. Applicants shall not be discriminated against because of race, creed, color, national origin, religion or sex.**]**

[306.229. 1. The commissioner is authorized and empowered to prescribe policies providing increases in the salaries of patrolmen and radio personnel of the water patrol, subject to appropriations. Each year, prior to January first, the commissioner shall submit a salary schedule report to the governor, speaker of the house of representatives, and the president pro tem of the senate. The salary schedule report prepared by the commissioner shall include, in addition to other matters deemed pertinent to the commissioner, a comparison of the salaries of police officers of three police departments that employ similar numbers of patrol officers in the state. Such report shall also include a full description and comparison of each department position used to determine parity for all patrol positions of sergeant and above. The governor may make additional recommendations to the report and forward them to the speaker of the house of representatives and president pro tem of the senate. The speaker of the house of representatives and the president pro tem of the senate may assign the salary schedule report to the appropriate standing committees to review the salary comparisons to ensure that parity, as adjusted for equivalent duties and functions, in the salary of patrolmen and radio personnel of the water patrol and officers of the three police departments that employ similar numbers of patrol officers in the state is maintained. The commissioner of the water patrol shall testify before the appropriate committee on the salary schedule report if called up by such committee.

2. The service of a member of the patrol, who has served in the armed forces of the United States and who has subsequently been reinstated as a member of the patrol within ninety days after receiving a discharge other than dishonorable from the armed forces of the United States, shall be considered service with the patrol as a member of the patrol rendered since last becoming a member prior to entrance into the armed forces of the United States; except that no member shall be entitled to any credit, privilege or benefit provided by this chapter if such reenlistment, waiver of discharge, acceptance of commission or any other action with the armed forces beyond the period of service for which such member was originally commissioned, enlisted, inducted or called.**]**

[306.230. 1. The commissioner shall prescribe rules for instruction and discipline and make all administrative rules and regulations and fix the hours of duty for the members of the patrol. 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, 2007, shall be invalid and void. The commissioner shall divide the state into districts and assign members of the patrol to such districts in a manner deemed proper to carry out the purposes of this chapter. The commissioner may call members of the patrol from one district to another.

2. The commissioner may, by general order, establish for the circumstances under

which members of the patrol are promoted. The commissioner shall classify and, by promotion, increase the rank of lieutenant colonels, majors, captains, lieutenants, sergeants, corporals, patrolmen, and radio personnel from the next lower rank after not less than one year of service satisfactorily performed therein. If the commissioner finds the candidate pool to fill a position through promotion is not sufficient from which to select, the commissioner may promote an individual from the next lower rank.**]**

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

(1) Suspension without pay for not more than thirty days;

(2) Reduction in rank; or

(3) Disciplinary transfer at the member's expense. Nothing in this section shall be construed to prevent nondisciplinary transfers of members if the commissioner determines that such transfers are for the good of the patrol. No hearings shall be required in the case of reprimands or suspensions of three days or less which may be imposed at the discretion of the commissioner.

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

3. Notwithstanding the provisions of this subsection or subsection 2 of this section to the contrary, the commissioner may postpone notifying a member that a complaint has been filed against him or her and may withhold the complaint and part or all of the investigation report and other evidence if the commissioner determines that such disclosures shall

seriously interfere with the investigation regarding such complaint or any other investigation being conducted by the patrol or may likely jeopardize the health or safety of any person. Nothing in this subsection shall be construed to limit the rights of parties to discovery in civil or criminal litigation.**]**"; and

Further amend the title and enacting clause accordingly.

Senator Shields moved that the above amendment be adopted.

Senator Schaefer 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 Committee Substitute for House Bill No. 1868, Page 2, Section 32.028, Line 12, by striking the words "type I" and inserting in lieu thereof the following: "**type II**".

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

SA 1, as amended, was again taken up.

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

Senator Shields offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

"36.050. 1. The personnel advisory board and its functions, duties and powers prescribed in this chapter is transferred by type III transfer to the office of administration.

2. The personnel advisory board shall consist of seven members. Four members of the board shall be public members, citizens of the state who are not state employees or officials, of good character and reputation, who are known to be in sympathy with the application of merit principles to public employment. Two members shall be employees of state agencies covered by section 36.030 or section 36.031, one a member of executive management, and one a nonmanagement employee. **[**Members who are employees shall not participate in disciplinary appeal decisions from their agencies.**]** The state equal employment opportunity officer shall be a member of the board. No member of the board, during the member's term of office, or for at least one year prior thereto, shall be a member of any local, state or national committee of a political party or an officer or member of a committee in any partisan political club or organization, or hold, or be a candidate for, a partisan public office. An employee member who leaves state employment or otherwise fails to further qualify for the appointment shall vacate the position.

3. The members of the board shall be appointed by the governor by and with the advice and consent of the senate. The three current members of the board serving terms which expire July 31, 1998, July 31, 2000, and July 31, 2002, shall continue to serve for the terms for which they were previously appointed. One new public member shall be appointed for a term ending July 31, 1998, one employee member shall be appointed for a term ending July 31, 2000, and one employee member shall be appointed for a term ending July 31, 2002. Thereafter, appointments of all members shall be for terms of six years. Any vacancy shall be filled by an appointment for the unexpired term. Each member of the board shall hold office until such member's

successor is appointed and qualified.

4. A member of the board is removable by the governor only for just cause, after being given a written notice setting forth in substantial detail the charges against the member and an opportunity to be heard publicly on the charges before the governor. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state.

5. Each public member of the board shall be paid an amount for each day devoted to the work of the board which shall be determined by the commissioner of administration and filed with the reorganization plan of the office of administration; provided, however, that such amount shall not exceed that paid to members of boards and commissions with comparable responsibilities. All board members are entitled to reimbursement for necessary travel and other expenses pertaining to the duties of the board. Duties performed for the board by any employee member of the board shall be considered duties in connection with the appointment of the individual, and such employee member shall suffer no loss of regular compensation by reason of performance of such duties.

6. The board shall elect from among its membership a chairman and vice chairman, who shall act as chairman in the chairman's absence. It shall meet at the times and places specified by call of the chairman, the governor, or the director. At least one meeting shall be held every three months. All regular meetings are open to the public. Notice of each meeting shall be given in writing to each member by the director. Two members shall constitute a quorum until January 1, 1997, thereafter, four members shall constitute a quorum for the transaction of official business.

7. To assist in the performance of its duties the board may employ staff from funds appropriated for this purpose; provided, however, that this provision shall not be interpreted to limit the ability of the personnel director to provide assistance to the board.

36.060. 1. In addition to the duties imposed upon it elsewhere in this chapter, it shall be the duty of the board:

(1) **[**To conduct hearings and render decisions on appeals as provided in this act;

(2)**]** To make any investigation which it may consider desirable concerning the administration of personnel subject to this law;

[(3)**] (2)** To hold regular meetings with appointing authorities to propose methods of resolving general personnel problems;

[(4)**] (3)** To make annual reports, and such special reports as it considers desirable, to the governor and the general assembly regarding personnel administration in the state service and recommendations there. These special reports shall evaluate the effectiveness of the personnel division and the appointing authority in their operations under this law;

[(5)**] (4)** To make such suggestions and recommendations to the governor and the director relating to the state's employment policies as will promote morale, efficiency and uniformity in compensation of the various employees in the state service;

[(6)**] (5)** To promulgate rules and regulations to ensure that no applicant or employee is discriminated against on the basis of race, creed, color, religion, national origin, sex, ancestry or handicap.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

36.150. 1. Every appointment or promotion to a position covered by this chapter shall be made on the basis of merit as provided in this chapter. Demotions in and dismissals from employment shall be made for cause under rules and regulations of the board uniformly applicable to all positions of employment. No appointment, promotion, demotion or dismissal shall be made because of favoritism, prejudice or discrimination. The regulations shall prohibit discrimination in other phases of employment and personnel administration and shall provide such remedy as is required by federal merit system standards for grant-in-aid programs **[**and is not provided in chapter 296, RSMo**]**.

2. Political endorsements shall not be considered in connection with any such appointment.

3. No person shall use or promise to use, directly or indirectly, for any consideration whatsoever, any official authority or influence to secure or attempt to secure for any person an appointment or advantage in appointment to any such position or an increase in pay, promotion or other advantage in employment.

4. No person shall in any manner levy or solicit any financial assistance or subscription for any political party, candidate, political fund, or publication, or for any other political purpose, from any employee in a position subject to this chapter, and no such employee shall act as agent in receiving or accepting any such financial contribution, subscription, or assignment of pay. No person shall use, or threaten to use, coercive means to compel an employee to give such assistance, subscription, or support, nor in retaliation for the employee's failure to do so.

5. No such employee shall be a candidate for nomination or election to any partisan public office or nonpartisan office in conflict with that employee's duties unless such person resigns, or obtains a regularly granted leave of absence, from such person's position.

6. No person elected to partisan public office shall, while holding such office, be appointed to any position covered by this chapter.

7. Any officer or employee in a position subject to this chapter who purposefully violates any of the provisions of this section shall forfeit such office or position. If an appointing authority finds that such a violation has occurred, or is so notified by the director, this shall constitute cause for dismissal pursuant to section 36.390 and a final determination by the **[**board**] administrative hearing commission** as to the occurrence of a violation.

36.280. 1. An appointing authority may at any time assign an employee from one position to another position in the same class in the appointing authority's division; except that, transfers of employees made because of a layoff, or shortage of work or funds which might require a layoff, shall be governed by the regulations. Upon making such an assignment the appointing authority shall forthwith give written notice of the appointing authority's action to the director. A transfer of an employee from a position in one division to a position in the same class in another division may be made with the approval of the director and of the appointing authorities of both divisions. No employee shall be transferred from a position in one class to a position in another class of a higher rank or for which there are substantially dissimilar requirements for appointment unless the employee is appointed to such latter position after certification of the employee's name from a register in accordance with the provisions of this chapter. Any change of an employee from a position in one class to a position in a class of lower rank shall be considered a demotion and shall be made only in accordance with the procedure prescribed by section 36.380 for cases of dismissal. An employee thus involuntarily demoted shall have the right to appeal to the **[**board**] administrative hearing commission** pursuant to section 36.390.

2. An employee who has successfully served at least one year in a position not subject to subsection 1 of section 36.030, but which is subject to section 36.031, may be transferred to a position subject to subsection 1 of section 36.030 in the same class with the approval of the director and of the appointing authorities of both divisions, provided he or she possesses the qualifications and has successfully completed a noncompetitive examination for the position involved.

36.370. 1. An appointing authority may, for disciplinary purposes, suspend without pay any employee in his division for such length of time as he considers appropriate, not exceeding twenty working days in any twelve-month period except that this limitation shall not apply in the event of a terminal suspension given in conjunction with a dismissal. In case of a suspension, the director shall be furnished with a statement in writing specifically setting forth the reasons for such suspension. Upon request, a copy of such statement shall be furnished to such employee. With the approval of the director, any employee may be suspended for a longer period pending the investigation or trial of any charges against him. Any regular employee who is suspended for more than five working days shall have the right to appeal to the **[**board**]** **administrative hearing commission** as provided under section 36.390.

2. An appointing authority may not suspend without pay any employee in his division who is a member of the national guard and is engaged in the performance of duty or training in the service of this state at the call of the governor and as ordered by the adjutant general, but shall grant a leave of absence from duty without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits, to which otherwise entitled, and shall pay that employee his salary or compensation for the entire period of absence for that purpose.

36.380. An appointing authority may dismiss for cause any employee in his division occupying a position subject hereto when he considers that such action is required in the interests of efficient administration and that the good of the service will be served thereby. No dismissal of a regular employee shall take effect unless, prior to the effective date thereof, the appointing authority gives to such employee a written statement setting forth in substance the reason therefor and files a copy of such statement with the director. When it is not practicable to give the notice of dismissal to an employee in person, it may be sent to the employee by certified or registered mail, return receipt requested, at his last mailing address as shown in the personnel records of the appointing authority. Proof of refusal of the employee to accept delivery or the inability of postal authorities to deliver such mail shall be accepted as evidence that the required notice of dismissal has been given. If the director determines that the statement of reasons for the dismissal given by the appointing authority shows that such dismissal does not reflect discredit on the character or conduct of the employee, he may, upon request of the employee, approve reemployment under section 36.240, in any class in which the employee has held regular status. Any regular employee who is dismissed shall have the right to appeal to the **[**board**]** **administrative hearing commission** as provided under section 36.390.

36.390. 1. An applicant whose request for admission to any examination has been rejected by the director may appeal to the **[**board**]** **administrative hearing commission** in writing within fifteen days of the mailing of the notice of rejection by the director, and in any event before the holding of the examination. The **[**board's**]** **commission's** decision on all matters of fact shall be final.

2. Applicants may be admitted to an examination pending a consideration of the appeal, but such admission shall not constitute the assurance of a passing grade in education and experience.

3. Any applicant who has taken an examination and who feels that he or she has not been dealt with fairly in any phase of the examination process may request that the director review his or her case. Such

request for review of any examination shall be filed in writing with the director within **[**thirty**] fifteen** days after the date on which notification of the results of the examination was mailed to the applicant. A candidate may appeal the decision of the director in writing to the **[**board**] administrative hearing commission**. This appeal shall be filed with the **[**board**] administrative hearing commission** within **[**thirty**] fifteen** days after date on which notification of the decision of the director was mailed to the applicant. The **[**board's**] commission's** decision with respect to any changes shall be final, and shall be entered in the minutes. A correction in the rating shall not affect a certification or appointment which may have already been made from the register.

4. An eligible whose name has been removed from a register for any of the reasons specified in section 36.180 or in section 36.240 may appeal to the **[**board**] administrative hearing commission** for reconsideration. Such appeal shall be filed in writing **[**at**] with** the **[**office of the director**] administrative hearing commission** within **[**thirty**] fifteen** days after the date on which notification was mailed to the **[**board**] eligible**. The **[**board**] commission**, after investigation, shall make its decision which shall be recorded in the minutes and the eligible shall be notified accordingly by the director.

5. Any regular employee who is dismissed or involuntarily demoted for cause or suspended for more than five working days may appeal in writing to the **[**board**] administrative hearing commission** within thirty days after the effective date thereof, setting forth in substance the employee's reasons for claiming that the dismissal, suspension or demotion was for political, religious, or racial reasons, or not for the good of the service. **[**Upon such appeal, both the appealing employee and the appointing authority whose action is reviewed shall have the right to be heard and to present evidence at a hearing which, at the request of the appealing employee, shall be public. At the hearing of such appeals, technical rules of evidence shall not apply. After the hearing and consideration of the evidence for and against a suspension, demotion, or dismissal, the board shall approve or disapprove such action and may make any one of the following appropriate orders:

(1) Order the reinstatement of the employee to the employee's former position;

(2) Sustain the dismissal of such employee;

(3) Except as provided in subdivisions (1) and (2) of this subsection, the board may sustain the dismissal, but may order the director to recognize reemployment rights for the dismissed employee pursuant to section 36.240, in an appropriate class or classes, or may take steps to effect the transfer of such employee to an appropriate position in the same or another division of service.

6. Any order by the board under subsection 5 of this section shall be a final decision on the merits and may be appealed as provided in chapter 536, RSMo.

7. After an order of reinstatement has been issued and all parties have let the time for appeal lapse or have filed an appeal and that appeal process has become final and the order of reinstatement has been affirmed, the board shall commence a separate action to determine the date of reinstatement and the amount of back pay owed to the employee. This action may be done by hearing, or by affidavit, depositions, or stipulations, or by agreement on the amount of back pay owed. If the parties cannot reach an agreement as to how the parties shall be heard on this separate action, then the board shall decide on the method through its hearing officer. No hearing will be public unless requested to be public by the employee.

8. The board shall establish such rules as may be necessary to give effect to the provisions of this section. The rules may provide that the board or the chairman of the board may delegate responsibility for

the conduct of investigations and the hearing of appeals provided pursuant to any section of this chapter to a member of the board or to a hearing officer designated by the board. Such hearing officer shall have the power to administer oaths, subpoena witnesses, compel the production of records pertinent to any hearing, and take any action in connection with such hearing which the board itself is authorized to take by law other than making the final decision and appropriate order. When the hearing has been completed, the individual board member or the hearing officer who conducted the hearing shall prepare a summary thereof and recommend a findings of fact, conclusions of law, decision and appropriate order for approval of the board. The board may adopt such recommendations in whole or in part, require the production of additional testimony, reassign the case for rehearing, or may itself conduct such new or additional hearing as is deemed necessary prior to rendering a final decision. The board may also establish rules which provide for alternative means of resolving one or more of the types of appeals outlined in this section.**]**

[9.**] 6.** The provisions for appeals provided in subsection 5 of this section for dismissals of regular merit employees may be adopted by nonmerit agencies of the state for any or all employees of such agencies.

[10.**] 7.** Agencies not adopting the provisions for appeals provided in subsection 5 of this section shall adopt dismissal procedures substantially similar to those provided for merit employees. However, these procedures need not apply to employees in policy-making positions, or to members of military or law enforcement agencies.

[11.**] 8.** Hearings under this section shall be deemed to be a contested case and the procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536, RSMo. Decisions of the **[**personnel advisory board**] administrative hearing commission** shall be final and binding subject to appeal by either party. Final decisions of the **[**personnel advisory board**] administrative hearing commission** pursuant to this subsection shall be subject to review on the record by the circuit court pursuant to chapter 536, RSMo.

36.400. The **[**board**] administrative hearing commission**, each **[**member of the board,**] commissioner** and the director shall have power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by this law. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing, or who shall knowingly give false testimony therein, shall be guilty of a misdemeanor."; and

Further amend said bill, Page 2, Section 37.900, Line 14, by inserting after all of said line the following:

"105.055. 1. No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature, state auditor, attorney general, or any state official or body charged with investigating such alleged misconduct.

2. No supervisor or appointing authority of any state agency shall:

(1) Prohibit a state employee from or take any disciplinary action whatsoever against a state employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:

(a) A violation of any law, rule or regulation; or

(b) Mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger

to public health or safety, if the disclosure is not specifically prohibited by law; or

(2) Require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

3. This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative requests for information to the agency or the substance of testimony made, or to be made, by the employee to legislators on behalf of the employee to legislators on behalf of the agency;

(2) Permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee;

(3) Authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or

(4) Restricting or precluding disciplinary action taken against a state employee if: the employee knew that the information was false; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

4. As used in this section, "disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, whether or not the withholding of work has affected or will affect the employee's compensation.

5. Any employee may file an administrative appeal whenever the employee alleges that disciplinary action was taken against the employee in violation of this section. The appeal shall be filed with the **[**state personnel advisory board**] administrative hearing commission**; provided that the appeal shall be filed with the appropriate agency review board or body of nonmerit agency employers which have established appeal procedures substantially similar to those provided for merit employees in subsection 5 of section 36.390, RSMo. The appeal shall be filed within thirty days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with chapter **[**36**] 536**, RSMo. If the **[**board**] commission** or appropriate review body finds that disciplinary action taken was unreasonable, the **[**board**] commission** or appropriate review body shall modify or reverse the agency's action and order such relief for the employee as the **[**board**] commission** considers appropriate. If the **[**board**] commission** finds a violation of this section, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than thirty days or, in cases of willful or repeated violations, may review and recommend to the appointing authority that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the **[**board**] commission** or appropriate review body in such cases may be appealed by any party pursuant to law.

6. Each state agency shall prominently post a copy of this section in locations where it can reasonably be expected to come to the attention of all employees of the agency.

7. (1) In addition to the remedies in subsection 6 of this section, a person who alleges a violation of this section may bring a civil action for damages within ninety days after the occurrence of the alleged violation.

(2) A civil action commenced pursuant to this subsection may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides.

(3) An employee must show by clear and convincing evidence that he or she or a person acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited activity or a suspected prohibited activity.

(4) A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, actual damages, and may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees."; and

Further amend said bill, Page 2, Section 109.250, Line 23, by inserting after all of said line the following:

"621.015. The "Administrative Hearing Commission" is assigned to the office of administration. It shall consist of no more than **[**three**] five** commissioners. The commissioners shall be appointed by the governor with the advice and consent of the senate. The term of each commissioner shall be for six years and until his successor is appointed, qualified and sworn. The commissioners shall be attorneys at law admitted to practice before the supreme court of Missouri, but shall not practice law during their term of office. Each commissioner shall receive annual compensation of fifty-one thousand dollars plus any salary adjustment provided pursuant to section 105.005, RSMo. Each commissioner shall also be entitled to actual and necessary expenses in the performance of his duties. The office of the administrative hearing commission shall be located in the City of Jefferson and it may employ necessary clerical assistance, compensation and expenses of the commissioners to be paid from appropriations made for that purpose.

621.075. 1. Except as otherwise provided by law, any employee with merit status who has been dismissed or involuntarily demoted for cause or suspended for more than five working days shall have the right to appeal to the administrative hearing commission. Any such person shall be entitled to a hearing before the administrative hearing commission by the filing of an appeal setting forth in substance the employee's reasons for claiming that the dismissal, suspension, or demotion was for political, religious, or racial reasons, or not for the good of the service with the administrative hearing commission within thirty days after the effective date of the action. The decision of the appointing authority shall contain a notice of the right of appeal in substantially the following language:

"Any employee with regular status who has been dismissed or involuntarily demoted for cause or suspended for more than five working days may appeal to the administrative hearing commission. To appeal, you must file an appeal with the administrative hearing commission within thirty days after the effective date of the decision. If any such appeal is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission."

2. The procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536. The administrative hearing commission may hold hearings or may make decisions based on stipulation of the parties, consent order, agreed settlement, or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, in accordance with the rules and procedures of the administrative hearing commission. No hearing shall be public unless requested to be public by the employee. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in hearings governed by this section, and decisions of

the administrative hearing commission under this section shall be binding subject to appeal by either party. The administrative hearing commission may make any one of the following appropriate orders:

(1) Order the reinstatement of the employee to the employee's former position;

(2) Sustain the dismissal of such employee;

(3) Except as provided in subdivisions (1) and (2) of this subsection, the administrative hearing commission may sustain the dismissal, but may order the director of personnel to recognize reemployment rights for the dismissed employee pursuant to section 36.240, in an appropriate class or classes, or may take steps to effect the transfer of such employee to an appropriate position in the same or another division of service.

3. After an order of reinstatement has been issued and all parties have let the time for appeal lapse or have filed an appeal and that appeal process has become final and the order of reinstatement has been affirmed, the administrative hearing commission shall commence a separate action to determine the date of reinstatement and the amount of back pay owed to the employee. This action may be done by hearing, or by affidavit, depositions, or stipulations, or by agreement on the amount of back pay owed. No hearing shall be public unless requested to be public by the employee."; and

Further amend the title and enacting clause accordingly.

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

Senator Scott offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

"**34.047. Notwithstanding any provision in section 34.040, section 34.100, or any other law to the contrary, departments shall have the authority to purchase products and services related to information technology when the estimated expenditure of such purchase shall not exceed one hundred fifty thousand dollars and the department complies with the informal methods of procurement established in section 34.040, and 1 CSR 40-1.050(1) for expenditures of less than twenty-five thousand dollars. For the purposes of this section, "information technology" shall mean any computer or electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of information, including audio, graphic, and text.**"; and

Further amend the title and enacting clause accordingly.

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

Senator Crowell offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

"**8.016. The commissioner of the office of administration shall provide each member of the senate and each member of the house of representatives with a key that accesses the dome of the state**

capitol."; and

Further amend the title and enacting clause accordingly.

Senator Crowell moved that the above amendment be adopted.

At the request of Senator Shields, **HB 1868**, with **SCS** and **SA 4** (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 754**, entitled:

An Act to repeal sections 193.145, 193.265, 194.350, 208.010, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411, 332.011, 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 344.010, 344.020, 376.717, 376.718, 376.724, 376.725, 376.732, 376.733, 376.734, 376.735, 376.737, 376.738, 376.740, 376.743, 376.758, 383.130, and 383.133, RSMo, and section 324.1100, section 324.1102 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1102 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, sections 324.1110, 324.1112, 324.1114, section 324.1118 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, to enact in lieu thereof one hundred five new sections relating to the licensing of certain professions, with penalty provisions.

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

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 754, Page 60, Section 327.411, Line 6, by deleting the word "**supervise**" and inserting in lieu thereof the words "**provide direct and immediate personal supervision, as defined by board rule, over**"; and

Further amend said bill, page and section, Line 8, by deleting all of said line and inserting in lieu thereof

the following:

"documents sealed by such licensee."; 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 Committee Substitute for Senate Bill No. 754, Section 383.133, Page 125, Line 31, by inserting after all of said section and line the following:

"**630.575. 1. There is hereby established within the department of mental health the "Missouri Eating Disorder Council" which shall consist of the following persons to be selected by and the number of members to be determined by the director of the department of mental health:**

(1) Director's designees from the department of mental health;

(2) Eating disorder researchers, clinicians, and patient advocacy groups; and

(3) The general public.

2. The council shall:

(1) Oversee the eating disorder education and awareness programs established in section 630.580.

(2) Identify whether adequate treatment and diagnostic services are available in the state; and

(3) Assist the department of mental health in identifying eating disorder research projects.

3. Members of the council shall serve four-year terms, with the initial terms of the members staggered as two-year, three-year, and four-year terms. The members of the council may be reappointed. The members of the council shall not receive compensation for their service on the council, but may, subject to appropriation, be reimbursed for their actual and necessary expenses incurred as members of the council.

4. The council shall conduct an organizational meeting at the call of the director of the department of mental health. At such meeting, the council shall select a chair and vice chair of the council. Subsequent meetings of the council shall be called as necessary by the chair of the council or the director of the department of mental health.

630.580. 1. The department of mental health, in collaboration with the departments of health and senior services, elementary and secondary education, and higher education and in consultation with the Missouri eating disorder council established in section 630.575, shall develop and implement the following education and awareness programs:

(1) Health care professional education and training programs designed to prevent and treat eating disorders. Such programs shall include:

(a) Discussion of various strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to prevent eating disorders;

(b) Identification of individuals with eating disorders and those who are at risk for developing an eating disorder;

(c) Conducting a comprehensive assessment of individual and familial health risk factors;

(2) Education and training programs for elementary and secondary and higher education

professionals. Such programs shall include:

(a) Distribution of educational materials to middle and high school students in both public and private schools, including but not limited to utilization of the National Women's Health Information Center's Body Wise materials;

(b) Development of a curriculum which focuses on a healthy body image, identifying the warning signs and behaviors associated with an eating disorder, and ways to assist the individual, friends, or family members who may have an eating disorder; and

(3) General eating disorder awareness and education programs.

2. The department of mental health may seek the cooperation and assistance of any state department or agency, as the department deems necessary, in the development and implementation of the awareness and education programs implemented under this section."; 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. 754, Page 3, Section A, Line 37, by inserting immediately after said line the following:

"167.194. 1. Beginning July 1, 2008, every child enrolling in kindergarten or first grade in a public elementary school in this state shall receive one comprehensive vision examination performed by a state licensed optometrist or physician. Evidence of the examination shall be submitted to the school no later than January first of the first year in which the student is enrolled at the school, provided that the evidence submitted in no way violates any provisions of Public Law 104-191, 42 U.S.C. 201, et seq, Health Insurance Portability and Accountability Act of 1996.

2. The state board of education, in conjunction with the department of health and senior services, shall promulgate rules establishing the criteria for meeting the requirements of subsection 1 of this section, which may include, but are not limited to, forms or other proof of such examination, or other rules as are necessary for the enforcement of this section. The form or other proof of such examination shall include but not be limited to identifying the result of the examinations performed under subsection 4 of this section, the cost for the examination, the examiner's qualifications, and method of payment through either:

(1) Insurance;

(2) The state Medicaid program;

(3) Complimentary; or

(4) Other form of payment.

3. The department of elementary and secondary education, in conjunction with the department of health and senior services, shall compile and maintain a list of sources to which children who may need vision examinations or children who have been found to need further examination or vision correction may be referred for treatment on a free or reduced-cost basis. The sources may include individuals, and federal, state, local government, and private programs. The department of elementary and secondary education shall ensure that the superintendent of schools, the principal of each elementary school, the school nurse or other person responsible for school health services, and the parent organization for each district elementary school receives an updated copy of the list each year prior to school opening. Professional and service

organizations concerned with vision health may assist in gathering and disseminating the information, at the direction of the department of elementary and secondary education.

4. For purposes of this section, the following comprehensive vision examinations shall include but not be limited to:

(1) Complete case history;

(2) Visual acuity at distance (aided and unaided);

(3) External examination and internal examination (ophthalmoscopic examination);

(4) Subjective refraction to best visual acuity.

5. Findings from the evidence of examination shall be provided to the department of health and senior services and kept by the optometrist or physician for a period of seven years.

6. In the event that a parent or legal guardian of a child subject to this section shall submit to the appropriate school administrator a written request that the child be excused from taking a vision examination as provided in this section, that child shall be so excused.

[7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on June 30, 2012, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset eight years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.**]**"; 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 No. 754, Page 95, Section 338.337, Line 16, by inserting immediately after said line the following:

"**338.575. 1. No licensed pharmacy in this state shall be required to perform, assist, recommend, refer to, or participate in any act or service in connection with any drug or device that is an abortifacient, including but not limited to the RU486 drug and emergency contraception such as the Plan B drug.**

2. No civil or criminal cause of action shall accrue against a pharmacy due to a refusal to perform, assist, recommend, refer for, or participate in any act or service in accordance with subsection 1 of this section.

3. No board, commission, or other agency or instrumentality of this state shall deny, revoke, suspend, or otherwise discipline the license of a pharmacy, nor shall it impose any other condition of operation due to a refusal to perform, assist, recommend, refer for, or participate in any act or service in accordance with subsection 1 of this section.

4. No pharmacy shall be denied or discriminated against in eligibility for or the receipt of any public benefit, assistance, or privilege of any kind due to a refusal to perform, assist, recommend,

refer for, or participate in any act or service in accordance with subsection 1 of this section."; 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. 754, Page 12, Section 208.010, Line 177, by inserting immediately after said line the following:

"**208.198. Subject to appropriations, the department of social services shall establish a rate for the reimbursement of physicians, optometrists, podiatrists, and psychologists for services rendered to patients under the MO HealthNet program which provides equal reimbursement for the same or similar services rendered.**"; and

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

HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 754, Section 327.411, Page 60, Line 28, by inserting immediately after said line the following:

"329.040. 1. Any person of good moral character may make application to the board for a license to own a school of cosmetology on a form provided upon request by the board. Every school of cosmetology in which any of the classified occupations of cosmetology are taught shall be required to obtain a license from the board prior to opening. The license shall be issued upon approval of the application by the board, the payment of the required fees, and the applicant meets other requirements provided in this chapter. The license shall be kept posted in plain view within the school at all times.

2. A school license renewal fee shall be due on or before the renewal date of any school license issued pursuant to this section. If the school license renewal fee is not paid on or before the renewal date, a late fee shall be added to the regular school license fee.

3. No school of cosmetology shall be granted a license pursuant to this chapter unless it:

(1) Employs and has present in the school a competent licensed instructor for every twenty-five students in attendance for a given class period and one to ten additional students may be in attendance with the assistance of an instructor trainee. One instructor is authorized to teach up to three instructor trainees immediately after being granted an instructor's license;

(2) Requires all students to be enrolled in a course of study of no less than three hours per day and no more than twelve hours per day with a weekly total that is no less than fifteen hours and no more than seventy-two hours;

(3) Requires for the classified occupation of cosmetologist, the course of study shall be no less than one thousand five hundred hours or, for a student in public vocational/technical school no less than one thousand two hundred twenty hours; provided that, a school may elect to base the course of study on credit hours by applying the credit hour formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student must earn a minimum of one hundred and sixty hours or equivalent credits of classroom training before the student may perform any of the acts of the classified occupation of cosmetology on any patron or customer of the school of cosmetology;

(4) Requires for the classified occupation of manicurist, the course of study shall be no less than four hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of

Title 34 of the Code of Federal Regulations, as amended. The student must earn a minimum of fifty hours or equivalent credits of classroom training before the student may perform any of the acts of the classified occupation of manicurist on any patron or customer of the school of cosmetology;

(5) Requires for the classified occupation of esthetician, the course of study shall be no less than seven hundred fifty hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student shall earn a minimum of seventy-five hours or equivalent credits of classroom training before the student may perform any of the acts of the classified occupation of esthetics on any patron or customer of the school of cosmetology or an esthetics school.

4. The subjects to be taught for the classified occupation of cosmetology shall be as follows and the hours required for each subject shall be not less than those contained in this subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:

(1) Shampooing of all kinds, forty hours;

(2) Hair coloring, bleaches and rinses, one hundred thirty hours;

(3) Hair cutting and shaping, one hundred thirty hours;

(4) Permanent waving and relaxing, one hundred twenty-five hours;

(5) Hairsetting, pin curls, fingerwaves, thermal curling, two hundred twenty-five hours;

(6) Combouts and hair styling techniques, one hundred five hours;

(7) Scalp treatments and scalp diseases, thirty hours;

(8) Facials, eyebrows and arches, forty hours;

(9) Manicuring, hand and arm massage and treatment of nails, one hundred ten hours;

(10) Cosmetic chemistry, twenty-five hours;

(11) Salesmanship and shop management, ten hours;

(12) Sanitation and sterilization, thirty hours;

(13) Anatomy, twenty hours;

(14) State law, ten hours;

(15) Curriculum to be defined by school, not less than four hundred seventy hours.

5. The subjects to be taught for the classified occupation of manicurist shall be as follows and the hours required for each subject shall be not less than those contained in this subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:

(1) Manicuring, hand and arm massage and treatment of nails, two hundred twenty hours;

(2) Salesmanship and shop management, twenty hours;

(3) Sanitation and sterilization, twenty hours;

(4) Anatomy, ten hours;

(5) State law, ten hours;

(6) Study of the use and application of certain chemicals, forty hours; and

(7) Curriculum to be defined by school, not less than eighty hours.

6. The subjects to be taught for the classified occupation of esthetician shall be as follows, and the hours required for each subject shall not be less than those contained in this subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:

(1) Facials, cleansing, toning, massaging, one hundred twenty hours;

(2) Makeup application, all phases, one hundred hours;

(3) Hair removal, thirty hours;

(4) Body treatments, aromatherapy, wraps, one hundred twenty hours;

(5) Reflexology, thirty-five hours;

(6) Cosmetic sciences, structure, condition, disorder, eighty-five hours;

(7) Cosmetic chemistry, products and ingredients, seventy-five hours;

(8) Salon management and salesmanship, fifty-five hours;

(9) Sanitation and sterilization, safety, forty-five hours;

(10) State law, ten hours; and

(11) Curriculum to be defined by school, not less than seventy-five hours.

7. Training for all classified occupations shall include practical demonstrations, written and/or oral tests, and practical instruction in sanitation, sterilization and the use of antiseptics, cosmetics and electrical appliances consistent with the practical and theoretical requirements as applicable to the classified occupations as provided in this chapter.

8. No school of cosmetology shall operate within this state unless a proper license pursuant to this chapter has first been obtained.

9. Nothing contained in this chapter shall prohibit a licensee within a cosmetology establishment from teaching any of the practices of the classified occupations for which the licensee has been licensed for not less than two years in the licensee's regular course of business, if the owner or manager of the business does not hold himself or herself out as a school and does not hire or employ or personally teach regularly at any one and the same time, more than one apprentice to each licensee regularly employed within the owner's business, not to exceed one apprentice per establishment, and the owner, manager, or trainer does not accept any fee for instruction.

10. Each licensed school of cosmetology shall provide a minimum of two thousand square feet of floor space, adequate rooms and equipment, including lecture and demonstration rooms, lockers, an adequate library and two restrooms. The minimum equipment requirements shall be: six shampoo bowls, ten hair dryers, two master dustproof and sanitary cabinets, wet sterilizers, and adequate working facilities for twenty students.

11. Each licensed school of cosmetology for manicuring only shall provide a minimum of one thousand

square feet of floor space, adequate room for theory instruction, adequate equipment, lockers, an adequate library, two restrooms and a clinical working area for ten students. Minimum floor space requirement proportionately increases with student enrollment of over ten students.

12. Each licensed school of cosmetology for esthetics only shall provide a minimum of one thousand square feet of floor space, adequate room for theory instruction, adequate equipment, lockers, an adequate library, two restrooms and a clinical working area for ten students. Minimum floor space requirement increases fifty square feet per student with student enrollment of over ten.

13. No school of cosmetology may have a greater number of students enrolled and scheduled to be in attendance for a given class period than the total floor space of that school will accommodate. Floor space required per student shall be no less than fifty square feet per additional student beyond twenty students for a school of cosmetology, beyond ten students for a school of manicuring and beyond ten students for a school of esthetics.

14. Each applicant for a new school shall file a written application with the board upon a form approved and furnished upon request by the board. The applicant shall include a list of equipment, the proposed curriculum, and the name and qualifications of any and all of the instructors.

15. Each school shall display in a conspicuous place, visible upon entry to the school, a sign stating that all cosmetology services in this school are performed by students who are in training.

16. Any student who wishes to remain in school longer than the required training period may make application for an additional training license and remain in school. A fee is required for such additional training license.

17. All contractual fees that a student owes to any cosmetology school shall be paid before such student may be allowed to apply for any examination required to be taken by an applicant applying for a license pursuant to the provisions of this chapter.

18. The board shall not issue any initial, new license for a school of cosmetology from August 28, 2010, to August 28, 2012. Any school of cosmetology holding a valid license on August 28, 2010 may change school location within twenty-five miles of their then existing location or may change the ownership of the school without being treated by the board as an applicant for a new license for the purposes of this subsection. The provisions of this subsection shall expire on August 28, 2012."; and

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

HOUSE AMENDMENT NO. 7

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 754, Page 1, In the Title, Line 2, by inserting after the number "194.350," the numbers "195.070, 195.080, 195.100,"; and

Further amend said bill, Page 1, In the Title, Line 7, by inserting after the number "334.735," the number "334.747,"; and

Further amend said bill, Page 1, In the Title, Line 9, by inserting after the number "337.739," the number "338.100"; and

Further amend said bill, Page 2, In the Title, Line 28, by deleting the words "one hundred five" and inserting in lieu thereof the words "one hundred ten"; and

Further amend said bill, Page 2, Section A, Line 1, by inserting after the number "194.350," the numbers "195.070, 195.080, 195.100,"; and

Further amend said bill, Page 2, Section A, Line 6, by inserting after the number "334.735," the number "334.747,"; and

Further amend said bill, Page 2, Section A, Line 7, by inserting after the number "337.739," the number "338.100"; and

Further amend said bill, Page 2, Section A, Line 25, by deleting the words "one hundred five" and inserting in lieu thereof the words "one hundred ten"; and

Further amend said bill, Page 2, Section A, Line 26, by inserting after the number "194.350," the numbers "195.070, 195.080, 195.100,"; and

Further amend said bill, Page 3, Section A, Line 32, by inserting after the number "194.350," the numbers "195.070, 195.080, 195.100,"; and

Further amend said bill, Page 3, Section A, Line 33, by inserting after the number "337.739," the number "338.100"; and

Further amend said bill, Page 7, Section 194.350, Line 26, by inserting after all of said line the following:

"195.070. 1. A physician, podiatrist, dentist, a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, RSMo, or a physician assistant in accordance with section 334.747, RSMo, in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. An advanced practice registered nurse, as defined in section 335.016, RSMo, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019, RSMo, and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104, RSMo, may prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule III narcotic controlled substance prescriptions shall be limited to a one hundred twenty-hour supply without refill.

3. A veterinarian, in good faith and in the course of the veterinarian's professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and the veterinarian may cause them to be administered by an assistant or orderly under his or her direction and supervision.

4. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug.

5. An individual practitioner shall not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

6. A physician assistant or advance practice registered nurse or comparable mid-level practitioner located in another state may prescribe controlled substances or may cause the same to be dispensed

by an individual as authorized by statute, provided:

(1) He or she has fulfilled the requirements of the state in which he or she is licensed and practicing as well as those of the United States to prescribe controlled substances;

(2) He or she writes the controlled substance prescription in compliance with the applicable laws of the state in which he or she is licensed and practicing as well as those of the United States; and

(3) The prescription is dispensed to a patient who is a resident of another state.

195.080. 1. Except as otherwise in sections 195.005 to 195.425 specifically provided, sections 195.005 to 195.425 shall not apply to the following cases: prescribing, administering, dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain controlled substances in such combinations of drugs as to prevent the drugs from being readily extracted from such liniments, ointments, or preparations, except that sections 195.005 to 195.425 shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

2. The quantity of Schedule II controlled substances prescribed or dispensed at any one time shall be limited to a thirty-day supply. The quantity of Schedule III, IV or V controlled substances prescribed or dispensed at any one time shall be limited to a ninety-day supply and shall be prescribed and dispensed in compliance with the general provisions of sections 195.005 to 195.425. The supply limitations provided in this subsection may be increased up to three months if the physician describes on the prescription form or indicates via telephone, fax, or electronic communication to the pharmacy to be entered on or attached to the prescription form the medical reason for requiring the larger supply. **The supply limitations provided in this subsection shall not apply if:**

(1) The prescription is:

(a) Written by a practitioner located in another state according to the applicable laws of such state and the United States; and

(b) Dispensed to a patient who is a resident of another state; or

(2) The prescription is dispensed directly to a member of the United States armed forces serving outside the United States.

3. The partial filling of a prescription for a Schedule II substance is permissible as defined by regulation by the department of health and senior services.

195.100. 1. It shall be unlawful to distribute any controlled substance in a commercial container unless such container bears a label containing an identifying symbol for such substance in accordance with federal laws.

2. It shall be unlawful for any manufacturer of any controlled substance to distribute such substance unless the labeling thereof conforms to the requirements of federal law and contains the identifying symbol required in subsection 1 of this section.

3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such narcotic or dangerous drug to any person other than the patient.

4. Whenever a manufacturer sells or dispenses a controlled substance and whenever a wholesaler sells or dispenses a controlled substance in a package prepared by him or her, the manufacturer or wholesaler

shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person except a pharmacist for the purpose of filling a prescription under sections 195.005 to 195.425, shall alter, deface, or remove any label so affixed.

5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance on a prescription issued by a physician, physician assistant, dentist, podiatrist, veterinarian, or advanced practice registered nurse, the pharmacist or practitioner shall affix to the container in which such drug is sold or dispensed a label showing his or her own name and address of the pharmacy or practitioner for whom he or she is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the physician, physician assistant, dentist, podiatrist, advanced practice registered nurse, or veterinarian by whom the prescription was written; **[**the name of the collaborating physician if the prescription is written by an advanced practice registered nurse or the supervising physician if the prescription is written by a physician assistant,**]** and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed."; and

Further amend said bill, Page 81, Section 334.735, Line 174, by inserting after all of said line the following:

"334.747. 1. A physician assistant with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in schedule III, IV, or V of section 195.017, RSMo, when delegated the authority to prescribe controlled substances in a supervision agreement. Such authority shall be listed on the supervision verification form on file with the state board of healing arts. The supervising physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the physician assistant is permitted to prescribe. Any limitations shall be listed on the supervision form. Physician assistants shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances shall be limited to a five-day supply without refill. Physician assistants who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall include **[**such**] the Drug Enforcement Administration** registration numbers on prescriptions for controlled substances.

2. The supervising physician shall be responsible to determine and document the completion of at least one hundred twenty hours in a four-month period by the physician assistant during which the physician assistant shall practice with the supervising physician on-site prior to prescribing controlled substances when the supervising physician is not on-site. Such limitation shall not apply to physician assistants of population-based public health services as defined in 20 CSR 2150-5.100 as of April 30, 2009.

3. A physician assistant shall receive a certificate of controlled substance prescriptive authority from the board of healing arts upon verification of the completion of the following educational requirements:

(1) Successful completion of an advanced pharmacology course that includes clinical training in the prescription of drugs, medicines, and therapeutic devices. A course or courses with advanced pharmacological content in a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency shall satisfy such requirement;

(2) Completion of a minimum of three hundred clock hours of clinical training by the supervising physician in the prescription of drugs, medicines, and therapeutic devices;

(3) Completion of a minimum of one year of supervised clinical practice or supervised clinical rotations. One year of clinical rotations in a program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency, which includes pharmacotherapeutics as a component of its clinical training, shall satisfy such requirement. Proof of such training shall serve to document experience in the prescribing of drugs, medicines, and therapeutic devices;

(4) A physician assistant previously licensed in a jurisdiction where physician assistants are authorized to prescribe controlled substances may obtain a state bureau of narcotics and dangerous drugs registration if a supervising physician can attest that the physician assistant has met the requirements of subdivisions (1) to (3) of this subsection and provides documentation of existing federal Drug Enforcement Agency registration.

4. A physician assistant or advance practice registered nurse or comparable mid-level practitioner located in another state may prescribe controlled substances or may cause the same to be dispensed by an individual as authorized by statute, provided:

(1) He or she has fulfilled the requirements of the state in which he or she is licensed and practicing as well as those of the United States to prescribe controlled substances;

(2) He or she writes the controlled substance prescription in compliance with the applicable laws of the state in which he or she is licensed and practicing as well as those of the United States; and

(3) The prescription is dispensed to a patient who is a resident of another state."; and

Further amend said bill, Page 93, Section 337.739, Line 39, by inserting after all of said line the following:

"338.100. 1. Every permit holder of a licensed pharmacy shall cause to be kept in a uniform fashion consistent with this section a suitable **book,** file**, or electronic recordkeeping system** in which shall be preserved, for a period of not less than five years, the original or order of each drug which has been compounded or dispensed at such pharmacy, according to and in compliance with standards provided by the board, and shall produce the same in court or before any grand jury whenever lawfully required. A licensed pharmacy may maintain its prescription file on readable microfilm for records maintained over three years. After September, 1999, a licensed pharmacy may preserve prescription files on microfilm or by electronic media storage for records maintained over three years. The pharmacist in charge shall be responsible for complying with the permit holder's record-keeping system in compliance with this section. Records maintained by a pharmacy that contain medical or drug information on patients or their care shall be considered as confidential and shall only be released according to standards provided by the board. Upon request, the pharmacist in charge of such pharmacy shall furnish to the **[**prescribe**] prescriber**, and may furnish to the person for whom such prescription was compounded or dispensed, a true and correct copy of the original prescription. The file of original prescriptions **kept in any format in compliance with this section,** and other confidential records, as defined by law, shall at all times be open for inspection by board of pharmacy representatives. **Records maintained in an electronic recordkeeping system shall contain all information otherwise required in a manual recordkeeping system. Electronic records shall be readily retrievable. Pharmacies may electronically maintain the original prescription or prescription order for each drug and may electronically annotate any change or alteration to a prescription record in the electronic recordkeeping system as authorized by law; provided however, original written and faxed prescriptions shall be physically maintained on file at the pharmacy under state and federal controlled substance laws.**

2. An institutional pharmacy located in a hospital shall be responsible for maintaining records of the transactions of the pharmacy as required by federal and state laws and as necessary to maintain adequate control and accountability of all drugs. This shall include a system of controls and records for the requisitioning and dispensing of pharmaceutical supplies where applicable to patients, nursing care units and to other departments or services of the institution. Inspection performed pursuant to this subsection shall be consistent with the provisions of section 197.100, RSMo.

3. "Electronic recordkeeping system", as used in this section, shall mean a system, including machines, methods of organization, and procedures, that provides input, storage, processing, communications, output, and control functions for digitized images of original prescriptions."; and

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

HOUSE AMENDMENT NO. 8

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 754, Page 38, Section 214.550, Line 22, by inserting immediately after said line the following:

"301.142. 1. As used in sections 301.141 to 301.143, the following terms mean:

(1) "Department", the department of revenue;

(2) "Director", the director of the department of revenue;

(3) "Other authorized health care practitioner" includes advanced practice registered nurses licensed pursuant to chapter 335, RSMo, **physician assistants licensed pursuant to chapter 334, RSMo,** chiropractors licensed pursuant to chapter 331, RSMo, podiatrists licensed pursuant to chapter 330, RSMo, and optometrists licensed pursuant to chapter 336, RSMo;

(4) "Physically disabled", a natural person who is blind, as defined in section 8.700, RSMo, or a natural person with medical disabilities which prohibits, limits, or severely impairs one's ability to ambulate or walk, as determined by a licensed physician or other authorized health care practitioner as follows:

(a) The person cannot ambulate or walk fifty or less feet without stopping to rest due to a severe and disabling arthritic, neurological, orthopedic condition, or other severe and disabling condition; or

(b) The person cannot ambulate or walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

(c) Is restricted by a respiratory or other disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

(d) Uses portable oxygen; or

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

(f) A person's age, in and of itself, shall not be a factor in determining whether such person is physically disabled or is otherwise entitled to disabled license plates and/or disabled windshield hanging placards within the meaning of sections 301.141 to 301.143;

(5) "Physician", a person licensed to practice medicine pursuant to chapter 334, RSMo;

(6) "Physician's statement", a statement personally signed by a duly authorized person which certifies

that a person is disabled as defined in this section;

(7) "Temporarily disabled person", a disabled person as defined in this section whose disability or incapacity is expected to last no more than one hundred eighty days;

(8) "Temporary windshield placard", a placard to be issued to persons who are temporarily disabled persons as defined in this section, certification of which shall be indicated on the physician's statement;

(9) "Windshield placard", a placard to be issued to persons who are physically disabled as defined in this section, certification of which shall be indicated on the physician's statement.

2. Other authorized health care practitioners may furnish to a disabled or temporarily disabled person a physician's statement for only those physical health care conditions for which such health care practitioner is legally authorized to diagnose and treat.

3. A physician's statement shall:

(1) Be on a form prescribed by the director of revenue;

(2) Set forth the specific diagnosis and medical condition which renders the person physically disabled or temporarily disabled as defined in this section;

(3) Include the physician's or other authorized health care practitioner's license number; and

(4) Be personally signed by the issuing physician or other authorized health care practitioner.

4. If it is the professional opinion of the physician or other authorized health care practitioner issuing the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, it shall be noted on the statement. Otherwise, the physician or other authorized health care practitioner shall note on the statement the anticipated length of the disability which period may not exceed one hundred eighty days. If the physician or health care practitioner fails to record an expiration date on the physician's statement, the director shall issue a temporary windshield placard for a period of thirty days.

5. A physician or other authorized health care practitioner who issues or signs a physician's statement so that disabled plates or a disabled windshield placard may be obtained shall maintain in such disabled person's medical chart documentation that such a certificate has been issued, the date the statement was signed, the diagnosis or condition which existed that qualified the person as disabled pursuant to this section and shall contain sufficient documentation so as to objectively confirm that such condition exists.

6. The medical or other records of the physician or other authorized health care practitioner who issued a physician's statement shall be open to inspection and review by such practitioner's licensing board, in order to verify compliance with this section. Information contained within such records shall be confidential unless required for prosecution, disciplinary purposes, or otherwise required to be disclosed by law.

7. Owners of motor vehicles who are residents of the state of Missouri, and who are physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to primarily transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, a current physician's statement which has been issued within ninety days proceeding the date the application is made and proof of compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles, shall be issued motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds,

upon which shall be inscribed the international wheelchair accessibility symbol and the word "DISABLED" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

8. The director shall further issue, upon request, to such applicant one, and for good cause shown, as the director may define by rule and regulations, not more than two, removable disabled windshield hanging placards for use when the disabled person is occupying a vehicle or when a vehicle not bearing the permanent handicap plate is being used to pick up, deliver, or collect the physically disabled person issued the disabled motor vehicle license plate or disabled windshield hanging placard.

9. No additional fee shall be paid to the director for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "DISABLED" as prescribed in this section and such plate may be issued to any applicant who meets the requirements of this section and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

10. Any physically disabled person, or the parent or guardian of any such person, or any not-for-profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard. The placard may be used in motor vehicles which do not bear the permanent handicap symbol on the license plate. Such placards must be hung from the front, middle rearview mirror of a parked motor vehicle and may not be hung from the mirror during operation. These placards may only be used during the period of time when the vehicle is being used by a disabled person, or when the vehicle is being used to pick up, deliver, or collect a disabled person. When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

11. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The removable windshield placard shall be renewed every four years. The director may stagger the expiration dates to equalize workload. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard may be issued to an applicant who has not been issued disabled person license plates.

12. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, and for good cause shown, one additional temporary windshield placard may be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a temporary removable

windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to this section is supplied to the director of revenue at the time of renewal.

13. Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician or other authorized health care practitioner which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section.

14. The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when the physically disabled occupant for whom the disabled plate or placard was issued is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected. A disabled license plate and/or a removable windshield hanging placard are not transferable and may not be used by any other person whether disabled or not.

15. At the time the disabled plates or windshield hanging placards are issued, the director shall issue a registration certificate which shall include the applicant's name, address, and other identifying information as prescribed by the director, or if issued to an agency, such agency's name and address. This certificate shall further contain the disabled license plate number or, for windshield hanging placards, the registration or identifying number stamped on the placard. The validated registration receipt given to the applicant shall serve as the registration certificate.

16. The director shall, upon issuing any disabled registration certificate for license plates and/or windshield hanging placards, provide information which explains that such plates or windshield hanging placards are nontransferable, and the restrictions explaining who and when a person or vehicle which bears or has the disabled plates or windshield hanging placards may be used or be parked in a disabled reserved parking space, and the penalties prescribed for violations of the provisions of this act.

17. Every new applicant for a disabled license plate or placard shall be required to present a new physician's statement dated no more than ninety days prior to such application. Renewal applicants will be required to submit a physician's statement dated no more than ninety days prior to such application upon their first renewal occurring on or after August 1, 2005. Upon completing subsequent renewal applications, a physician's statement dated no more than ninety days prior to such application shall be required every fourth year. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days. The director may stagger the requirement of a physician's statement on all renewals for the initial implementation of a four-year period.

18. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, RSMo, or the Missouri state board of nursing established in section 335.021, RSMo, with respect to physician's statements signed by advanced practice registered nurses, or the Missouri state board of chiropractic examiners established in section 331.090, RSMo, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, RSMo, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, RSMo, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law. If such applicant obtaining a disabled license plate or placard presents proof of disability in the form of a statement

from the United States Veterans' Administration verifying that the person is permanently disabled, the applicant shall be exempt from the four-year certification requirement of this subsection for renewal of the plate or placard. Initial applications shall be accompanied by the physician's statement required by this section. Notwithstanding the provisions of paragraph (f) of subdivision (4) of subsection 1 of this section, any person seventy-five years of age or older who provided the physician's statement with the original application shall not be required to provide a physician's statement for the purpose of renewal of disabled persons license plates or windshield placards.

19. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director shall, in cooperation with the boards which shall assist the director, establish a list of all Missouri physicians and other authorized health care practitioners and of any other information necessary to administer this section.

20. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit a statement stating this fact, in addition to the physician's statement. The statement shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this statement with each application for license plates. No person shall willingly or knowingly submit a false statement and any such false statement shall be considered perjury and may be punishable pursuant to section 301.420.

21. The director of revenue shall retain all physicians' statements and all other documents received in connection with a person's application for disabled license plates and/or disabled windshield placards.

22. The director of revenue shall enter into reciprocity agreements with other states or the federal government for the purpose of recognizing disabled person license plates or windshield placards issued to physically disabled persons.

23. When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of the decedent or such other person who may come into or otherwise take possession of the disabled license plates or disabled windshield placard shall return the same to the director of revenue under penalty of law. Failure to return such plates or placards shall constitute a class B misdemeanor.

24. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards.

25. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

26. In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be four dollars.

27. Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class B misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice

or if there is no basis for the diagnosis."; and

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

HOUSE SUBSTITUTE AMENDMENT NO. 1 FOR
HOUSE AMENDMENT NO. 10

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 754, Page 66, Section 334.100, Line 170, by inserting after the word "if" the following: "**a physician has not met in person with the patient at least twenty-four hours prior to performing, or**"; and

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

In which the concurrence of the Senate is respectfully requested.

HOUSE BILLS ON THIRD READING

Senator Shields moved that **HB 1868**, with **SCS** and **SA 4** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 4 was again taken up.

At the request of Senator Crowell, the above amendment was withdrawn.

Senator Crowell offered **SA 5**, which was read:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

"**8.016. 1. The commissioner of the office of administration shall provide each member of the senate and each member of the house of representatives with a key that accesses the dome of the state capitol.**

2. The president pro tem of the senate and the speaker of the house of representatives shall be responsible for providing a training program for the members and staff of the general assembly regarding access to secured areas of the capitol building. They may consult with the office of administration and department of public safety when developing such program."; and

Further amend the title and enacting clause accordingly.

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

Senator Rupp offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting immediately after said line the following:

"**21.940. 1. There is established a "Health and Human Services Transition Committee" to study and make recommendations by December 31, 2010, on consolidating the departments of health and senior services, mental health, and social services into one department.**

2. The members of the committee shall consist of fourteen members as follows:

(1) The directors of the departments of health and senior services, mental health, and social

services;

(2) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives;

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

(4) Three representatives who are consumers or families of consumers interested in the services provided by each of the departments of health and senior services, mental health, and social services;

(5) Three providers of services provided by the each of the departments of health and senior services, mental health, and social services;

(6) One public member.

3. Members shall serve on the committee without compensation. The departments of health and senior services, mental health, and social services shall provide technical and administrative support services for the committee. The duties of the committee are to make recommendations on:

(1) Efficiencies that could be made within programs administered by the three departments;

(2) Any programs administered or overseen by the three departments that should be eliminated, reduced, or combined with another program or programs, particularly programs involving MO HealthNet services; and

(3) A plan for reducing expenditures within each program administered or overseen by the three departments for fiscal year 2012 from fiscal year 2011 levels at increments of five percent up to twenty-five percent.

4. The provisions of this section shall expire on January 1, 2011."; and

Further amend the title and enacting clause accordingly.

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

Senator Schmitt offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Committee Substitute for House Bill No. 1868, Page 2, Section 109.250, Line 23, by inserting after all of said line the following:

"208.215. 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made **[**in**] on** behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. **Any health benefit plan as defined in section 376.1350, third party administrator, administrative service organization, and pharmacy benefits manager, shall**

process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager for procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under

the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A **[**recipient**]** **participant** who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a **[**recipient**]** **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which

resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. **The computerized records of the MO HealthNet division, certified by the director or his designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.**

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, **[**irrespective**] regardless** of whether **[**or not**]** an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or

part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

(1) Actual and legal issues of liability as may exist between the **[**recipient**] participant** and the liable party;

(2) Total funds available for settlement; and

(3) An estimate of the cost to the division of pursuing its claim."; and

Further amend the title and enacting clause accordingly.

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

Senator Bray offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, Section 37.320, Line 11, by inserting after all of said line the following:

"**37.600. 1. There is hereby established the "Commission on the Reorganization of State Health Care". The commission shall have as its purpose the study, review, and recommendation of creating a "Division of State Health Care" within the office of administration, which shall be dedicated to providing health care coverage for all state employees, dependents, and retirees and those recipients of programs provided in subsection 4 of this section. The commission shall consist of nineteen members:**

(1) Two members of the senate, one appointed by the president pro tem of the senate and one appointed by the senate minority floor leader;

(2) Two members of the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the house minority floor leader;

(3) The commissioner of the office of administration or the commissioner's designee;

(4) The director of the department of insurance, financial institutions and professional registration or the director's designee;

(5) The director of the MO HealthNet division or the director's designee;

(6) The director of the department of health and senior services or the director's designee;

(7) The director of the department of mental health or the director's designee;

(8) The director of the department of corrections or the director's designee;

(9) The director of the department of social services or the director's designee;

(10) The executive director of the Missouri consolidated health care plan or the director's designee;

(11) One member of the state highways and transportation commission;

(12) One member of the state conservation commission; and

(13) One member of the board of curators of the University of Missouri;

(14) The commissioner of the coordinating board of higher education or the commissioner's designee;

(15) One representative of the public four-year institutions of higher education, excluding the University of Missouri, appointed by the governor with the advice and consent of the senate; and

(16) Two individual representatives of small business in this state, appointed by the governor with the advice and consent of the senate.

2. Members of the commission shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's official duties. A chair of the commission shall be selected by the members of the commission and shall meet as necessary. Commission members shall not be related to any member of the general assembly or governor within the third degree of consanguinity. The office of administration shall provide technical, actuarial, and administrative support services as required by the commission.

3. The commission shall designate a work group to provide analysis on the recommendations required of the commission consisting of members representing any health policy center or program from the public institutions of higher education in the state.

4. The commission shall designate a work group consisting of members of the Missouri school boards association, the Missouri community colleges association, and small business organizations to provide analysis for recommendations of the second and third phase of the reorganization as described under subdivisions (3) and (4) of subsection 5 of this section.

5. The commission shall submit a report to the general assembly and governor by December 31, 2010, on the creation of a "Division of State Health Care" within the office of administration to serve, through three implementation phases, as the lead planning state entity for all health issues in the state. The commission's duties shall be as follows:

(1) Provide an analysis on whether the creation of a division of state health care would:

(a) Remedy the current situation wherein the responsibility for health care policy, purchasing, planning, and regulation is spread among many different agencies and departments;

(b) Permit the state to maximize its purchasing power inasmuch as the state now has none of its health care purchasing coordinated;

(c) Minimize duplication and maximize administrative efficiency in the state's health care systems by removing overlapping functions and streamlining uncoordinated programs;

(d) Allow the state to develop a better health care infrastructure that is more responsive to the consumers it serves while improving access to and coverage for health care; and

(e) Focus more attention and divisional procedures on the issue of wellness, including diet, exercise, and personal responsibility;

(2) Make recommendations on granting the division of state health care, during a first phase, the authority to carry out all powers, duties, and functions previously performed by:

(a) The Mo HealthNet division under section 208.201;

(b) The state highways and transportation commission, relating to the furnishing of health insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system;

(c) The board of trustees of the Missouri consolidated health care plan pursuant to chapter 103;

(d) The department of social services, relating to the administration of a program to pay for health care for uninsured children under sections 208.631 to 208.657;

(e) The state conservation commission, relating to the furnishing of health insurance for department of conservation employees and their dependents and retirees;

(f) The public four-year institutions of higher education, excluding the University of Missouri, relating to the furnishing of health insurance plans for employees of such institutions and their dependents and retirees; and

(g) The board of curators of the University of Missouri, relating to the furnishing of health insurance plans for employees of the university system and their dependents and retirees;

(3) Investigate coordinating and purchasing health care benefit plans, during a second phase, for employees of the public schools, community colleges, political subdivisions of the state, and all such employees' dependents; and

(4) Investigate the feasibility of creating and administering insurance programs in a third phase for small businesses and the uninsured in this state.

6. The provisions of this section shall expire on February 1, 2011."; and

Further amend said bill, Page 3, Section 1, Line 7, by inserting after all of said line the following:

"Section B. Because of the need to promote the health care of state employees and of citizens of this state, the enactment of section 37.600 of section A 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 enactment of section 37.600 of section A 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 Bray moved that the above amendment be adopted, which motion prevailed.

Senator Lager offered **SA 9**:

SENATE AMENDMENT NO. 9

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting immediately after said line the following:

"**23.156. 1. Every employee of the oversight division of the joint committee on legislative research shall, before entering upon his or her duties, take and file in the offices of the secretary of the senate and the chief clerk of the house of representatives an oath:**

(1) To support the constitution of the state, to faithfully demean himself or herself in office;

(2) To not disclose to any unauthorized person any information furnished by any state department, state agency, political subdivision, or instrumentality of the state; and

(3) To not accept as presents or emoluments any pay, directly or indirectly, for the discharge of any act in the line of his or her duty other than the remuneration fixed and accorded to the employee by law.

2. For any violation of his or her oath of office or of any duty imposed upon him or her by this section, any employee shall be guilty of a class A misdemeanor." and

Further amend the title and enacting clause accordingly.

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

Senator Lager offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Committee Substitute for House Bill No. 1868, Page 1, Section A, Line 3, by inserting after all of said line the following:

"**21.910. 1. There is hereby created the "Joint Committee on the Reduction and Reorganization of Programs within State Government". The committee shall be composed of thirteen members as follows:**

(1) Three majority party members and two minority party members of the senate, to be appointed by the president pro tem of the senate;

(2) Three majority party members and two minority party members of the house of representatives, to be appointed by the speaker of the house of representatives;

(3) The commissioner of the office of administration, or his or her designee;

(4) A representative of the governor's office; and

(5) A supreme court judge, or his or her designee, as selected by the Missouri supreme court.

2. The committee shall study programs within every department that should be eliminated, reduced, or combined with another program or programs. As used in this section, the term "program" shall have the same meaning as in section 23.253.

3. In order to assist the committee with its responsibilities under this section, each department shall comply with any request for information made by the committee with regard to any programs administered by such department.

4. The committee shall submit a report to the general assembly by December 31, 2010, and such

report shall contain any recommendations of the committee for eliminating, reducing, or combining any program with another program or programs in the same or a different department.

5. The provisions of this section shall expire on January 1, 2011."; and

Further amend the title and enacting clause accordingly.

Senator Lager moved that the above amendment be adopted.

Senator Wright-Jones offered **SA 1** to **SA 10**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 10

Amend Senate Amendment No. 10 to Senate Committee Substitute for House Bill No. 1868, Page 2, Section 21.910, Line 5, by inserting after all of said line the following:

"**4. The members of the committee shall elect a chair person and vice chair person.**"; and

further renumber the remaining subsections accordingly; and

further amend said amendment, line 12 of said page, by inserting after all of said line the following:

"Further amend said bill, page 3, section 1, line 7, by inserting after all of said line the following:

"Section B. Because of the need for more efficient government in tight budget times, section 21.190 of section A 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 enactment of section 21.910 of section A of this act shall be in full force and effect upon its passage and approval.";".

Senator Wright-Jones moved that the above amendment be adopted, which motion prevailed.

SA 10, as amended, was again taken up.

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

Senator Bray offered **SA 11**, which was read:

SENATE AMENDMENT NO. 11

Amend Senate Committee Substitute for House Bill No. 1868, Page 2, Section 109.250, Line 23, by inserting immediately after all of said line the following:

"**386.715. The office of public counsel shall be funded through an assessment made by the public service commission upon all public utilities in an amount determined by the commission to be sufficient to fund the operations of the office.**"; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above amendment be adopted.

Senator Bray offered **SSA 1** for **SA 11**:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 11

Amend Senate Committee Substitute for House Bill No. 1868, Page 2, Section 109.250, Line 23, by inserting immediately after all of said line the following:

"**386.715. 1. The public counsel shall, prior to the beginning of each fiscal year, make available to the commission an estimate of the expenses to be incurred by the public counsel during such fiscal year, reasonably attributable to his or her responsibilities with respect to public utilities under sections 386.700 and 386.710 and shall also separately estimate the amount of such expenses directly attributable to such responsibilities with respect to each of the following groups of public utilities: electrical corporations, gas corporations, water corporations, heating companies, telephone corporations, telegraph corporations, sewer corporations, and any other public utility as defined in section 386.020, as well as the amount of such expenses not directly attributable to any such group.**

2. The public counsel shall allocate to each such group of public utilities the estimated expenses directly attributable to his or her responsibilities under sections 386.700 to 386.710 with respect to such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group as the gross intrastate operating revenues of such group during the three preceding calendar years bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission during such calendar years. The amount so allocated to telephone corporations shall not exceed ten percent of the total estimated expenses directly attributable to the public counsel's responsibilities under sections 386.700 to 386.710. The commission shall then assess, on behalf of the public counsel, the amount so allocated to each group of public utilities, subject to reduction as provided in this section, to the public utilities in such group in proportion to its respective gross intrastate operating revenues during the preceding calendar year. The total amount so assessed to all such public utilities shall not exceed one percent of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission. Nothing in this section shall authorize the commission to determine how the public counsel allocates the estimated expenses directly attributable to his or her responsibilities under sections 386.700 and 386.710 with respect to public utilities described in subsection 1 of this section or how the assessment imposed under this section is spent by the public counsel.

3. On behalf of the public counsel, the commission shall render a statement of such assessment to each such public utility on or before July first and the amount so assessed to each such public utility shall be paid by it to the director of revenue in full on or before July fifteenth next following the rendition of such statement, except that any such public utility may at its election pay such assessment in four equal installments not later than the following dates next following the rendition of such statement, to wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of revenue shall remit such payments to the state treasurer.

4. The state treasurer shall credit such payments to a special fund, which is hereby created, to be known as "The Public Counsel Fund", which fund, or its successor fund created under section 33.571, shall be devoted solely to the payment of expenditures actually incurred by the public counsel and attributable to his or her responsibilities under sections 386.700 to 386.710 with respect to such public utilities subject to the jurisdiction of the commission. Any amount remaining in such special fund or its successor fund at the end of any fiscal year shall not revert to the general revenue fund, but shall be applicable by appropriation of the general assembly to the payment of such expenditures of the public counsel in the succeeding fiscal year and shall be applied by the public counsel to the reduction of the amount to be assessed to such public utilities in such succeeding fiscal year, such reduction to be allocated to each group of public utilities in proportion to the respective gross intrastate operating revenues of the respective groups during the preceding calendar year.

5. In order to enable the public counsel to make the allocations and assessments provided for in this section, each public utility subject to the jurisdiction of the commission shall file with the commission on or before March thirty-first of each year, a statement under oath showing its gross intrastate operating revenues for the preceding calendar year, and if any public utility shall fail to file such statement within the time established in this subsection, the commission shall estimate such revenue. Such estimate shall be binding on such public utility for the purpose of this section."; and

Further amend the title and enacting clause accordingly.

Senator Bray moved that the above substitute amendment be adopted.

Senator Bray offered **SA 1** to **SSA 1** for **SA 11**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE SUBSTITUTE AMENDMENT NO. 1 FOR
SENATE AMENDMENT NO. 11

Amend Senate Substitute Amendment No. 1 for Senate Amendment No. 11 to Senate Committee Substitute for House Bill No. 1868, Page 2, Section 386.715, Line 13, by inserting after the word "exceed" the following:

"**two hundredths of**".

Senator Bray moved that the above amendment be adopted.

At the request of Senator Bray, **SA 1** to **SSA 1** for **SA 11**, **SSA 1** for **SA 11** and **SA 11** were withdrawn.

Senator Shields offered **SA 12**:

SENATE AMENDMENT NO. 12

Amend Senate Committee Substitute for House Bill No. 1868, Page 2, Section 109.250, Line 3, by inserting after all of said line the following:

"630.060. **1.** The department shall seek and encourage cooperation and active participation of communities, counties, organizations, agencies, private and not-for-profit corporations and individuals in the effort to establish and maintain quality programs and services for persons affected by mental disorders, developmental disabilities or alcohol or drug abuse. The department shall develop programs of public information and education for this purpose.

2. The department shall cooperate with and may directly contract with all state agencies, local units of government, and any of the governor's advisory councils or commissions, or their successor agencies, and with the Missouri Mental Health Foundation, or its successor entity, in delivery of programs designed to improve public understanding of attitudes toward mental disorders, developmental disabilities, and alcohol and drug abuse pursuant to subdivision (3) of subsection 1 of section 630.020. For purposes of this section, the contracting process of the department with these entities need not be governed by the provisions of chapter 34."; and

Further amend the title and enacting clause accordingly.

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

Senator Shields moved that **SCS** for **HB 1868**, as amended, be adopted, which motion prevailed.

Senator Shields moved that **SCS** for **HB 1868**, as amended, be read the 3rd time and passed and was

recognized to close.

President Pro Tem Shields referred **SCS** for **HB 1868**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

PRIVILEGED MOTIONS

Senator Mayer moved that the Senate refuse to concur in **HCS** for **SS** for **SCS** for **SB 605**, 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 Stouffer assumed the Chair.

Senator Dempsey moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 754**, 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

HCS for **HB 1375**, with **SCS**, was placed on the Informal Calendar.

HCS for **HBs 2262** and **2264** was placed on the Informal Calendar.

HCS for **HB 1516**, with **SCS**, was placed on the Informal Calendar.

HCS for **HB 1446**, with **SCS**, was placed on the Informal Calendar.

HB 1842 was placed on the Informal Calendar.

HCS for **HB 1541**, with **SCS**, was placed on the Informal Calendar.

HB 1559 was placed on the Informal Calendar.

HCS for **HB 2070** was placed on the Informal Calendar.

HCS for **HB 2016**, with **SCS**, was placed on the Informal Calendar.

HCS for **HB 2357** was placed on the Informal Calendar.

HB 2285, with **SCS**, was placed on the Informal Calendar.

On motion of Senator Engler, the Senate recessed until 7:40 p.m.

RECESS

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

HOUSE BILLS ON THIRD READING

HCS for **HB 1750**, with **SCS**, entitled:

An Act to amend chapter 392, RSMo, by adding thereto one new section relating to exchange access rates.

Was taken up by Senator Griesheimer.

SCS for **HCS** for **HB 1750**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1750

An Act to amend chapter 392, RSMo, by adding thereto one new section relating to exchange access rates.

Was taken up.

Senator Griesheimer moved that **SCS** for **HCS** for **HB 1750** be adopted.

Senator Griesheimer offered **SS** for **SCS** for **HCS** for **HB 1750**, entitled:

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1750

An Act to amend chapter 392, RSMo, by adding thereto one new section relating to exchange access rates.

Senator Griesheimer moved that **SS** for **SCS** for **HCS** for **HB 1750** be adopted.

Senator Justus assumed the Chair.

At the request of Senator Griesheimer, **HCS** for **HB 1750**, with **SCS** and **SS** for **SCS** (pending), was placed on the Informal Calendar.

HCS for **HB 2357**, entitled:

An Act to amend chapter 105, RSMo, by adding thereto one new section relating to public retirement plans.

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

Senator Crowell offered **SS** for **HCS** for **HB 2357**, entitled:

SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2357

An Act to repeal sections 56.809, 70.605, 104.190, 104.480, 169.020, 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, and to enact in lieu thereof twenty new sections relating to public retirement plans.

Senator Crowell moved that **SS** for **HCS** for **HB 2357** be adopted.

Senator Crowell offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for House Committee Substitute for House Bill No. 2357, Page 13, Section 70.605, Line 11 of said page, by inserting after all of said line the following:

"86.252. 1. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, the entire interest of a member shall be distributed or begin to be distributed no later than the member's required beginning date. The general required beginning date of a member's benefit is April first of the calendar year

following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

2. All distributions required pursuant to this section prior to January 1, 2003, shall be determined and made in accordance with the income tax regulations under Section 401(a)(9) of the Internal Revenue Code in effect prior to January 1, 2003, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the first distribution year, distributions, if not made in a single sum, may only be made over one of the following periods, or a combination thereof:

(1) The life of the member;

(2) The life of the member and a designated beneficiary;

(3) A period certain not extending beyond the life expectancy of the member; or

(4) A period certain not extending beyond the joint and last survivor expectancy of the member and a designated beneficiary.

3. (1) This subsection shall apply for purposes of determining required minimum distributions for calendar years beginning on and after January 1, 2003, and shall take precedence over any inconsistent provisions of section 86.200 to 86.366. All distributions required under this subsection shall be determined and made in accordance with the United States Treasury regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

(2) (a) The member's entire interest shall be distributed or begin to be distributed to the member no later than the member's required beginning date.

(b) If the member dies before distributions begin, the member's entire interest shall be distributed or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died, or by December thirty-first of the calendar year in which the member would have attained age seventy and one-half years, if later;

b. If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died;

c. If there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, the member's entire interest shall be distributed by December thirty-first of the calendar year containing the fifth anniversary of the member's death;

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distribution to the surviving spouse begins, this paragraph, except for subparagraph a. of this paragraph, shall apply as if the surviving spouse were the member. For purposes of this paragraph and subdivision (5) of this subsection, distributions shall be considered to begin on the member's required beginning date, or if subparagraph d. of this paragraph applies, the date distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph. If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date of distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph, the date of distributions shall be considered to begin the date distributions

actually commence.

(c) Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with subdivisions (3), (4), and (5) of this subsection. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions shall be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and the United States Treasury regulations.

(3) (a) If the member's interest is paid in the form of annuity distributions under sections 86.200 to 86.366, payments under the annuity shall satisfy the following requirements:

a. The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

b. The distribution period shall be over a life or lives, or over a period certain not longer than the period described in subdivision (4) or (5) of this subsection;

c. Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted;

d. Payments shall either be nonincreasing or increase only as **[**follows:

(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the federal Bureau of Labor Statistics;

(ii) To the extent of the reduction in the amount of the member's payments to provide for a surviving benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subdivision (4) of this subsection dies or is no longer the member's beneficiary under a qualified domestic relations order with the meaning of Section 414(p) of the Internal Revenue Code of 1986, as amended;

(iii) To provide cash refunds of employee contributions upon the member's death; or

(iv) To pay increased benefits that result from a revision of sections 86.200 to 86.366**] permitted under Q&A of Section 1.401(a)(9)-6 of the United States Treasury regulations**.

(b) The amount distributed on or before the member's required beginning date, or if the member dies before distribution begins, the date distributions are required to begin under subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, shall be the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if the payment interval ends in the next calendar year. “Payment intervals” means the periods for which payments are received, such as bimonthly, monthly, semiannually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(c) Any additional benefits accruing to the member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(4) (a) If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the

member's required beginning date to the designated beneficiary after the member's death shall not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the United States Treasury regulations.

(b) The period certain for an annuity distribution commencing during the member's lifetime shall not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age seventy, the applicable distribution period for the member shall be the distribution period for age seventy under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations plus the excess of seventy over the age of the member as of the member's birthday in the year that contained the annuity starting date.

(5) (a) If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest shall be distributed, beginning no later than the time described in subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, over the life of the designated beneficiary or over a period certain not exceeding:

a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(b) If the member dies before the date distributions begin and there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, distribution of the member's entire interest shall be completed by December thirty-first of the calendar year containing the fifth anniversary of the member's death.

(c) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subdivision shall apply as if the surviving spouse were the member; except that, the time by which distributions shall begin shall be determined without regard to subparagraph a. of paragraph (b) of subdivision (2) of this subsection.

(6) As used in this subsection, the following terms mean:

(a) "Designated beneficiary", the surviving spouse or the individual who is designated as the beneficiary under subdivision (4) of section 86.200 or any individual who is entitled to receive death benefits under section 86.283 or 86.287 and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and Section 1.401(a)(9)-1, Q&A-4 of the United States Treasury regulations;

(b) "Distribution calendar year", a calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin under paragraph (b) of subdivision (2) of this subsection;

(c) "Life expectancy", life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the United States Treasury regulations;

(d) "Required beginning date", April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

(7) Notwithstanding any provision in this subsection to the contrary:

(a) A distribution for calendar years 2003, 2004, and 2005 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the payments do not satisfy Section 1.401(a)(9)-1, Q&A-1 to Q&A-16 of the United States Treasury regulations, provided the payments satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and

(b) **[**In the case of an annuity distribution option provided under the terms of sections 86.200 to 86.366 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the annuity payments do not satisfy the requirements of Section 1.401(a)(9)-1, Q&A-1 to Q&A-15 of the United States Treasury regulations, provided the distribution option satisfies Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, based on a reasonable and good faith interpretation of the provisions of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.**] Pursuant to Section 1.401(a)(9)-1, Q&A-2 of the United States Treasury regulations, the plan shall be treated as having complied with Section 401(a)(9) of the Internal Revenue Code for all years to which Section 401(a)(9) of the Internal Revenue Code applies to the plan if the plan complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code.**

86.255. 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

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

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a surviving spouse or a spouse **or, effective for distributions made on or after January 1, 2010, a nonspouse beneficiary**;

(3) "Eligible retirement plan", an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution or, effective for eligible rollover distributions made on or after January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, and shall include, for eligible rollover distributions made on or after January 1, **[**2002, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code**] 2008, a Roth IRA as described in Section 408 of the Internal Revenue Code, provided that for distributions made on or after January 1, 2010 to a non-spouse**

beneficiary, an eligible retirement plan shall include only an individual retirement account described in Section 408(a) of the Internal Revenue Code , an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a Roth IRA described in Section 408A of the Internal Revenue Code that is an inherited individual retirement account or annuity under Section 408 of the Internal Revenue Code;

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under Section 401(a)(9) of the Internal Revenue Code; or

(c) Effective for distributions made on or after January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, **for distributions made before January 1, 2007,** such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable**; for distributions made on or after January 1, 2007, such portion may also be transferred to an annuity contract described in Section 403(b) of the Internal Revenue Code or to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable; and for distributions made on or after January 1, 2008, such portion may also be transferred to a Roth IRA described in Section 408A of the Internal Revenue Code**.

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written explanation to the distributee in accordance with the requirements of Section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in subsection 3 of this section, provided that:

(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

5. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, in no event shall the trustees pay an eligible rollover distribution in the amount of five thousand dollars or less to a member or retired member who has not attained age sixty-two unless such member or retired member consents in writing either to receive such distribution in cash or to have such distribution directly rolled over in

accordance with the provisions of this section.

86.256. 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366 exceed the amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. Effective for limitation years beginning after December 31, 2001, in no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own mandatory contributions, exceed the **[**lesser of:

(1) One hundred percent of the member's compensation, as defined for purposes of Section 415(c)(3) of the Internal Revenue Code, for the limitation year; or

(2) Forty thousand dollars, as adjusted for increases in the cost of living under Section 415(d) of the Internal Revenue Code.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations.

4.**] amount specified in Section 415(c) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living pursuant to Section 415(d) of the Internal Revenue Code, as in effect on the last day of the plan year.**

3. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants employed by a police or fire department, is incorporated in this section by reference.

86.294. 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2**[**, 3,**]** and **[**4**] 3** of this section, effective January 1, 2002, the plan shall accept a member's rollover contribution or direct rollover of an eligible rollover distribution made on or after January 1, 2002, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an annuity contract described in Section 403(b) of the Internal Revenue Code, or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state**, and that would otherwise be includable in gross income**. The plan will also accept a member's rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income. **The plan will accept a member's direct rollover of an eligible rollover distribution made on or after October 1, 2010, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code or an annuity contract described in 403(b) of the Internal Revenue Code that includes after-tax employee contributions, other than Roth contributions described in Section 402A of the Internal Revenue Code, that are not includable in gross income and shall separately account for such after-tax amounts.**

2. **Except to the extent specifically permitted under procedures established by the board of trustees,** the amount of such rollover contribution or direct rollover of an eligible rollover distribution shall not exceed the amount required to repay the member's accumulated contributions plus the applicable

members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691, RSMo.

3. Acceptance of any rollover contribution or direct rollover of **an** eligible rollover distribution under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

[4. In no event shall the plan accept any rollover contribution or direct rollover distribution to the extent that such contribution or distribution consists of after-tax employee contributions which are not includable in gross income.**]**

86.295. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, if a member dies on or after January 1, 2007, while performing qualified military service, as defined in Section 414(u)(5) of the Internal Revenue Code, the member's surviving spouse or other dependents shall be entitled to any benefits, other than benefit increases relating to the period of qualified military service, and the rights and features associated with those benefits which would have been provided under sections 86.280 and 86.290 if the member had returned to service as a police officer and died while in active service."; and

Further amend the title and enacting clause accordingly.

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

Senator Bray offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for House Committee Substitute for House Bill No. 2357, Page 15, Section 104.1091, Line 14 of said page, by striking the word "ten" and inserting in lieu thereof the following: "**five**"; and further amend line 21 of said page, by striking the word "ten" and inserting in lieu thereof the following: "**five**"; and

Further amend said bill and section, page 16, line 6 of said page, by striking the word "ten" and inserting in lieu thereof the following: "**five**"; and further amend line 14 of said page, by striking the word "ten" and inserting in lieu thereof the following: "**five**"; and further amend line 20 of said page, by striking the word "ten" and inserting in lieu thereof the following: "**five**"; and further amend lines 27-28 of said page, by striking all of said lines; and

Further amend said bill and section, page 17, line 1 of said page, by striking all of said line and inserting in lieu thereof the following:

"**7. The**"; and further amend line 5 of said page, by striking the word "four" and inserting in lieu thereof the following: "**two**"; and

Further amend said bill, page 23, section 104.1500, line 14 of said page, be inserting after the word "subjects." the following: "**The membership of the board shall represent the cultural diversity of the state and reflect the gender of the population of the state as whole.**"; and

Further amend said bill, page 29, section 104.1500, line 7 of said page, by striking the word "may" and

inserting in lieu thereof the following: "**shall**"; and further amend said line by inserting after the second use of the word "board" the following: "**at least**"; and

Further amend said bill, page 61, section 476.521, line 20 of said page, by striking the word "four" and inserting in lieu thereof the following: "**two**".

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

Senator Stouffer assumed the Chair.

Senator Crowell moved that **SS** for **HCS** for **HB 2357**, as amended, be adopted, which motion prevailed.

Senator Crowell moved that **SS** for **HCS** for **HB 2357**, as amended, be read the 3rd time and passed and was recognized to close.

President Pro Tem Shields referred **SS** for **HCS** for **HB 2357**, as amended, to the Committee on Governmental Accountability and Fiscal Oversight.

Senator Griesheimer moved that **HCS** for **HB 1750**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

Senator Ridgeway offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1750, Page 2, Section 392.605, Line 4, by striking the words "December 31, 2010" and inserting in lieu thereof the following: "**March 1, 2011**"; and further amend lines 5-6 of said page by striking the words "December thirty-first" and inserting in lieu thereof the following: "**March first**" and further amend said line by inserting at the end of said line the following: "**Between January fifteenth and January thirtieth of each year following a rate reduction required under this section, any company whose intrastate rates have been impacted by the requirements of this section shall submit a report to the chairperson of the house standing committee selected by the speaker of the house of representatives and the chairperson of the senate standing committee selected by the president pro tem of the senate which report shall describe the company's activities with regard to quality of consumer service, build-out of telecommunications infrastructure, and any other non-proprietary matters requested by the chairpersons of the committees as well as the financial impact of the provisions of this section on the company.**".

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

Senator Griesheimer moved that **SS** for **SCS** for **HCS** for **HB 1750**, as amended, be adopted, which motion prevailed.

On motion of Senator Griesheimer, **SS** for **SCS** for **HCS** for **HB 1750**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Keaveny
Lager	Lembke	Mayer	McKenna	Nodler	Pearce	Ridgeway	Schaefer
Schmitt	Scott	Shields	Shoemyer	Stouffer	Wilson	Wright-Jones—31	

NAYS—Senators

Purgason Rupp—2

Absent—Senators—None

Absent with leave—Senator Vogel—1

Vacancies—None

The President declared the bill passed.

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

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

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

INTRODUCTIONS OF GUESTS

Senator Engler introduced to the Senate, Dylan Briggs, G. Scott Tapp and Lyndsey Mertzlufft.

Senator Bray introduced to the Senate, Brian Kelly, Kansas City.

Senator Lembke introduced to the Senate, Mary Schulte and Donald Schulte, Jefferson City.

Senator Schmitt introduced to the Senate, seventh grade students from Our Lady of Providence School, Crestwood; and Madeline May Reardon, Natalie Wagner, Jack Perlongo and Jeffrey Owens were made honorary pages.

Senator Mayer introduced to the Senate, Bud Lawson and David Knapp, Poplar Bluff; and Sally McVey, Kennett.

Senator Ridgeway introduced to the Senate, Norman Schoneman, his son, Cole, Blake Peyton and Colby Crowder, Smithville; and Cole, Blake and Colby were made honorary pages.

Senator Shields introduced to the Senate, Kyle, McKaulley and Tori Stephenson, Weston.

Senator Shields introduced to the Senate, the Physician of the Day, Dr. Glenn Talboy, M.D., Kansas City.

Senator Ridgeway introduced to the Senate, Kayla Lincoln, her daughter, Jonica and Kathy French, Smithville; and Jonica was made an honorary page.

Senator Pearce introduced to the Senate, Greg Hassler and his daughter, Ally, Warrensburg.

Senator Pearce introduced to the Senate, Enola White and Cody Sumter.

Senator Ridgeway introduced to the Senate, Charli Seltz and Kasara, Jessie, Shelby, Kimmie, Paul, Brittany and Brittany from Winnetonka High School, Kansas City.

Senator Vogel introduced to the Senate, Gretta Scheperle and Katie Wilson, Jefferson City; and Gretta and Katie were made honorary pages.

Senator Rupp introduced to the Senate, Megan Coburn.

On motion of Senator Engler, the Senate adjourned under the rules.

SENATE CALENDAR

SIXTY-FOURTH DAY–WEDNESDAY, MAY 5, 2010

FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SB 627-Justus (In Fiscal Oversight)
SJR 20-Bartle (In Fiscal Oversight)
SB 779-Bartle (In Fiscal Oversight)
SCS for SB 944-Shields (In Fiscal Oversight)
SCS for SB 622-Shoemyer (In Fiscal Oversight)
SS for SB 1057-Shields (In Fiscal Oversight)
SCS for SB 969-Keaveny

HOUSE BILLS ON THIRD READING

HCS for HB 1675, with SCS (Ridgeway) (In Fiscal Oversight)
HJR 76-Dethrow, et al, with SCS (Purgason) (In Fiscal Oversight)
HCS#2 for HBs 1692, 1209, 1405, 1499, 1535 & 1811, with SCS (Cunningham) (In Fiscal Oversight)
HCS for HBs 1311 & 1341, with SCS (Rupp) (In Fiscal Oversight)
HCS for HB 1497 (Goodman) (In Fiscal Oversight)
HCS for HBs 1695, 1742 & 1674, with SCS (Schaefer) (In Fiscal Oversight)
HCS for HB 1316, with SCS (Nodler) (In Fiscal Oversight)
HCS#2 for HB 1543, with SCS (Pearce) (In Fiscal Oversight)
HB 1802-Gatschenberger, with SCS (Rupp)

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SCS for SB 631-Cunningham (In Fiscal Oversight)
SCS for SB 826-Griesheimer
SB 1001-Griesheimer

SENATE BILLS FOR PERFECTION

SB 579-Shields, with SCS
SB 587-Nodler and Cunningham, with SCS & SA 1 (pending)
SB 596-Callahan, with SCS (pending)
SB 606-Stouffer
SBs 607, 602, 615 & 725-Stouffer, with SCS & SA 1 (pending)
SB 639-Schmitt, with SCS & SS for SCS (pending)
SB 643-Keaveny, with SCS, SS for SCS, SA 1 & SA 1 to SA 1 (pending)
SB 698-Griesheimer, with SCS, SS for SCS & SA 1 (pending)
SB 705-Griesheimer

SB 738-Crowell, with SCS
SB 747-Rupp, et al, with SA 1 (pending)
SB 784-Schaefer and Pearce
SB 792-Dempsey and Rupp, with SS (pending)
SB 797-Green
SB 810-Lager, with SCS
SB 818-Lembke, with SCS, SS for SCS & SA 1 (pending)
SB 839-Wright-Jones, with SCS
SB 852-Lager, et al, with SS, SA 1 & SSA 1 for SA 1 (pending)
SB 868-Shields
SB 878-Lembke, with SCS & SS for SCS (pending)
SBs 880, 780 & 836-Schaefer, with SCS, SS for SCS & SA 1 (pending)
SBs 895, 813, 911, 924, 922 & 802-Dempsey, et al, with SCS, SS for SCS, SA 1, SSA 1 for SA 1 & SA 1 to SSA 1 for SA 1 (pending)
SB 896-Shields and Crowell, with SA 1 (pending)
SB 905-Bray, et al, with SCS & SS for SCS (pending)
SB 999-Schaefer
SB 1016-Mayer, with SCS
SB 1017-Mayer, with SCS (pending)
SB 1060-Bartle, with SCS
SJR 22-Callahan
SJR 25-Cunningham, et al, with SCS, SS#2 for SCS & SA 5 (pending)
SJR 29-Purgason and Cunningham, with SCS, SS#2 for SCS & SA 1 (pending)
SJR 31-Scott
SJR 33-Bartle, with SA 1 (pending)
SJR 34-Goodman, et al, with SA 1 (pending)
SJR 38-Ridgeway
SJR 40-Goodman, with SA 1 (pending)

HOUSE BILLS ON THIRD READING

HCS for HB 1290, with SCS, SS#2 for SCS & SA 9 (pending) (Griesheimer)
HCS for HB 1375, with SCS (Justus)
SS for HCS for HBs 1408 & 1514 (Lembke) (In Fiscal Oversight)
HB 1424-Franz, with SCS (pending) (McKenna)
HCS for HB 1446, with SCS (Pearce)
HCS#2 for HB 1472 (Schaefer)
HCS for HB 1516, with SCS (Lager)
HCS for HB 1541, with SCS (Goodman)
HB 1559-Brown (30) (Shields)
HB 1595-Dugger, et al (Purgason)
HB 1609-Diehl, with SCS & SS#2 for SCS (pending) (Bartle)
HB 1842-Wilson (130)
SCS for HB 1868-Scharnhorst (Shields) (In Fiscal Oversight)
HCS for HB 1893, with SCA 1 (Dempsey)
HB 1894-Bringer (Bray) (In Fiscal Oversight)
SCS for HCS for HB 1965 (Cunningham) (In Fiscal Oversight)
HCS for HB 2016, with SCS (Mayer)
HCS for HB 2048, with SCS (Lager)
HCS for HB 2070 (Schaefer)
HB 2109-Ruzicka, with SCS (Lager)
SS for SCS for HB 2111-Faith, et al (Stouffer) (In Fiscal Oversight)
SCS for HB 2226, HB 1824, HB 1832 & HB 1990 (Scott) (In Fiscal Oversight)
HCS for HBs 2262 & 2264 (Stouffer)
HB 2285-Thomson, with SCS (Lager)
SS for HCS for HB 2357 (Crowell) (In Fiscal Oversight)
HCS for HJR 86, with SCS & SS for SCS (pending) (Stouffer)

CONSENT CALENDAR

House Bills

Reported 4/15

HCS for HB 1858, with SCS (Shoemyer)

SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 630-Cunningham, with HA 1 & HA 2
SCS for SB 644-Shields, with HA 1, HA 2 & HA 3
SCS for SB 733-Pearce, with HCS, as amended
SB 773-Dempsey, with HA 1
SB 851-Schmitt, with HCS
SCS for SB 942-Rupp, with HCS
SB 987-Stouffer, with HCS, as amended

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

HB 1442-Jones (89), et al, with SS for SCS, as amended (Nodler)

Requests to Recede or Grant Conference

SS for SCS for SB 605-Mayer, with HCS, as amended (Senate requests House recede or grant conference)
SCS for SB 754-Dempsey, with HCS, as amended (Senate requests House recede or grant conference)

RESOLUTIONS

Reported from Committee

SCR 42-Bray, with SCA 1
HCS for HCR 18, with SA 1 (pending) (Rupp)
SCR 46-Stouffer
HCR 38-Icet, et al, with SCA 1 (Lembke)
HCS for HCRs 34 & 35 (Schmitt)
SR 1744-Shields
SCR 57-Ridgeway

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