

Journal of the Senate

FIRST REGULAR SESSION

FIFTY-EIGHTH DAY—WEDNESDAY, APRIL 27, 2011

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“If any of you is lacking in wisdom, ask God, who gives to all generously and ungrudgingly, and it will be given to you.” (James 1:5)

Gracious God, speak to us every day so we let Your words speak volumes to those who depend on us to meet the various needs within this state. Give to us wisdom to follow You faithfully and to use this wisdom to help those we meet each 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.

Senator Dempsey announced that photographers from Missouri News Horizon were given permission to take pictures in the Senate Chamber today.

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

Present—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Richard offered Senate Resolution No. 908, regarding Bill Gipson, Carl Junction, which was adopted.

Senator Kehoe offered Senate Resolution No. 909, regarding Debbie Hughes, which was adopted.

Senator Kehoe offered Senate Resolution No. 910, regarding Dr. Julia Sharpe, which was adopted.

Senator Brown offered Senate Resolution No. 911, regarding John F. Carney, III, Rolla, which was adopted.

Senator Engler offered Senate Resolution No. 912, regarding Juanita Conway, which was adopted.

Senator Kraus offered Senate Resolution No. 913, regarding Chuck Stephenson, which was adopted.

Senator Kraus offered Senate Resolution No. 914, regarding Jackie Robertson, which was adopted.

Senator Kraus offered Senate Resolution No. 915, regarding Becky Richardson, which was adopted.

Senator Kraus offered Senate Resolution No. 916, regarding Susie Needles, which was adopted.

Senator Kraus offered Senate Resolution No. 917, regarding Tom Merrell, which was adopted.

Senator Kraus offered Senate Resolution No. 918, regarding Kristen Merrell, which was adopted.

Senator Kraus offered Senate Resolution No. 919, regarding Rebeckah Mayer, which was adopted.

Senator Kraus offered Senate Resolution No. 920, regarding Julie Lee, which was adopted.

Senator Kraus offered Senate Resolution No. 921, regarding Andria Duello, which was adopted.

Senator Kraus offered Senate Resolution No. 922, regarding Angela Danley, which was adopted.

Senator Kraus offered Senate Resolution No. 923, regarding Nancy Collings, which was adopted.

Senator Kraus offered Senate Resolution No. 924, regarding Jeremy Bonnesen, which was adopted.

Senator Lembke offered Senate Resolution No. 925, regarding Grant Hastings, St. Louis, which was adopted.

MESSAGES FROM THE HOUSE

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 2**. Representatives: Silvey, Stream, Flanigan, Lampe and Nasheed.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 3**. Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for

HCS for HB 4. Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 5.** Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 6.** Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 7,** as amended. Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 8.** Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 9.** Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 10.** Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 11.** Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 12.** Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS for HCS for HB 13.** Representatives: Silvey, Stream, Flanigan, Lampe and Kelly (24).

HOUSE BILLS ON THIRD READING

HB 109, introduced by Representatives Wells, et al, entitled:

An Act to repeal sections 30.260, 30.750, 30.758, 30.767, 30.810, and 30.860, RSMo, and to enact in lieu thereof five new sections relating to linked deposits, with an emergency clause.

Was taken up by Senator Wasson.

On motion of Senator Wasson, **HB 109** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson

Wright-Jones—33

NAYS—Senators—None

Absent—Senator Purgason—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

MESSAGES FROM THE GOVERNOR

The following message was received from the Governor:

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

April 27, 2011

TO THE SECRETARY OF THE SENATE
96TH GENERAL ASSEMBLY
FIRST REGULAR SESSION
STATE OF MISSOURI

Herewith I return to you Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 113 & 95 entitled:

AN ACT

To repeal sections 273.327 and 273.345, RSMo, and to enact in lieu thereof four new sections relating to the care of dogs, with penalty provisions.

On April 27, 2011, I approved said Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 113 & 95.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

HOUSE BILLS ON THIRD READING

HCS for **HB 136**, entitled:

An Act to repeal sections 288.050, 288.090, and 288.100, RSMo, and to enact in lieu thereof four new sections relating to benefits for military spouses.

Was taken up by Senator Brown.

On motion of Senator Brown, **HCS** for **HB 136** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Cunningham	Curls	Dempsey	Dixon	Engler
Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager	Lamping
Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson

Wright-Jones—33

NAYS—Senator Crowell—1

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HB 149, introduced by Representatives Day, et al, with **SCS**, entitled:

An Act to repeal section 143.1004, RSMo, and to enact in lieu thereof one new section relating to the Missouri military family relief fund.

Was taken up by Senator Brown.

SCS for **HB 149**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 149

An Act to repeal section 143.1004, RSMo, and to enact in lieu thereof one new section relating to the Missouri military family relief fund.

Was taken up.

Senator Ridgeway assumed the Chair.

Senator Brown moved that **SCS** for **HB 149** be adopted, which motion prevailed.

On motion of Senator Brown, **SCS** for **HB 149** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Justus	Keaveny	Kehoe	Kraus	Lager	Lamping
Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson

Wright-Jones—33

NAYS—Senators—None

Absent—Senator Green—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HB 217, introduced by Representatives Dugger and Entlicher, entitled:

An Act to amend chapter 115, RSMo, by adding thereto one new section relating to electronic voter identification verification systems.

Was taken up by Senator Wasson.

On motion of Senator Wasson, **HB 217** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Justus	Kehoe	Kraus	Lager	Lamping	Lembke
Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason	Richard
Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson	Wright-Jones—32

NAYS—Senators—None

Absent—Senators

Green Keaveny—2

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HCS for HB 220, entitled:

An Act to repeal section 339.190, RSMo, and to enact in lieu thereof one new section relating to real estate licensees.

Was taken up by Senator Brown.

Senator Engler offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend House Committee Substitute for House Bill No. 220, Page 1, In the Title, Lines 2-3 of the title, by striking “real estate licensees” and inserting in lieu thereof the following: “licensure of certain professions”; and

Further amend said bill and page, Section A, Line 2, by inserting after all of said line the following:

“324.043. 1. Except as provided in this section, no disciplinary proceeding against any person or entity licensed, registered, or certified to practice a profession within the division of professional registration shall be initiated unless such action is commenced within three years of the date upon which the licensing, registering, or certifying agency received notice of an alleged violation of an applicable statute or regulation.

2. For the purpose of this section, notice shall be limited to:

(1) A written complaint;

(2) Notice of final disposition of a malpractice claim, including exhaustion of all extraordinary remedies and appeals;

(3) Notice of exhaustion of all extraordinary remedies and appeals of a conviction based upon a criminal statute of this state, any other state, or the federal government;

(4) Notice of exhaustion of all extraordinary remedies and appeals in a disciplinary action by a hospital, state licensing, registering or certifying agency, or an agency of the federal government.

3. For the purposes of this section, an action is commenced when a complaint is filed by the agency with the administrative hearing commission, any other appropriate agency, or in a court; or when a complaint is filed by the agency’s legal counsel with the agency in respect to an automatic revocation or a probation violation.

4. Disciplinary proceedings based upon repeated negligence shall be exempt from all limitations set forth in this section.

5. Disciplinary proceedings based upon a complaint involving sexual misconduct shall be exempt from all limitations set forth in this section.

6. Any time limitation provided in this section shall be tolled:

(1) During any time the accused licensee, registrant, or certificant is practicing exclusively outside the

state of Missouri or residing outside the state of Missouri and not practicing in Missouri;

(2) As to an individual complainant, during the time when such complainant is less than eighteen years of age;

(3) During any time the accused licensee, registrant, or certificant maintains legal action against the agency; or

(4) When a settlement agreement is offered to the accused licensee, registrant, or certificant, in an attempt to settle such disciplinary matter without formal proceeding pursuant to section 621.045 until the accused licensee, registrant, or certificant rejects or accepts the settlement agreement.

7. The licensing agency may, in its discretion, toll any time limitation when the accused **applicant**, licensee, registrant, or certificant enters into and participates in a treatment program for chemical dependency or mental impairment.

324.045. 1. Notwithstanding any provision of chapter 536, in any proceeding initiated by the division of professional registration or any board, committee, commission, or office within the division of professional registration to determine the appropriate level of discipline or additional discipline, if any, against a licensee of the board, committee, commission, or office within the division, if the licensee against whom the proceeding has been initiated upon a properly pled writing filed to initiate the contested case and upon proper notice fails to plead or otherwise defend against the proceeding, the board, commission, committee, or office within the division shall enter a default decision against the licensee without further proceedings. The terms of the default decision shall not exceed the terms of discipline authorized by law for the division, board, commission, or committee. The division, office, board, commission, or committee shall provide the licensee notice of the default decision in writing.

2. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

334.001. 1. Notwithstanding any other provision of law to the contrary, the following information is an open record and shall be released upon request of any person and may be published on the board's website:

(1) The name of a licensee or applicant;

(2) The licensee's business address;

(3) Registration type;

(4) Currency of the license, certificate, or registration;

(5) Professional schools attended;

(6) Degrees and certifications, including certification by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule;

(7) To the extent provided to the board after August 28, 2011, discipline by another state or administrative agency;

(8) Limitations on practice placed by a court of competent jurisdiction;

(9) Any final discipline by the board, including the content of the settlement agreement or order issued; and

(10) Whether a discipline case brought by the board is pending in the administrative hearing commission or any court.

2. All other information pertaining to a licensee or applicant not specifically denominated an open record in subsection 1 of this section is a closed record and confidential.

3. The board shall disclose confidential information without charge or fee upon written request of the licensee or applicant if the information is less than five years old. If the information requested is more than five years old, the board may charge a fee equivalent to the fee specified by regulation.

4. At its discretion, the board may disclose confidential information, without the consent of the licensee or applicant, to a licensee or applicant for a license in order to further an investigation or to facilitate settlement negotiations, in the course of voluntary interstate exchange of information, in the course of any litigation concerning a licensee or applicant, pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority.

5. Information obtained from a federal administrative or law enforcement agency shall be disclosed only after the board has obtained written consent to the disclosure from the federal administrative or law enforcement agency.

6. The board is entitled to the attorney/client privilege and work product privilege to the same extent as any other person.

334.040. 1. Except as provided in section 334.260, all persons desiring to practice as physicians and surgeons in this state shall be examined as to their fitness to engage in such practice by the board. All persons applying for examination shall file a completed application with the board [at least eighty days before the date set for examination upon blanks] **upon forms** furnished by the board.

2. The examination shall be sufficient to test the applicant's fitness to practice as a physician and surgeon. The examination shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an average score of not less than seventy-five percent is required to pass; provided, however, that the board may require applicants to take the Federation Licensing Examination, also known as FLEX, or the United States Medical Licensing Examination (USMLE). If the FLEX examination is required, a weighted average score of no less than seventy-five [percent] is required to pass. **Scores from one test administration of the FLEX shall not be combined or averaged with scores from other test administrations to achieve a passing score.** The passing score of the United States Medical Licensing Examination shall be determined by the board through rule and regulation. The board shall not issue a permanent license as a physician and surgeon or allow the Missouri state board examination to be administered to any applicant who has failed to achieve a passing score within three attempts on licensing examinations administered in one or more states or territories of the United States, the District of Columbia or Canada. The steps one, two and three of the United States Medical Licensing Examination shall be taken within a seven-year period with no more than three attempts on any step of the examination; however, the board may grant an extension of the seven-year period if the applicant has obtained a MD/PhD degree in a program accredited by the [liaison committee on medical education] **Liaison Committee on Medical Education (LCME)** and a regional university accrediting body

or a DO/PhD degree accredited by the American Osteopathic Association and a regional university accrediting body. The board may waive the provisions of this section if the applicant is licensed to practice as a physician and surgeon in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or the District of Columbia and no license issued to the applicant has been disciplined in any state or territory of the United States or the District of Columbia. Prior to waiving the provisions of this section, the board may require the applicant to achieve a passing score on one of the following:

(1) The American Specialty Board's certifying examination in the physician's field of specialization;

(2) Part II of the FLEX; or

(3) The Federation portion of the State Medical Board's Special Purpose Examination (SPEX)] **and the applicant is certified in the applicant's area of specialty by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule.**

3. If the board waives the provisions of this section, then the license issued to the applicant may be limited or restricted to the applicant's board specialty. [Scores from one test administration shall not be combined or averaged with scores from other test administrations to achieve a passing score.] The board shall not be permitted to favor any particular school or system of healing.

4. If an applicant has not actively engaged in the practice of clinical medicine or held a teaching or faculty position in a medical or osteopathic school approved by the American Medical Association, the Liaison Committee on Medical Education, or the American Osteopathic Association for any two years in the three year period immediately preceding the filing of his or her application for licensure, the board may require successful completion of another examination, continuing medical education, or further training before issuing a permanent license. The board shall adopt rules to prescribe the form and manner of such reexamination, continuing medical education, and training.

334.070. 1. Upon due application therefor and upon submission by such person of evidence satisfactory to the board that he **or she** is licensed to practice in this state, and upon the payment of fees required to be paid by this chapter, the board shall issue to [him] **such person** a certificate of registration. The certificate of registration shall contain the name of the person to whom it is issued and his **or her** office address [and residence address], the expiration date, and the date and number of the license to practice.

2. [Every person shall, upon receiving such certificate, cause it to be conspicuously displayed at all times in every office maintained by him in the state. If he maintains more than one office in this state, the board shall without additional fee issue to him duplicate certificates of registration for each office so maintained.] If any registrant shall change the location of his **or her** office during the period for which any certificate of registration has been issued, [he] **the registrant** shall, within fifteen days thereafter, notify the board of such change [and it shall issue to him without additional fee a new registration certificate showing the new location].

334.090. 1. Each applicant for registration under this chapter shall accompany the application for registration with a registration fee to be paid to the [director of revenue] **board**. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; but whenever in the opinion of the board the applicant's failure to register is caused by extenuating circumstances including illness of the applicant, as defined by rule and regulation, the delinquent fee may be waived by the board.

Whenever any new license is granted to any person under the provisions of this chapter, the board shall, upon application therefor, issue to such licensee a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

334.099. 1. The board may initiate a hearing to determine if reasonable cause exists to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances:

(1) The board shall serve notice pursuant to section 536.067 of the hearing at least fifteen days prior to the hearing. Such notice shall include a statement of the reasons the board believes there is reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances;

(2) For purposes of this section and prior to any hearing, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to the licensee or applicant without the licensee's or applicant's consent, upon issuance of a subpoena by the board. These data and records shall be admissible without further authentication by either board or licensee at any hearing held pursuant to this section;

(3) After a contested hearing before the board, and upon a showing of reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances the board may require a licensee or applicant to submit to an examination. The board shall maintain a list of facilities approved to perform such examinations. The licensee or applicant may propose a facility not previously approved to the board and the board may accept such facility as an approved facility for such licensee or applicant by a majority vote;

(4) For purposes of this subsection, every licensee or applicant is deemed to have consented to an examination upon a showing of reasonable cause. The applicant or licensee shall be deemed to have waived all objections to the admissibility of testimony by the provider of the examination and to the admissibility of examination reports on the grounds that the provider of the examination's testimony or the examination is confidential or privileged;

(5) Written notice of the order for an examination shall be sent to the applicant or licensee by registered mail, addressed to the licensee or applicant at the licensee's or applicant's last known address on file with the board, or shall be personally served on the applicant or licensee. The order shall state the cause for the examination, how to obtain information about approved facilities, and a time limit for obtaining the examination. The licensee or applicant shall cause a report of the examination to be sent to the board;

(6) The licensee or applicant shall sign all necessary releases for the board to obtain and use the examination during a hearing and to disclose the recommendations of the examination as part of a

disciplinary order;

(7) After receiving the report of the examination ordered in subdivision (3) of this subsection, the board may hold a hearing to determine if by a preponderance of the evidence the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or osteopathic incompetency, reason of mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances. If the board finds that the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or osteopathic incompetency, reason of mental or physical incapacity, or substance abuse, the board shall, after a hearing, enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of section 334.100; and

(8) The provisions of chapter 536 for a contested case, except those provisions or amendments which are in conflict with this section, shall apply to and govern the proceedings contained in this subsection and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence under chapter 536 relevant to the allegations.

2. Failure to submit to the examination when directed shall be cause for the revocation of the license of the licensee or denial of the application. No license may be reinstated or application granted until such time as the examination is completed and delivered to the board or the board withdraws its order.

3. Neither the record of proceedings nor the orders entered by the board shall be used against a licensee or applicant in any other proceeding, except for a proceeding in which the board or its members are a party or in a proceeding involving any state or federal agency.

4. A licensee or applicant whose right to practice has been affected under this section shall, at reasonable intervals not to exceed twelve months, be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession or should be granted a license. The board may hear such motion more often upon good cause shown.

5. For purposes of this section, “examination” means a skills, multidisciplinary, or substance abuse evaluation.

334.100. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant’s right to file a complaint with the administrative hearing commission as provided by chapter 621. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board’s order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board’s determination. **Notwithstanding any law to the contrary, the sole issue before the administrative hearing commission shall be whether there is cause to deny the license. If the commission determines there is cause to deny the license, the decision of whether to deny the license, issue the license with discipline, or issue the**

license with no discipline vests in the board. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

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

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

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

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

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or

other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination **including failing to establish a valid physician-patient relationship pursuant to section 334.108**, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

(j) **Being listed on any state or federal sexual offender registry;**

(k) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

[(k)] **(l)** Failing to furnish details of a patient's medical records to other treating physicians or hospitals upon proper request; or failing to comply with any other law relating to medical records;

[(l)] **(m)** Failure of any applicant or licensee[, other than the licensee subject to the investigation,] to cooperate with the board during any investigation;

[(m)] **(n)** Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

[(n)] **(o)** Failure to timely pay license renewal fees specified in this chapter;

[(o)] **(p)** Violating a probation agreement, **order, or other settlement agreement** with this board or any other licensing agency;

[(p)] **(q)** Failing to inform the board of the physician's current residence and business address;

[(q)] **(r)** Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation or association which issues or conducts such advertising;

(s) Any other conduct that is unethical or unprofessional involving a minor;

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency[, gross negligence] or [repeated] negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, ["repeated negligence" means] **the following terms shall mean:**

(a) "Incompetency", lacking the requisite skills, abilities, and qualities to effectively perform an aspect of professional practice that the licensee has represented he or she can perform;

(b) "Negligence", the failure[, on more than one occasion,] to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession, in the treatment of one or more patients whether or not actual injury or harm occurs to

the patient as a result of any such negligence;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter **or chapter 324**, or of any lawful rule or regulation adopted pursuant to this chapter **or chapter 324**;

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

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

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

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of the drug laws or rules and regulations of this state, **including but not limited to any provision of chapter 195**, any other state, or the federal government;

(14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of the person's profession;

(15) **Knowingly making a false statement, orally or in writing to the board;**

(16) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

[(16)] (17) Using, or permitting the use of, the person's name under the designation of "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

[(17)] **(18)** Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208 or chapter 630 or for payment from Title XVIII or Title XIX of the federal Medicare program;

[(18)] **(19)** Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

[(19)] **(20)** Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, as a podiatrist pursuant to chapter 330, as an advanced practice registered nurse under chapter 335, or any licensed and registered physician, dentist, podiatrist, or advanced practice registered nurse practicing in another jurisdiction, whose license is in good standing;

[(20)] **(21)** Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.620;

[(21)] **(22)** Any person licensed to practice as a physician or surgeon, requiring, as a condition of the physician-patient relationship, that the patient receive prescribed drugs, devices or other professional services directly from facilities of that physician's office or other entities under that physician's ownership or control. A physician shall provide the patient with a prescription which may be taken to the facility selected by the patient and a physician knowingly failing to disclose to a patient on a form approved by the advisory commission for professional physical therapists as established by section 334.625 which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands that the physician has a pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one physician to another physician within a group of physicians practicing together;

[(22)] **(23)** A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another physician who is authorized by law to do so;

[(23)] **(24) Habitual intoxication or dependence on alcohol, evidence of which may include more than one alcohol-related enforcement contact as defined by section 302.525;**

(25) Failure to comply with a treatment program or an aftercare program entered into as part of a board order, settlement agreement or licensee's professional health program;

(26) Revocation, suspension, limitation, probation, or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not, or voluntary termination of a controlled substance authority while under investigation;

[(24)] **(27)** For a physician to operate, conduct, manage, or establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, and such facility has failed to obtain or renew a license as an ambulatory surgical center;

[(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licentiate graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical Association or American Osteopathic Association, then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

(b) For the purpose of this subdivision, every physician licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that the examining physician's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician or applicant without the physician's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physician, by registered mail, addressed to the physician at the physician's last known address. Failure of a physician to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the physician, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physician's control. A physician whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physician can resume the competent practice as a physician and surgeon with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of this section.]

(28) Violating any professional trust or confidence.

3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to this chapter which has been in a revoked, suspended or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.

334.102. 1. [Upon receipt of information that the holder of any certificate of registration or authority, permit or license issued pursuant to this chapter may present a clear and present danger to the public health and safety, the executive secretary or director shall direct that the information be brought to the board in the form of sworn testimony or affidavits during a meeting of the board.

2. The board may issue an order suspending and/or restricting the holder of a certificate of registration or authority, permit or license if it believes:

- (1) The licensee's acts, conduct or condition may have violated subsection 2 of section 334.100; and
- (2) A licensee is practicing, attempting or intending to practice in Missouri; and

(3) Either a licensee is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that the licensee's condition or actions significantly affect the licensee's ability to practice, or another state, territory, federal agency or country has issued an order suspending or restricting the holder of a license or other right to practice a profession regulated by this chapter, or the licensee has engaged in repeated acts of life-threatening negligence as defined in subsection 2 of section 334.100; and

(4) The acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety.

3. (1) The order of suspension or restriction:

(a) Shall be based on the sworn testimony or affidavits presented to the board;

(b) May be issued without notice and hearing to the licensee;

(c) Shall include the facts which lead the board to conclude that the acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety; and

(2) The board or the administrative hearing commission shall serve the licensee, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the board, a copy of the complaint and the request for expedited hearing, and a notice of the place of and the date upon which the preliminary hearing will be held.

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection.

(4) The order of suspension shall become effective upon the entry of the preliminary order of the administrative hearing commission.

(5) The licensee may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

4. The board shall file a complaint in the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the board. Immediately upon receipt of a complaint filed pursuant to this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee. The administrative hearing commission shall grant a licensee's request for a continuance of the preliminary hearing; however, the board's order shall remain in full force and effect until the preliminary hearing, which shall be held not later than forty-five days after service of the documents required in subdivision (2) of subsection 3.

5. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the board and shall only hear evidence on the issue of whether the board's order of suspension or restriction should be terminated or modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without findings of fact and conclusions of law, that either adopts, terminates or modifies the board's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

6. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing on the merits of the complaint filed by the board within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

7. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying, or dismissing its preliminary order or until the board issues an order of discipline following its consideration of the decision of the

administrative hearing commission pursuant to section 621.110 and subsection 3 of section 334.100.

8. In cases where the board initiates summary suspension or restriction proceedings against a physician licensed pursuant to this chapter, and said petition is subsequently denied by the administrative hearing commission, in addition to any award made pursuant to sections 536.085 and 536.087, the board, but not individual members of the board, shall pay actual damages incurred during any period of suspension or restriction.

9. Notwithstanding the provisions of this chapter or chapter 610 or chapter 621 to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

10. The burden of proving the elements listed in subsection 2 of this section shall be upon the state board of registration for the healing arts.] **The board may, upon a showing of probable cause, issue an emergency suspension or restriction to a licensee for the following causes:**

(1) Engaging in sexual conduct, as defined in section 566.010, with a patient who is not the licensee's spouse or significant other, regardless of whether the patient consented to the contact;

(2) Engaging in sexual misconduct with a minor or a person the licensee believes to be a minor. "Sexual misconduct" means any conduct which would be illegal under state law;

(3) Possession of a controlled substance in violation of chapter 195 or any other state or federal drug law, rule, or regulation;

(4) Use of a controlled substance without a valid prescription;

(5) The licensee is adjudicated incapacitated or disabled by court of competent jurisdiction;

(6) Habitual intoxication or dependence on alcohol or controlled substances or failure to comply with a treatment program or an aftercare program entered into as part of a board order, settlement agreement, or a licensee's professional health program; or

(7) Any other conduct for which the board may otherwise impose discipline if such conduct is a serious danger to the health, safety, or welfare of a patient or the public.

2. The board shall hold a hearing to determine if probable cause exists.

(1) At least seven days prior to the hearing, the board shall serve the licensee with notice of the hearing, including a statement of the facts alleged to give rise to the emergency suspension, the affidavits the board intends to rely on to prove such facts, the date of the hearing, and the licensee's right to present evidence via affidavit or by his or her own sworn testimony;

(2) Service may be by personal service or by leaving a copy of the notice at the last known address of the licensee on file with the board.

(3) At the hearing, the board shall receive into evidence and review any affidavits presented in proper form from either party and shall hear the sworn testimony of the licensee if offered;

(4) If the board determines that there is probable cause pursuant to subsection one of this section, the board may issue an emergency suspension or restriction.

3. The emergency suspension or restriction shall be effective upon service pursuant to section 536.067 to the licensee of:

(1) The order of emergency suspension or restriction; and

(2) A statement of the basis of the emergency suspension or restriction.

4. (1) The suspension or restriction may be appealed to the circuit court of the county of residence of the licensee or if the licensee is not a resident of Missouri, to the circuit court of Cole County.

(2) Such appeal shall be filed within thirty days of the effective date of the suspension or restriction.

(3) The circuit court may modify or stay the emergency suspension or restriction upon a finding that the board's action:

(a) Was unsupported by competent and substantial evidence upon the whole record;

(b) Was arbitrary or capricious; or

(c) Involved an abuse of discretion.

(4) If the circuit court determines to vacate or modify the emergency suspension or restriction pursuant to this section, the court shall issue its decision vacating or modifying the suspension or restriction no later than five days after the appeal is filed.

5. (1) Unless the circuit court vacates the order, the board shall hold a hearing on the causes pled for discipline within ninety days of the effective date of the suspension issued pursuant to subsection 2 of this section.

(2) The board shall grant a continuance on request of the petitioner; except that, the emergency suspension or restriction shall remain in effect unless otherwise ordered by a court under subsection 4 of this section.

(3) The board shall determine whether cause for discipline exists and, if so, may impose any discipline otherwise authorized by state law.

(4) The board shall issue a final order within thirty days of hearing the case.

(5) The emergency suspension or restriction shall be terminated as of the date of the final order of the board.

6. Any action under subsections 1 to 7 of this section shall be in addition to and not in lieu of any penalty otherwise in the board's power to impose and may be brought concurrently with other actions.

7. Unless it conflicts with provisions of subsections 1 to 7 of this section, chapter 536 shall govern the hearings held under subsections 1 to 7 of this section.

8. If the court vacates the emergency suspension or in its final order the board rescinds the emergency suspension, the board shall remove all reference to such emergency suspension from its public records. Records relating to the suspension shall be maintained in the board files. The board or licensee may use such records in the course of any litigation to which they are both parties. Additionally, such records may be released upon a specific, written requested of the license.

9. (1) The board may initiate a hearing before the board for discipline of any licensee's license or certificate upon receipt of:

(a) Certified court records of a finding of guilt or plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or the United States for any offense involving the qualifications, functions, or duties of any profession licensed or regulated under this chapter; for any offense involving fraud, dishonesty, or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(b) Evidence of final discipline by any medical service provider, hospital, clinic, or agency against the licensee's license, certification, or privileges to practice, if the discipline was in any way related to unprofessional conduct, incompetence, malpractice, or any violation of any provisions of this chapter;

(c) Evidence of failure to pay fees as required by rule or provide a current address to the board;

(d) Evidence of final discipline against the licensee's license, certification, or registration to practice issued by any other state, the United States and its territories, or any other country;

(e) Evidence of certified court records finding the licensee has been judged incapacitated or disabled under Missouri law or the laws of any other state or the United States and its territories;

(f) Evidence of final discipline against a licensee by any other agency or entity of this state or any other state or the United States and its territories.

(2) The board shall provide the licensee not less than ten days notice of any hearing held under chapter 536.

(3) Upon a finding that cause exists to discipline a licensee's license, the board may impose any discipline otherwise available when disciplining licensees of that same profession.

(4) The board's decision regarding discipline of a license shall be subject to judicial review under chapter 536.

334.103. 1. A license issued under this chapter by the Missouri State Board of Registration for the Healing Arts shall be automatically revoked at such time as the final trial proceedings are concluded whereby a licensee has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of their profession, or for any felony offense[, an essential element of which is] **involving** fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional revocation of the license to practice their profession in another state or territory upon grounds for which revocation is authorized in this state following a review of the record of the proceedings and upon a formal motion of the state board of registration for the healing arts. The license of any such licensee shall be automatically reinstated if the conviction or the revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

2. Anyone who has been denied a license, permit or certificate to practice in another state shall automatically be denied a license to practice in this state. However, the board of healing arts may set up other qualifications by which such person may ultimately be qualified and licensed to practice in Missouri.

334.108. 1. Prior to prescribing any drug, controlled substance, or other treatment through the internet, a physician shall establish a valid physician-patient relationship. This relationship shall include:

(1) Obtaining a reliable medical history and performing a physical examination of the patient, adequate to establish the diagnosis for which the drug is being prescribed and to identify underlying conditions or contraindications to the treatment recommended or provided;

(2) Having sufficient dialogue with the patient regarding treatment options and the risks and benefits of treatment or treatments;

(3) If appropriate, following up with the patient to assess the therapeutic outcome;

(4) Maintaining a contemporaneous medical record that is readily available to the patient and, subject to the patient's consent, to the patient's other health care professionals; and

(5) Including the electronic prescription information as part of the patient's medical record.

2. The requirements of subsection 1 of this section shall not apply to treatment provided in a hospital as defined in section 197.020, in a hospice program as defined in section 197.250, in accordance with a collaborative practice agreement as defined in section 334.104, in conjunction with a licensed physician assistant, or in consultation with another physician who has an ongoing professional relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications, and on-call or cross-coverage situations.

334.715. 1. The board may refuse to **issue or renew any** license [any applicant or may suspend, revoke, or refuse to renew the license of any licensee for any one or any combination of the causes provided in section 334.100, or if the applicant or licensee] **required under sections 334.700 to 334.725 for one or any combination of causes listed in subsection 2 of this section or any cause listed in section 334.100.** The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided in chapter 621. As an alternative to a refusal to issue or renew any certificate, registration, or authority, the board may, in its discretion, issue a license which is subject to reprimand, probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes listed in subsection 2 of this section or section 334.100. The board's order of reprimand, probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621 against any holder of a certificate of registration or authority, permit, or license required by sections 334.700 to 334.725 or any person who has failed to renew or has surrendered the person's certification of registration or license for any one or any combination of the following causes:

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National

Athletic Trainers Association or the National Athletic Trainers Association Board of Certification, or its successor agency, as adopted and published by the committee and the board and filed with the secretary of state; **or**

(3) Any cause listed in section 334.100.

[2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any license which has expired, been suspended or been revoked or may issue any license which has been denied; provided, that no application for reinstatement or issuance of license or licensure shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the license to be reinstated or issued was denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.]

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:

(1) Warn, censure, or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years; or

(2) Suspend the person's license, certificate, or permit; or

(3) Administer a public or private reprimand; or

(4) Deny the person's application for a license; or

(5) Permanently withhold issuance of a license or require the person to submit to the care, counseling, or treatment of physicians designated by the board at the expense of the individual to be examined; or

(6) Require the person to attend such continuing education courses and pass such examinations as the board may direct.

4. In any order of revocation, the board may provide that the person shall not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll such time period.

5. Before restoring to good standing a license, certificate, or permit issued under this chapter which has been in a revoked, suspended, or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing education courses and pass such examinations as the board may direct.”; and

Further amend said bill, Page 1, Section 339.190, Line 18, by inserting after all of said line the following:

“536.063. In any contested case:

(1) The contested case shall be commenced by the filing of a writing by which the party or agency instituting the proceeding seeks such action as by law can be taken by the agency only after opportunity for hearing, or seeks a hearing for the purpose of obtaining a decision reviewable upon the record of the proceedings and evidence at such hearing, or upon such record and additional evidence, either by a court or by another agency. Answering, intervening and amendatory writings and motions may be filed in any

case and shall be filed where required by rule of the agency, except that no answering instrument shall be required unless the notice of institution of the case states such requirement. Entries of appearance shall be permitted[.];

(2) Any writing filed whereby affirmative relief is sought shall state what relief is sought or proposed and the reason for granting it, and shall not consist merely of statements or charges phrased in the language of a statute or rule; provided, however, that this subdivision shall not apply when the writing is a notice of appeal as authorized by law[.];

(3) Reasonable opportunity shall be given for the preparation and presentation of evidence bearing on any issue raised or decided or relief sought or granted. Where issues are tried without objection or by consent, such issues shall be deemed to have been properly before the agency. Any formality of procedure may be waived by mutual consent[.];

(4) Every writing seeking relief or answering any other writing, and any motion shall state the name and address of the attorney, if any, filing it; otherwise the name and address of the party filing it[.];

(5) By rule the agency may require any party filing such a writing to furnish, in addition to the original of such writing, the number of copies required for the agency's own use and the number of copies necessary to enable the agency to comply with the provisions of this subdivision hereinafter set forth. The agency shall, without charge therefor, mail one copy of each such writing, as promptly as possible after it is filed, to every party or his **or her** attorney who has filed a writing or who has entered his **or her** appearance in the case, and who has not theretofore been furnished with a copy of such writing and shall have requested copies of the writings; provided that in any case where the parties are so numerous that the requirements of this subdivision would be unduly onerous, the agency may in lieu thereof (a) notify all parties of the fact of the filing of such writing, and (b) permit any party to copy such writing[.];

(6) When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under section 536.067 upon a properly pled writing filed to initiate the contested case under this chapter, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

536.067. In any contested case:

(1) The agency shall promptly mail a notice of institution of the case to all necessary parties, if any, and to all persons designated by the moving party and to any other persons to whom the agency may determine that notice should be given. The agency or its clerk or secretary shall keep a permanent record of the persons to whom such notice was sent and of the addresses to which sent and the time when sent. Where a contested case would affect the rights, privileges or duties of a large number of persons whose interests are sufficiently similar that they may be considered as a class, notice may in a proper case be given to a reasonable number thereof as representatives of such class. In any case where the name or address of

any proper or designated party or person is not known to the agency, and where notice by publication is permitted by law, then notice by publication may be given in accordance with any rule or regulation of the agency or if there is no such rule or regulation, then, in a proper case, the agency may by a special order fix the time and manner of such publication[.];

(2) The notice of institution of the case to be mailed as provided in this section shall state in substance:

(a) The caption and number of the case;

(b) That a writing seeking relief has been filed in such case, the date it was filed, and the name of the party filing the same;

(c) A brief statement of the matter involved in the case unless a copy of the writing accompanies said notice;

(d) Whether an answer to the writing is required, and if so the date when it must be filed;

(e) That a copy of the writing may be obtained from the agency, giving the address to which application for such a copy may be made. This may be omitted if the notice is accompanied by a copy of such writing;

(f) The location in the Code of State Regulations of any rules of the agency regarding discovery or a statement that the agency shall send a copy of such rules on request;

(3) Unless the notice of hearing hereinafter provided for shall have been included in the notice of institution of the case, the agency shall, as promptly as possible after the time and place of hearing have been determined, mail a notice of hearing to the moving party and to all persons and parties to whom a notice of institution of the case was required to be or was mailed, and also to any other persons who may thereafter have become or have been made parties to the proceeding. The notice of hearing shall state:

(a) The caption and number of the case;

(b) The time and place of hearing;

(4) No hearing in a contested case shall be had, except by consent, until a notice of hearing shall have been given substantially as provided in this section, and such notice shall in every case be given a reasonable time before the hearing. Such reasonable time shall be at least ten days except in cases where the public morals, health, safety or interest may make a shorter time reasonable; provided that when a longer time than ten days is prescribed by statute, no time shorter than that so prescribed shall be deemed reasonable;

(5) When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section upon a properly pled writing filed to initiate the contested case under this chapter, a default decision shall be entered against the holder of a license, registration, permit, or certificate of authority without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative

process.

536.070. In any contested case:

(1) Oral evidence shall be taken only on oath or affirmation[.];

(2) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not the subject of the direct examination, to impeach any witness regardless of which party first called him **or her** to testify, and to rebut the evidence against him[.] **or her**;

(3) A party who does not testify in his **or her** own behalf may be called and examined as if under cross-examination[.];

(4) Each agency shall cause all proceedings in hearings before it to be suitably recorded and preserved. A copy of the transcript of such a proceeding shall be made available to any interested person upon the payment of a fee which shall in no case exceed the reasonable cost of preparation and supply[.];

(5) Records and documents of the agency which are to be considered in the case shall be offered in evidence so as to become a part of the record, the same as any other evidence, but the records and documents may be considered as a part of the record by reference thereto when so offered[.];

(6) Agencies shall take official notice of all matters of which the courts take judicial notice. They may also take official notice of technical or scientific facts, not judicially cognizable, within their competence, if they notify the parties, either during a hearing or in writing before a hearing, or before findings are made after hearing, of the facts of which they propose to take such notice and give the parties reasonable opportunity to contest such facts or otherwise show that it would not be proper for the agency to take such notice of them[.];

(7) Evidence to which an objection is sustained shall, at the request of the party seeking to introduce the same, or at the instance of the agency, nevertheless be heard and preserved in the record, together with any cross-examination with respect thereto and any rebuttal thereof, unless it is wholly irrelevant, repetitious, privileged, or unduly long[.];

(8) Any evidence received without objection which has probative value shall be considered by the agency along with the other evidence in the case. The rules of privilege shall be effective to the same extent that they are now or may hereafter be in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. **Evidence contesting or challenging the basis or merits of a guilty finding or a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or the United States or any of its territories or the basis or merits of any disciplinary action taken by any other state or territory shall be excluded when evidence establishing the existence of such guilty finding, plea of guilty or nolo contendere, or disciplinary action has been admitted in the case;**

(9) Copies of writings, documents and records shall be admissible without proof that the originals thereof cannot be produced, if it shall appear by testimony or otherwise that the copy offered is a true copy of the original, but the agency may, nevertheless, if it believes the interests of justice so require, sustain any objection to such evidence which would be sustained were the proffered evidence offered in a civil action in the circuit court, but if it does sustain such an objection, it shall give the party offering such evidence reasonable opportunity and, if necessary, opportunity at a later date, to establish by evidence the facts sought to be proved by the evidence to which such objection is sustained[.];

(10) Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of an act, transaction, occurrence or event, shall be admissible as evidence of the act, transaction, occurrence or event, if it shall appear that it was made in the regular course of any business, and that it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event or within a reasonable time thereafter. All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect the weight of such evidence, but such showing shall not affect its admissibility. The term "business" shall include business, profession, occupation and calling of every kind[.];

(11) The results of statistical examinations or studies, or of audits, compilations of figures, or surveys, involving interviews with many persons, or examination of many records, or of long or complicated accounts, or of a large number of figures, or involving the ascertainment of many related facts, shall be admissible as evidence of such results, if it shall appear that such examination, study, audit, compilation of figures, or survey was made by or under the supervision of a witness, who is present at the hearing, who testifies to the accuracy of such results, and who is subject to cross-examination, and if it shall further appear by evidence adduced that the witness making or under whose supervision such examination, study, audit, compilation of figures, or survey was made was basically qualified to make it. All the circumstances relating to the making of such an examination, study, audit, compilation of figures or survey, including the nature and extent of the qualifications of the maker, may be shown to affect the weight of such evidence but such showing shall not affect its admissibility[.];

(12) Any party or the agency desiring to introduce an affidavit in evidence at a hearing in a contested case may serve on all other parties (including, in a proper case, the agency) copies of such affidavit in the manner hereinafter provided, at any time before the hearing, or at such later time as may be stipulated. Not later than seven days after such service, or at such later time as may be stipulated, any other party (or, in a proper case, the agency) may serve on the party or the agency who served such affidavit an objection to the use of the affidavit or some designated portion or portions thereof on the ground that it is in the form of an affidavit; provided, however, that if such affidavit shall have been served less than eight days before the hearing such objection may be served at any time before the hearing or may be made orally at the hearing. If such objection is so served, the affidavit or the part thereof to which objection was made, may not be used except in ways that would have been permissible in the absence of this subdivision; provided, however, that such objection may be waived by the party or the agency making the same. Failure to serve an objection as aforesaid, based on the ground aforesaid, shall constitute a waiver of all objections to the introduction of such affidavit, or of the parts thereof with respect to which no such objection was so served, on the ground that it is in the form of an affidavit, or that it constitutes or contains hearsay evidence, or that it is not, or contains matters which are not, the best evidence, but any and all other objections may be made at the hearing. Nothing herein contained shall prevent the cross-examination of the affiant if he **or she** is present in obedience to a subpoena or otherwise and if he **or she** is present, he **or she** may be called for cross-examination during the case of the party who introduced the affidavit in evidence. If the affidavit is admissible in part only it shall be admitted as to such part, without the necessity of preparing a new affidavit. The manner of service of such affidavit and of such objection shall be by delivering or mailing copies thereof to the attorneys of record of the parties being served, if any, otherwise, to such parties, and service shall be deemed complete upon mailing; provided, however, that when the parties are so numerous as to make service of copies of the affidavit on all of them unduly onerous, the agency may make an order specifying on what parties service of copies of such affidavit shall be made, and in that case a copy of such affidavit shall be filed with the agency and kept available for inspection and copying. Nothing in this

subdivision shall prevent any use of affidavits that would be proper in the absence of this subdivision.

621.045. 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his **or her** qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri State Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance, Financial Institutions and Professional Registration

Department of Mental Health

Board of Private Investigator Examiners.

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the Missouri state board for architects, professional engineers, professional land surveyors and landscape architects against unlicensed persons under section 327.076.

4. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order

to encourage settlement of disputes between any agency described in subsection 1 or 2 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof and the agency's initial settlement offer, or file a contested case against the licensee;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, to consider the agency's initial settlement offer and to contact the agency to discuss the terms of such settlement offer;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact under this subsection by the agency or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

5. If the licensee desires review by the administrative hearing commission under subdivision (3) of subsection 4 of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

6. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under sections 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

621.100. 1. Upon receipt of a written complaint from an agency named in section 621.045 in a case relating to a holder of a license granted by such agency, or upon receipt of such complaint from the attorney general, the administrative hearing commission shall cause a copy of said complaint to be served upon such licensee in person, **or by leaving a copy of the complaint at the licensee's dwelling house or usual place of abode or last address given to the agency by the licensee with some person residing or present therein over the age of fifteen**, or by certified mail, together with a notice of the place of and the date upon which the hearing on said complaint will be held. If service cannot be accomplished [in person or by certified mail] **as described in this section**, notice by publication as described in subsection 3 of section

506.160 shall be allowed; any commissioner is authorized to act as a court or judge would in that section, and any employee of the commission is authorized to act as a clerk would in that section. In any case initiated upon complaint of the attorney general, the agency which issued the license shall be given notice of such complaint and the date upon which the hearing will be held by delivery of a copy of such complaint and notice to the office of such agency or by certified mail. Such agency may intervene and may retain the services of legal counsel to represent it in such case.

2. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section and section 536.067 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. “Good cause” includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

3. In any case initiated under this section, the custodian of the records of an agency may prepare a sworn affidavit stating truthfully pertinent information regarding the license status of the licensee charged in the complaint, including only: the name of the licensee; his **or her** license number; its designated date of expiration; the date of his **or her** original Missouri licensure; the particular profession, practice or privilege licensed; and the status of his **or her** license as current and active or otherwise. This affidavit shall be received as substantial and competent evidence of the facts stated therein notwithstanding any objection as to the form, manner of presentment or admissibility of this evidence, and shall create a rebuttable presumption of the veracity of the statements therein; provided, however, that the procedures specified in section 536.070 shall apply to the introduction of this affidavit in any case where the status of this license constitutes a material issue of fact in the proof of the cause charged in the complaint.

621.110. Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee **and within one hundred twenty days of the date the case became ready for decision**, the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission’s findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. A copy of the findings of fact, conclusions of law and the commission’s recommendations, if any, shall be delivered or transmitted by mail to the licensee if the licensee’s whereabouts are known, and to any attorney who represented the licensee. Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing, provided that such hearing may be waived by consent of the agency and licensee where the commission has made recommendations as to appropriate disciplinary action. In case of such waiver by the agency and licensee, the recommendations of the commission shall become the order of the agency. The licensee may

appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. In any case where the commission fails to find any cause charged by the complaint for which the license may be suspended or revoked, the commission shall dismiss the complaint, and so notify all parties.”; and

Further amend the title and enacting clause accordingly.

Senator Engler moved that the above amendment be adopted.

Senator Schaaf raised the point of order that **SA 1** is out of order as it goes beyond the scope of the underlying bill.

The point of order was referred to the President Pro Tem who ruled it well taken.

On motion of Senator Brown, **HCS for HB 220** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HCS for HB 465, entitled:

An Act to repeal sections 370.100, 370.157, 370.310, 370.320, 370.353, and 370.359, RSMo, and to enact in lieu thereof thirteen new sections relating to credit unions.

Was taken up by Senator Wasson.

On motion of Senator Wasson, **HCS for HB 465** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce

Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HB 550, introduced by Representative Day, entitled:

An Act to repeal sections 301.600, 306.400, and 700.350, RSMo, and to enact in lieu thereof three new sections relating to liens and encumbrances.

Was taken up by Senator Pearce.

On motion of Senator Pearce, **HB 550** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

HB 442, introduced by Representative Franz, entitled:

An Act to amend chapter 34, RSMo, by adding thereto one new section relating to preferences for state

contracts.

Was taken up by Senator Parson.

Senator Munzlinger offered SA 1:

SENATE AMENDMENT NO. 1

Amend House Bill No. 442, Page 1, In the Title, Line 2 of the title, by striking the following: “preferences for”; and

Further amend said bill, Page 2, Section 34.036, Line 22, by inserting after all of said line the following:

“34.376. 1. Sections 34.376 to 34.380 may be known as the “Transparency in Private Attorney Contracts Act”.

2. As used in sections 34.376 to 34.380, the following terms shall mean:

(1) “Government attorney”, an attorney employed by the state as an assistant attorney general;

(2) “Private attorney”, any private attorney or law firm;

(3) “State”, the state of Missouri, in any action instituted by the attorney general pursuant to section 27.060.

34.378. 1. The state shall not enter into a contingency fee contract with a private attorney unless the attorney general makes a written determination prior to entering into such a contract that contingency fee representation is both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:

(1) Whether there exists sufficient and appropriate legal and financial resources within the attorney general’s office to handle the matter;

(2) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly;

(3) The geographic area where the attorney services are to be provided; and

(4) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the private attorney’s experience with similar issues or cases.

2. If the attorney general makes the determination described in subsection 1 of this section, the attorney general shall request written proposals from private attorneys to represent the state, unless the attorney general determines that requesting proposals is not feasible under the circumstances and sets forth the basis for this determination in writing. If a request for proposals is issued, the attorney general shall choose the lowest and best bid or request the office of administration establish an independent panel to evaluate the proposals and choose the lowest and best bid.

3. The state may not enter into a contingency fee contract that provides for the private attorney to receive an aggregate contingency fee in excess of twenty-five percent of the net recovery to the state.

4. The state shall not enter into a contract for contingency fee attorney services unless the following requirements are met throughout the contract period and any extensions to the contract:

(1) The government attorneys shall retain complete control over the course and conduct of the

case;

(2) A government attorney with supervisory authority shall oversee the litigation;

(3) The government attorneys shall retain veto power over any decisions made by outside counsel;

(4) A government attorney with supervisory authority for the case shall attend all settlement conferences; and

(5) Decisions regarding settlement of the case shall be reserved exclusively to the discretion of the attorney general.

5. The attorney general shall develop a standard addendum to every contract for contingent fee attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the state, including, without limitation, the requirements listed in subsection 4 of this section.

6. Copies of any executed contingency fee contract and the attorney general's written determination to enter into a contingency fee contract with the private attorney shall be posted on the attorney general's website for public inspection within five business days after the date the contract is executed and shall remain posted on the website for the duration of the contingency fee contract, including any extensions or amendments to the contract. Any payment of contingency fees shall be posted on the attorney general's website within fifteen days after the payment of such contingency fees to the private attorney and shall remain posted on the website for at least three hundred sixty-five days.

7. Any private attorney under contract to provide services to the state on a contingency fee basis shall, from the inception of the contract until at least four years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one tenth of an hour and shall promptly provide these records to the attorney general, upon request. Any request under chapter 610 for inspection and copying of such records shall be served upon and responded to by the attorney general's office.

8. By February first of each year, the attorney general shall submit a report to the president pro tem of the senate and the speaker of the house of representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year. At a minimum, the report shall:

(1) Identify all new contingency fee contracts entered into during the year and all previously executed contingency fee contracts that remain current during any part of the year, and for each contract describe:

(a) The name of the private attorney with whom the department has contracted, including the name of the attorney's law firm;

(b) The nature and status of the legal matter;

(c) The name of the parties to the legal matter;

(d) The amount of any recovery; and

(e) The amount of any contingency fee paid.

(2) Include copies of any written determinations made under subsections 1 and 2 of this section.

34.380. Nothing in sections 34.376 to 34.380 shall be construed to expand the authority of any state agency or state agent to enter into contracts where no such authority previously existed.”; and

Further amend the title and enacting clause accordingly.

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

Senator Lager assumed the Chair.

At the request of Senator Parson, **HB 442**, as amended, was placed on the Informal Calendar.

On motion of Senator Dempsey, the Senate recessed until 3:00 p.m.

RECESS

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

HOUSE BILLS ON THIRD READING

HB 137, introduced by Representatives Thomson, et al, with **SCS**, entitled:

An Act to repeal section 37.005, RSMo, and to enact in lieu thereof one new section relating to the transfer of property by certain state universities.

Was taken up by Senator Pearce.

SCS for **HB 137**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 137

An Act to repeal section 37.005, RSMo, and to enact in lieu thereof twenty-five new sections relating to the transfer of property, with an emergency clause.

Was taken up.

Senator Pearce moved that **SCS** for **HB 137** be adopted.

Senator Pearce offered **SS** for **SCS** for **HB 137**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 137

An Act to repeal section 37.005, RSMo, and to enact in lieu thereof twenty-five new sections relating to the transfer of property, with an emergency clause.

Senator Pearce moved that **SS** for **SCS** for **HB 137** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 137, Page 8, Section 37.005, Line 1, by inserting an opening bracket “[” immediately before the word “Southeast”; and further

amend line 2 of said page, by inserting a closing bracket “]” after the first occurrence of the following: “University,”.

Senator Crowell moved that the above amendment be adopted.

At the request of Senator Pearce, **HB 137**, with **SCS, SS** for **SCS** and **SA 1** (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 **HCS** for **HB 473**, entitled:

An Act to repeal sections 160.400, 160.405, 160.410, 160.415, and 160.420, RSMo, and to enact in lieu thereof nine new sections relating to charter schools.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted **HCR 32**.

HOUSE CONCURRENT RESOLUTION NO. 32

WHEREAS, Missouri’s 57,000 state employees rank 50th out of the 50 states in their annual compensation, according to the most recent figures available from the United States Census Bureau; and

WHEREAS, with an average salary of \$38,184, the average state employee in Missouri earned 26% less than the United States average of \$51,507; and

WHEREAS, the three poorest states in the nation - West Virginia, Mississippi, and Arkansas - all rank ahead of Missouri in state employee annual compensation; and

WHEREAS, according to the United States Census Bureau, Missouri’s full-time equivalent employment dropped 1.09%, and Missouri part-time employment dropped 8.47% from 2008 to 2009; and

WHEREAS, for December 2010, the Bureau of Labor Statistics of the United States Department of Labor reported an unemployment rate of 9.5%, the 15th highest percentage in the nation; and

WHEREAS, in his State of the State Address on January 19, 2011, Governor Nixon said that he has “cut state payroll by over 3,300 positions” since he took office in January 2009 and is recommending another 863 state employee positions be eliminated this year; and

WHEREAS, Governor Nixon acknowledged that “All across state government, a leaner workforce is doing more with less.”; and

WHEREAS, if the recommended cuts are enacted in the 2012 fiscal year budget, Missouri’s full-time employee payroll will drop to approximately 56,500 positions, with the largest reductions in the departments of Mental Health and Social Services;

WHEREAS, in asking state employees to “do more with less”, it is vitally important that the State of Missouri attract and maintain a talented and dedicated workforce in order to best serve the needs of our citizens; and

WHEREAS, one of the keys to attracting and maintaining a talented and dedicated workforce will be to raise the annual compensation of our state workforce so we are no longer ranked 50th among the 50 states in state employee compensation:

NOW THEREFORE BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby establish a Joint Interim Committee on State Employee Wages; and

BE IT FURTHER RESOLVED that the Committee shall:

(1) Compare the wages of Missouri state employees to the wages for state employees in other states;

(2) Study and develop strategies for increasing the wages of Missouri's state employees so Missouri will no longer rank 50th among states regarding state worker wages;

(3) Report its recommendations to the House Budget Committee and the Senate Appropriations Committee by December 31, 2011; and

(4) Such other matters as the Joint Interim Committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues; and

BE IT FURTHER RESOLVED that the Committee shall be composed of the following ten members:

(1) Two majority party members and one minority party member of the House of Representatives, to be appointed by the Speaker of the House and Minority Leader of the House;

(2) Two majority party members and one minority party member of the Senate, to be appointed by the President Pro Tem of the Senate;

(3) One representative from the Governor's Office;

(4) One representative from the State Personnel Advisory Board; and

(5) Two members of the public, with one to be appointed by the Speaker of the House of Representatives and one to be appointed by the President Pro Tem of the Senate; and

BE IT FURTHER RESOLVED that the Joint Interim Committee is authorized to function during the legislative interim between the First Regular Session of the Ninety-sixth General Assembly through December 31, 2011; and

BE IT FURTHER RESOLVED that the Joint Interim Committee may solicit input and information necessary to fulfill its obligations, including, but not limited to, soliciting input and information from any state department or agency the Joint Interim Committee deems relevant, and the general public; and

BE IT FURTHER RESOLVED that the staffs of Senate Appropriations, Senate Research, House Appropriations, House Research, and the Joint Committee on Legislative Research shall provide such legal, research, clerical, technical, and bill drafting services as the Joint Interim Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the Joint Interim Committee, its members, and any staff assigned to the Joint Interim Committee incurred by the Joint Interim Committee shall be paid by the Joint Contingent Fund.

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 adopted HCR 46.

HOUSE CONCURRENT RESOLUTION NO. 46

WHEREAS, a three-day event, FUTURALLIA, will take place from Wednesday, May 18, 2011, to Friday, May 20, 2011, at the Kansas City Convention Center; and

WHEREAS, FUTURALLIA is a unique and globally recognized event which offers small and medium size businesses from various industry sectors and business leaders to have personalized, prescheduled, face-to-face meetings with partners of their choice; and

WHEREAS, FUTURALLIA is a springboard toward making new international partnerships, in addition to informal meetings in a professional and friendly environment; and

WHEREAS, since the first FUTURALLIA event was held in 1990, the event is designed for owners, directors, and managers of small and medium size businesses from all industry sectors wishing to develop business partnerships; and

WHEREAS, FUTURALLIA KC 2011 is the 16th edition of the event, and the first time in 20 years that the event will be held in the United States; and

WHEREAS, more than 92 delegation leaders from 38 countries will be participating, with more than 800 entrepreneurs in attendance; and

WHEREAS, as host of such a internationally recognized business event, Missouri will be a showcase for business leaders and entrepreneurs involved in foreign trade; and

WHEREAS, David Kerr, Director of the Department of Economic Development has frequently discussed the importance of international trade for the economic future of the State of Missouri; and

WHEREAS, from its early trading post beginnings, Kansas City has grown to be a metropolitan area of 2.2 million people and has maintained a reputation as a crossroads of transportation and as an international trade hub; and

WHEREAS, *Fortune* magazine ranks Kansas City as one of the 20 best cities in the United States for international business; and

WHEREAS, *Entrepreneur* magazine rates Kansas City as the No. 1 city in the Midwest in which to start and grow a business and No. 11 nationally; and

WHEREAS, Kansas City's economy is a nearly exact reflection of the United States economy, with a diversity of industries that protect its employers and workforce from dramatic peaks and valleys experienced in other markets; and

WHEREAS, FUTURALLIA KC 2011 will allow the State of Missouri to become recognized as a great place for foreign trade and international business:

NOW THEREFORE BE IT RESOLVED that the members of the House of Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate concurring therein, hereby recognize Kansas City as host of FUTURALLIA KC 2011 and urge the Department of Economic Development to take every advantage of this opportunity to encourage participation and to showcase Missouri as an ideal location for foreign trade and international business; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for David Kerr, Director of the Department of Economic Development.

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 **HCS** for **SB 161**, entitled:

An Act to repeal sections 137.010, 137.080, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 276.416, 276.421, 276.436, 276.441, 276.446, 348.400, 348.407, 348.412, and 411.280, RSMo, and section 137.115 as enacted by senate committee substitute for senate bill no. 630, ninety-fifth general assembly, second regular session, and section 137.115 as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 2058 merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 711 merged with conference committee substitute for house committee substitute no. 2 for senate substitute for senate committee substitute for senate bill no. 718, ninety-fourth general assembly, second regular session, and to enact in lieu thereof fifteen new sections relating to agriculture, with penalty provisions.

With House Amendment Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 161, Page 1, In the Title, Line 3, by inserting after the number "268.121," the numbers "273.327, 273.345,"; and

Further amend said bill, Page 1, In the Title, Lines 11 and 12, by deleting all of said lines and inserting in lieu thereof the following: "for senate bill no. 718, ninety-fourth general assembly, second regular session, and sections 273.327, 273.345, 273.347, and 1 as truly agreed to and finally passed by or as enacted by senate substitute for senate committee substitute for senate bills nos. 113 & 95, the ninety-sixth general assembly, first regular session, and to enact in lieu thereof nineteen new sections relating to agriculture, with penalty provisions and an emergency clause for certain sections."; and

Further amend said bill, Page 1, Section A, Line 2, by inserting after the number "268.121," the numbers "273.327, 273.345,"; and

Further amend said bill, Page 1, Section A, Line 10, by deleting all of said line and inserting in lieu thereof the following: “assembly, second regular session, and sections 273.327, 273.345, 273.347, and 1 as truly agreed to and finally passed by or as enacted by senate substitute for senate committee substitute for senate bills nos. 113 & 95, the ninety-sixth general assembly, first regular session, are repealed and nineteen new sections enacted in lieu thereof;” and

Further amend said bill, Page 2, Section A, Line 12, by deleting all of said line and inserting in lieu thereof the following: “268.121, 273.327, 273.345, 273.347, 276.421, 276.436, 276.441, 348.400, 348.407, 348.412, 411.280, and 1, to read as”; and

Further amend said bill, Page 15, Section 268.121, Line 11, by inserting after all of said line the following:

“273.327. No person shall operate an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited show or exhibit, or act as a dealer or commercial breeder, unless such person has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate physical facility subject to sections 273.325 to 273.357 which is operated by the applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357 may voluntarily apply for a license. Application for such license shall be made in the manner provided by the director. The license shall expire annually unless revoked. As provided by rules to be promulgated by the director, the license fee shall range from one hundred to **two thousand five hundred dollars** per year. **Each licensee subject to sections 273.325 to 273.357 shall pay an additional annual fee of twenty-five dollars to be used by the department of agriculture for the purpose of administering Operation Bark Alert or any successor program.** Pounds or dog pounds shall be exempt from payment of [such fee] **the fees under this section.** License fees shall be levied for each license issued or renewed on or after January 1, 1993.

273.345. 1. This section shall be known and may be cited as the “[Puppy Mill] **Canine** Cruelty Prevention Act.”

2. The purpose of this act is to prohibit the cruel and inhumane treatment of dogs [in puppy mills] **bred in large operations** by requiring large-scale dog breeding operations to provide each dog under their care with basic food and water, adequate shelter from the elements, necessary veterinary care, adequate space to turn around and stretch his or her limbs, and regular exercise.

3. Notwithstanding any other provision of law, any person having custody or ownership of more than ten female covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet shall provide each covered dog:

- (1) Sufficient food and clean water;
- (2) Necessary veterinary care;
- (3) Sufficient housing, including protection from the elements;
- (4) Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs;
- (5) Regular exercise; and
- (6) Adequate rest between breeding cycles.

4. [Notwithstanding any other provision of law, no person may have custody of more than fifty covered

dogs for the purpose of breeding those animals and selling any offspring for use as a pet.

5.] For purposes of this section and notwithstanding the provisions of section 273.325, the following terms have the following meanings:

(1) “Adequate rest between breeding cycles” means, at minimum, ensuring that **female** dogs are not bred to produce more [than two] litters in any [eighteen-month] **given period than what is recommended by a licensed veterinarian as appropriate for the species, age, and health of the dog;**

(2) “Covered dog” means any individual of the species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, that is over the age of six months and has intact sexual organs;

(3) “Necessary veterinary care” means, at minimum, examination at least once yearly by a licensed veterinarian, prompt treatment of any **serious** illness or injury by a licensed veterinarian, and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association;

(4) “Person” means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate;

(5) “Pet” means any [domesticated animal] **species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids**, normally maintained in or near the household of the owner thereof;

(6) “Regular exercise” means [constant and unfettered access to an outdoor exercise area that is composed of a solid ground-level surface with adequate drainage, provides some protection against sun, wind, rain, and snow, and provides each dog at least twice the square footage of the indoor floor space provided to that dog] **the type and amount of exercise sufficient to comply with an exercise plan that has been approved by a licensed veterinarian, developed in accordance with regulations regarding exercise promulgated by the Missouri department of agriculture, and where such plan affords the dog maximum opportunity for outdoor exercise as weather permits;**

(7) “Retail pet store” means a person or retail establishment open to the public where dogs are bought, sold, exchanged, or offered for retail sale directly to the public to be kept as pets, but that does not engage in any breeding of dogs for the purpose of selling any offspring for use as a pet;

(8) “Sufficient food and clean water” means access to appropriate nutritious food at least [once] **twice** a day sufficient to maintain good health, and continuous access to potable water that is not frozen and is **generally** free of debris, feces, algae, and other contaminants;

(9) “Sufficient housing, including protection from the elements” means [constant and unfettered access to an indoor enclosure that has a solid floor, is not stacked or otherwise placed on top of or below another animal’s enclosure, is cleaned of waste at least once a day while the dog is outside the enclosure, and does not fall below forty-five degrees Fahrenheit, or rise above eighty-five degrees Fahrenheit] **the continuous provision of a sanitary facility, the provision of a solid surface on which to lie in a recumbent position, protection from the extremes of weather conditions, proper ventilation, and appropriate space depending on the species of animal as required by regulations of the Missouri department of agriculture and in compliance with the provisions of subsection 7 of this section. No dog shall remain inside its enclosure while the enclosure is being cleaned. Dogs housed within the same enclosure shall be compatible, in accordance with regulations promulgated by the Missouri department of agriculture;**

(10) “Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs” means having:

(a) Sufficient indoor space **or shelter from the elements** for each dog to turn in a complete circle without any impediment (including a tether);

(b) Enough indoor space **or shelter from the elements** for each dog to lie down and fully extend his or her limbs and stretch freely without touching the side of an enclosure or another dog;

(c) [At least one foot of headroom above the head of the tallest dog in the enclosure; and

(d) At least twelve square feet of indoor floor space per each dog up to twenty-five inches long, at least twenty square feet of indoor floor space per each dog between twenty-five and thirty-five inches long, and at least thirty square feet of indoor floor space per each dog for dogs thirty-five inches and longer (with the length of the dog measured from the tip of the nose to the base of the tail)] **Appropriate space depending on the species of the animal, as specified in regulations by the Missouri department of agriculture, as revised, and in compliance with the provisions of subsection 7 of this section.**

[6. A person is guilty of the crime of puppy mill cruelty when he or she knowingly violates any provision of this section. The crime of puppy mill cruelty is a class C misdemeanor, unless the defendant has previously pled guilty to or been found guilty of a violation of this section, in which case each such violation is a class A misdemeanor. Each violation of this section shall constitute a separate offense. If any violation of this section meets the definition of animal abuse in section 578.012, the defendant may be charged and penalized under that section instead.

7.] 5. Any person subject to the provisions of this section shall maintain all veterinary records and sales records for the most recent previous two years. These records shall be made available to the state veterinarian, a state or local animal welfare official, or a law enforcement agent upon request.

6. The provisions of this section are in addition to, and not in lieu of, any other state and federal laws protecting animal welfare. This section shall not be construed to limit any state law or regulation protecting the welfare of animals, nor shall anything in this section prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations in addition to this section. This section shall not be construed to place any numerical limits on the number of dogs a person may own or control when such dogs are not used for breeding those animals and selling any offspring for use as a pet. This section shall not apply to a dog during examination, testing, operation, recuperation, or other individual treatment for veterinary purposes, during lawful scientific research, during transportation, during cleaning of a [dogs] **dog’s** enclosure, during supervised outdoor exercise, or during any emergency that places a [dogs] **dog’s** life in imminent danger. [This section shall not apply to any retail pet store, animal shelter as defined in section 273.325, hobby or show breeders who have custody of no more than ten female covered dogs for the purpose of breeding those dogs and selling any offspring for use as a pet, or dog trainer who does not breed and sell any dogs for use as a pet.] Nothing in this section shall be construed to limit hunting or the ability to breed, raise, [or] sell [hunting], **control, train, or possess dogs with the intention to use such dogs for hunting or other sporting purposes.**

7. Notwithstanding any law to the contrary, the following space requirements shall apply under this section:

(1) From January 1, 2012, through December 31, 2015, for any enclosure existing prior to April 15, 2011, the minimum allowable space shall:

(a) Be two times the space allowable under the department of agriculture’s regulation that was in effect on April 15, 2011;

(b) Except as prescribed by rule, provide constant and unfettered access to an attached outdoor run; and

(c) Meet all other requirements set forth by rule of the Missouri department of agriculture;

(2) For any enclosure newly constructed after April 15, 2011, and for all enclosures as of January 1, 2016, the minimum allowable space shall:

(a) Be three times the space allowable under the department of agriculture’s regulation that was in effect on April 15, 2011;

(b) Except as prescribed by rule, provide constant and unfettered access to an attached outdoor run; and

(c) Meet all other requirements set forth by rule of the Missouri department of agriculture;

(3) For any enclosure newly constructed after April 15, 2011, and for all enclosures as of January 1, 2016, wire strand flooring shall be prohibited and all enclosures shall meet the flooring standard set forth by rule of the Missouri department of agriculture.

8. If any provision of this section, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

[9. The provisions herewith shall become operative one year after passage of this act.]

273.347. 1. Whenever the state veterinarian or a state animal welfare official finds past violations of sections 273.325 to 273.357 have occurred and have not been corrected or addressed, including operating without a valid license under section 273.327, the director may request the attorney general or the county prosecuting attorney or circuit attorney to bring an action in circuit court in the county where the violations have occurred for a temporary restraining order, preliminary injunction, permanent injunction, or a remedial order enforceable in a circuit court to correct such violations and, in addition, the court may assess a civil penalty in an amount not to exceed one thousand dollars for each violation. Each violation shall constitute a separate offense.

2. A person commits the crime of canine cruelty if such person repeatedly violates sections 273.325 to 273.357 so as to pose a substantial risk to the health and welfare of animals in such person’s custody, or knowingly violates an agreed-to remedial order involving the safety and welfare of animals under this section. The crime of canine cruelty is a class C misdemeanor, unless the person has previously pled guilty or nolo contendere to or been found guilty of a violation of this subsection, in which case, each such violation is a class A misdemeanor.

3. The attorney general or the county prosecuting attorney or circuit attorney may bring an action under sections 273.325 to 273.357 in circuit court in the county where the crime has occurred for criminal punishment.

4. No action under this section shall prevent or preclude action taken under section 578.012 or under subsection 3 of section 273.329.”; and

Further amend said bill, Page 22, Section 411.280, Line 7, by inserting after all of said line the following:

“Section 1. Any person required to have a license under sections 273.325 to 273.357 who houses animals in stacked cages without an impervious barrier between the levels of such cages, except when cleaning such cages, is guilty of a class A misdemeanor.”; and

Further amend said bill, Page 24, Section 263.450, Line 8, by inserting after all of said line the following:

“[273.327. No person shall operate an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited show or exhibit, or act as a dealer or commercial breeder, unless such person has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate physical facility subject to sections 273.325 to 273.357 which is operated by the applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357 may voluntarily apply for a license. Application for such license shall be made in the manner provided by the director. The license shall expire annually unless revoked. As provided by rules to be promulgated by the director, the license fee shall range from one hundred to **two thousand** five hundred dollars per year. **Each licensee subject to sections 273.325 to 273.357 shall pay an additional annual fee of twenty-five dollars to be used by the department of agriculture for the purpose of administering Operation Bark Alert or any successor program.** Pounds or dog pounds shall be exempt from payment of [such fee] **the fees under this section.** License fees shall be levied for each license issued or renewed on or after January 1, 1993.]

[273.345. 1. This section shall be known and may be cited as the “[Puppy Mill] **Canine Cruelty Prevention Act.**”

2. The purpose of this act is to prohibit the cruel and inhumane treatment of dogs [in puppy mills] **bred in large operations** by requiring large-scale dog breeding operations to provide each dog under their care with basic food and water, adequate shelter from the elements, necessary veterinary care, adequate space to turn around and stretch his or her limbs, and regular exercise.

3. Notwithstanding any other provision of law, any person having custody or ownership of more than ten female covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet shall provide each covered dog:

- (1) Sufficient food and clean water;
- (2) Necessary veterinary care;
- (3) Sufficient housing, including protection from the elements;
- (4) Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs;
- (5) Regular exercise; and
- (6) Adequate rest between breeding cycles.

4. [Notwithstanding any other provision of law, no person may have custody of more than fifty covered dogs for the purpose of breeding those animals and selling any offspring for use as a pet.

5.] For purposes of this section and notwithstanding the provisions of section 273.325, the following terms have the following meanings:

(1) “Adequate rest between breeding cycles” means, at minimum, ensuring that **female** dogs are not bred to produce more [than two] litters in any [eighteen-month] **given period than what is recommended by a licensed veterinarian as appropriate for the species, age, and health of the dog;**

(2) “Covered dog” means any individual of the species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids, that is over the age of six months and has intact sexual organs;

(3) “Necessary veterinary care” means[, at minimum, examination at least once yearly] **at least two personal visual inspections annually** by a licensed veterinarian, **guidance from a licensed veterinarian on preventative care, an exercise plan that has been approved by a licensed veterinarian, normal and prudent attention to skin, coat, and nails**, prompt treatment of any illness or injury [by a licensed veterinarian], and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association. **If, during the course of a routine personal visual inspection, the licensed veterinarian detects signs of disease or injury, then a physical examination of any such afflicted dog shall be conducted by a licensed veterinarian;**

(4) “Person” means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate;

(5) “Pet” means any [domesticated animal] **species of the domestic dog, *Canis lupus familiaris*, or resultant hybrids**, normally maintained in or near the household of the owner thereof;

(6) “Regular exercise” means [constant and unfettered access to an outdoor exercise area that is composed of a solid ground-level surface with adequate drainage, provides some protection against sun, wind, rain, and snow, and provides each dog at least twice the square footage of the indoor floor space provided to that dog] **the type and amount of exercise sufficient to comply with an exercise plan that has been approved by a licensed veterinarian, developed in accordance with regulations regarding exercise promulgated by the Missouri department of agriculture, and where such plan affords the dog maximum opportunity for outdoor exercise as weather permits;**

(7) “Retail pet store” means a person or retail establishment open to the public where dogs are bought, sold, exchanged, or offered for retail sale directly to the public to be kept as pets, but that does not engage in any breeding of dogs for the purpose of selling any offspring for use as a pet;

(8) “Sufficient food and clean water” means [access to appropriate nutritious food at least once a day sufficient to maintain good health, and continuous access to potable water that is not frozen and is free of debris, feces, algae, and other contaminants]:

(a) The provision, at suitable intervals of not more than twelve hours, unless the dietary requirements of the species requires a longer interval, of a quantity of wholesome foodstuff, suitable for the species and age, enough to maintain a reasonable level of nutrition in each animal. All foodstuffs shall be served in a safe receptacle, dish, or container; and

(b) The provision of a supply of potable water in a safe receptacle, dish, or container. Water shall be provided continuously or at intervals suitable to the species, with no interval to exceed eight hours;

(9) “Sufficient housing, including protection from the elements” means [constant and unfettered access to an indoor enclosure that has a solid floor, is not stacked or otherwise placed on top of or below another animal’s enclosure, is cleaned of waste at least once a day while the dog is outside the enclosure, and does not fall below forty-five degrees Fahrenheit, or rise above eighty-five degrees Fahrenheit] **the continuous provision of a sanitary facility, the provision of a solid surface on which to lie in a recumbent position, protection from the extremes of weather conditions, proper ventilation, and appropriate space depending on the species of animal as required by regulations of the Missouri department of agriculture. No dog shall remain inside its enclosure while the enclosure is being cleaned. Dogs housed within the same enclosure shall be compatible, in accordance with regulations promulgated by the Missouri department of agriculture;**

(10) “Sufficient space to turn and stretch freely, lie down, and fully extend his or her limbs” means [having:

(a) Sufficient indoor space for each dog to turn in a complete circle without any impediment (including a tether);

(b) Enough indoor space for each dog to lie down and fully extend his or her limbs and stretch freely without touching the side of an enclosure or another dog;

(c) At least one foot of headroom above the head of the tallest dog in the enclosure; and

(d) At least twelve square feet of indoor floor space per each dog up to twenty-five inches long, at least twenty square feet of indoor floor space per each dog between twenty-five and thirty-five inches long, and at least thirty square feet of indoor floor space per each dog for dogs thirty-five inches and longer (with the length of the dog measured from the tip of the nose to the base of the tail)] **appropriate space depending on the species of the animal, as specified in regulations by the Missouri department of agriculture, as revised.**

[6. A person is guilty of the crime of puppy mill cruelty when he or she knowingly violates any provision of this section. The crime of puppy mill cruelty is a class C misdemeanor, unless the defendant has previously pled guilty to or been found guilty of a violation of this section, in which case each such violation is a class A misdemeanor. Each violation of this section shall constitute a separate offense. If any violation of this section meets the definition of animal abuse in section 578.012, the defendant may be charged and penalized under that section instead.

7.] 5. Any person subject to the provisions of this section shall maintain all veterinary records and sales records for the most recent previous two years. These records shall be made available to the state veterinarian, a state or local animal welfare official, or a law enforcement agent upon request.

6. The provisions of this section are in addition to, and not in lieu of, any other state and federal laws protecting animal welfare. This section shall not be construed to limit any state law or regulation protecting the welfare of animals, nor shall anything in this section prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations in

addition to this section. This section shall not be construed to place any numerical limits on the number of dogs a person may own or control when such dogs are not used for breeding those animals and selling any offspring for use as a pet. This section shall not apply to a dog during examination, testing, operation, recuperation, or other individual treatment for veterinary purposes, during lawful scientific research, during transportation, during cleaning of a [dogs] **dog's** enclosure, during supervised outdoor exercise, or during any emergency that places a [dogs] **dog's** life in imminent danger. [This section shall not apply to any retail pet store, animal shelter as defined in section 273.325, hobby or show breeders who have custody of no more than ten female covered dogs for the purpose of breeding those dogs and selling any offspring for use as a pet, or dog trainer who does not breed and sell any dogs for use as a pet.] Nothing in this section shall be construed to limit hunting or the ability to breed, raise, [or] sell [hunting], **control, train, or possess dogs with the intention to use such dogs for hunting or other sporting purposes.**

[8.] **7.** If any provision of this section, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

[9.] **8.** The provisions herewith shall become operative one year after passage of this act.]

[273.347. 1. Whenever the state veterinarian or a state animal welfare official finds past violations of sections 273.325 to 273.357 have occurred and have not been corrected or addressed, including operating without a valid license under section 273.327, the director may request the attorney general or the county prosecuting attorney or circuit attorney to bring an action in circuit court in the county where the violations have occurred for a temporary restraining order, preliminary injunction, permanent injunction, or a remedial order enforceable in a circuit court to correct such violations and, in addition, the court may assess a civil penalty in an amount not to exceed one thousand dollars for each violation. Each violation shall constitute a separate offense.

2. A person commits the crime of canine cruelty if such person repeatedly violates sections 273.325 to 273.357 so as to pose a substantial risk to the health and welfare of animals in such person's custody, or knowingly violates an agreed-to remedial order involving the safety and welfare of animals under this section. The crime of canine cruelty is a class C misdemeanor, unless the person has previously pled guilty or nolo contendere to or been found guilty of a violation of this subsection, in which case, each such violation is a class A misdemeanor.

3. The attorney general or the county prosecuting attorney or circuit attorney may bring an action under sections 273.325 to 273.357 in circuit court in the county where the crime has occurred for criminal punishment.

4. No action under this section shall prevent or preclude action taken under section 578.012 or under subsection 3 of section 273.329.]"; and

Further amend said bill, Page 24, Section 276.446, Line 8, by inserting after all of said line the following:

“[Section 1. Any person required to have a license under sections 273.325 to 273.357 who houses animals in stacked cages without an impervious barrier between the levels of such cages, except when cleaning such cages, is guilty of a class A misdemeanor.]

Section B. In order to improve the immediate health and welfare of dogs in this state and to provide sufficient time for businesses to comply with changes in the law, the repeal and reenactment of sections 273.327 and 273.345, the enactment of sections 273.347 and 1, and the repeal of sections 273.327, 273.345, 273.347, and 1 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 repeal and reenactment of sections 273.327 and 273.345, the enactment of sections 273.347 and 1, and the repeal of sections 273.327, 273.345, 273.347, and 1 of section A of this act shall be in full force and effect upon its passage and approval.”; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Bill No. 161, Page 2, Section 137.010, Lines 1-33, by deleting all of said section and lines; and

Further amend said bill, Page 3, Section 137.080, Lines 1-16, by deleting all of said section and lines; and

Further amend said bill, Pages 3-8, Section 137.115, Lines 1-172, by deleting all of said section and lines; and

Further amend said bill, Pages 8-12, Section 137.115, Lines 1-197, by deleting all of said section and lines; and

Further amend said bill, Pages 12-13, Section 263.190, Lines 1-40, by deleting all of said section and lines; and

Further amend said bill, Page 14, Section 263.200, Lines 1-27, by deleting all of said section and lines; and

Further amend said bill and page, Section 263.220, Lines 1-2, by deleting all of said section and lines; and

Further amend said bill and page, Section 263.240, Lines 1-3, by deleting all of said section and lines; and

Further amend said bill, Pages 14-15, Section 268.121, Lines 1-11, by deleting all of said section and lines; and

Further amend said bill, Pages 15-17, Section 276.421, Lines 1-74, by deleting all of said section and lines; and

Further amend said bill, Pages 17-18, Section 276.436, Lines 1-57, by deleting all of said section and lines; and

Further amend said bill, Pages 18-19, Section 276.441, Lines 1-12, by deleting all of said section and lines; and

Further amend said bill, Page 22, Section 411.280, Lines 1-7, by deleting all of said section and lines;

and

Further amend said bill, Pages 22-23, Section 263.205, Lines 1-26, by deleting all of said section and lines; and

Further amend said bill, Page 23, Section 263.230, Lines 1-9, by deleting all of said section and lines; and

Further amend said bill, Pages 23-24, Section 263.232, Lines 1-20, by deleting all of said section and lines; and

Further amend said bill, Page 24, Section 263.241, Lines 1-7 by deleting all of said section and lines; and

Further amend said bill and page, Section 263.450, Lines 1-7 by deleting all of said section and lines; and

Further amend said bill and page, Section 276.416, Lines 1-10 by deleting all of said section and lines; and

Further amend said bill and page, Section 276.446, Lines 1-8 by deleting all of said section and lines; 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.

PRIVILEGED MOTIONS

Senator Munzlinger moved that **SB 161**, with **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for **SB 161**, as amended, entitled:

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 161

An Act to repeal sections 137.010, 137.080, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 276.416, 276.421, 276.436, 276.441, 276.446, 348.400, 348.407, 348.412, and 411.280, RSMo, and section 137.115 as enacted by senate committee substitute for senate bill no. 630, ninety-fifth general assembly, second regular session, and section 137.115 as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 2058 merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 711 merged with conference committee substitute for house committee substitute no. 2 for senate substitute for senate committee substitute for senate bill no. 718, ninety-fourth general assembly, second regular session, and to enact in lieu thereof fifteen new sections relating to agriculture, with penalty provisions.

Was taken up.

Senator Munzlinger moved that **HCS** for **SB 161**, as amended, be adopted, which motion prevailed by

the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Curls	Dixon	Engler	Goodman
Green	Justus	Keaveny	Kehoe	Lager	Lamping	Mayer	Munzlinger
Parson	Pearce	Richard	Rupp	Schaaf	Schaefer	Stouffer	Wasson

Wright-Jones—25

NAYS—Senators

Cunningham	Dempsey	Kraus	Lembke	McKenna	Ridgeway	Schmitt—7
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Absent—Senators

Nieves	Purgason—2
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Absent with leave—Senators—None

Vacancies—None

On motion of Senator Munzlinger, **HCS for SB 161**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Crowell	Curls	Dixon	Engler	Goodman	Justus
Kehoe	Lager	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Rupp	Schaaf	Schaefer	Stouffer	Wasson—23	

NAYS—Senators

Chappelle-Nadal	Cunningham	Dempsey	Green	Keaveny	Kraus	Lamping	Lembke
Ridgeway	Schmitt	Wright-Jones—11					

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

At the request of Senator Munzlinger, **HCS for SB 161**, as amended, was placed on the Informal Calendar.

HOUSE BILLS ON THIRD READING

Senator Pearce moved that **HB 137**, with **SCS, SS for SCS and SA 1** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 1 was again taken up.

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Bill No. 137, Page 7, Section 37.005, Line 27, by striking all of the underlined words and opening bracket on said line and inserting in lieu thereof an opening bracket “[” immediately after the first occurrence of the word “University”; and further amend line 28 by striking the closing bracket “]” on said line; and further amend said bill and section, page 8, line 4, by inserting a closing bracket “]” immediately after the word “University”.

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

Senator Pearce moved that **SS** for **SCS** for **HB 137**, as amended, be adopted, which motion prevailed.

Senator Pearce moved that **SS** for **SCS** for **HB 137**, as amended, be read the 3rd time and passed and was recognized to close.

President Pro Tem Mayer referred **SS** for **SCS** for **HB 137**, as amended, to the Committee on Ways and Means and Fiscal Oversight.

HB 423, introduced by Representative Burlison, et al, entitled:

An Act to amend chapter 191, RSMo, by adding thereto one new section relating to the health care compact.

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

On motion of Senator Nieves, **HB 423** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Kehoe	Kraus	Lager	Lamping
Lembke	Mayer	Munzlinger	Nieves	Parson	Pearce	Purgason	Richard
Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson—31	

NAYS—Senators

Keaveny McKenna Wright-Jones—3

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

PRIVILEGED MOTIONS

Having voted on the prevailing side, Senator Munzlinger moved that the vote by which **HCS** for **SB 161**, as amended, was read the 3rd time and finally passed be reconsidered, which motion prevailed by the

following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

At the request of Senator Munzlinger the motion for 3rd reading and final passage was withdrawn.

Having voted on the prevailing side, Senator Munzlinger moved that the vote by which **HCS** for **SB 161**, as amended, was adopted be reconsidered, which motion prevailed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

HCS for **SB 161**, as amended, was again taken up.

Senator Munzlinger moved that **HCS** for **SB 161**, as amended, be adopted, which motion prevailed by the following vote:

YEAS—Senators

Brown	Callahan	Crowell	Curls	Dixon	Engler	Goodman	Justus
Keaveny	Kehoe	Lager	Mayer	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Stouffer	Wasson—24

NAYS—Senators

Chappelle-Nadal	Cunningham	Dempsey	Green	Kraus	Lamping	Lembke	McKenna
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Schmitt Wright-Jones—10

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Munzlinger, **HCS for SB 161**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Crowell	Curls	Dixon	Engler	Goodman	Justus
Keaveny	Kehoe	Lager	Mayer	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Stouffer	Wasson—24

NAYS—Senators

Chappelle-Nadal	Cunningham	Dempsey	Green	Kraus	Lamping	Lembke	McKenna
Schmitt	Wright-Jones—10						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Stouffer	Wasson	Wright-Jones—32

NAYS—Senator Schmitt—1

Absent—Senator Schaefer—1

Absent with leave—Senators—None

Vacancies—None

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

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

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

Bill ordered enrolled.

President Pro Tem Mayer assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Dempsey, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCS** for **SB 161**, begs leave to report that it has examined the same and finds that the bill has been duly enrolled and that the printed copies furnished the Senators are correct.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **HCS** for **SB 161**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bill would be signed by the President Pro Tem to the end that it may become law. No objections being made, the bill was so read by the Secretary and signed by the President Pro Tem.

REPORTS OF STANDING COMMITTEES

Senator Ridgeway, Chairman of the Committee on Health, Mental Health, Seniors and Families, submitted the following reports:

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **HCS** for **HB 197**, begs leave to report that it has considered the same and recommends that the bill do pass with Senate Committee Amendment No. 1.

SENATE COMMITTEE AMENDMENT NO. 1

Amend House Committee Substitute for House Bill No. 197, Page 2, Section 191.758, Lines 6-7, by striking said lines and inserting in lieu thereof the following: "**banking.**".

Also,

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **HCS** for **HB 143**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Purgason, Chairman of the Committee on Ways and Means and Fiscal Oversight, submitted the following report:

Mr. President: Your Committee on Ways and Means and Fiscal Oversight, to which was referred **HJR 29**, begs leave to report that it has considered the same and recommends that the joint resolution do pass.

Senator Crowell, Chairman of the Committee on Veterans' Affairs, Emerging Issues, Pensions and Urban Affairs, submitted the following reports:

Mr. President: Your Committee on Veterans' Affairs, Emerging Issues, Pensions and Urban Affairs, to which was referred **HB 282**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

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

Mr. President: Your Committee on Transportation, to which was referred **HB 499**, begs leave to report

that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on Transportation, to which was referred **HCS** for **HB 70**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Goodman, Chairman of the Committee on the Judiciary and Civil and Criminal Jurisprudence, submitted the following reports:

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which was referred **HB 199**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which was referred **HB 256**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which was referred **HB 260**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which was referred **HCS** for **HB 214**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which was referred **HCS** for **HB 641**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Rupp, Chairman of the Committee on Small Business, Insurance and Industry, submitted the following report:

Mr. President: Your Committee on Small Business, Insurance and Industry, to which was referred **HCS No. 2** for **HB 609**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Cunningham, Chairman of the Committee on General Laws, submitted the following reports:

Mr. President: Your Committee on General Laws, to which was referred **HCS** for **HBs 294, 123, 125, 113, 271** and **215**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on General Laws, to which was referred **HCS** for **HB 315**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on General Laws, to which was referred **HB 361**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on General Laws, to which was referred **HB 648**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on General Laws, to which was referred **HJR 6**, begs leave to report that it has considered the same and recommends that the joint resolution do pass.

Senator Schmitt, Chairman of the Committee on Jobs, Economic Development and Local Government, submitted the following reports:

Mr. President: Your Committee on Jobs, Economic Development and Local Government, to which was referred **HCS** for **HB 336**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on Jobs, Economic Development and Local Government, to which was referred **HB 340**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on Jobs, Economic Development and Local Government, to which was referred **HCS** for **HB 545**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Munzlinger, Chairman of the Committee on Agriculture, Food Production and Outdoor Resources, submitted the following reports:

Mr. President: Your Committee on Agriculture, Food Production and Outdoor Resources, to which was referred **HB 190**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on Agriculture, Food Production and Outdoor Resources, to which was referred **HCS** for **HB 250**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Also,

Mr. President: Your Committee on Agriculture, Food Production and Outdoor Resources, to which was referred **HB 101**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Stouffer assumed the Chair.

REFERRALS

President Pro Tem Mayer re-referred **SJR 17** to the Committee on the Judiciary and Civil and Criminal Jurisprudence.

BILLS DELIVERED TO THE GOVERNOR

HCS for SB 161, after having been duly signed by the Speaker of the House of Representatives in open session, was delivered to the Governor by the Secretary of the Senate.

RESOLUTIONS

Senator Crowell offered Senate Resolution No. 926, regarding Ruth Basler, Perryville, which was adopted.

Senator Crowell offered Senate Resolution No. 927, regarding Randy Richardet, Perryville, which was adopted.

Senator Schaaf offered Senate Resolution No. 928, regarding the One Hundred Twenty-fifth Anniversary of DeKalb Christian Church, which was adopted.

Senator Schaaf offered Senate Resolution No. 929, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Walter Ray Stubbs, Edgerton, which was adopted.

Senator Schaaf offered Senate Resolution No. 930, regarding Valerie Ann Pierce, St. Joseph, which was adopted.

Senator Parson offered Senate Resolution No. 931, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. David Kempker, Clinton, which was adopted.

Senator Parson offered Senate Resolution No. 932, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Edwin James Logan, Windsor, which was adopted.

Senator Stouffer offered Senate Resolution No. 933, regarding the One Hundred Third Birthday of Helen Staub, Marshall, which was adopted.

Senator Kehoe offered Senate Resolution No. 934, regarding Heather Triplett Biehl, which was adopted.

Senator Kehoe offered Senate Resolution No. 935, regarding Pete Adkins, which was adopted.

Senator Richard offered Senate Resolution No. 936, regarding Allura Jones, Neosho, which was adopted.

Senators Justus and Pearce offered Senate Resolution No. 937, regarding Mary Ann Vering, Kansas City, which was adopted.

Senator Pearce offered Senate Resolution No. 938, regarding Dr. Margret Anderson, Knob Noster, which was adopted.

Senator Pearce offered Senate Resolution No. 939, regarding Solana Sperry, Centerview, which was adopted.

Senator Pearce offered Senate Resolution No. 940, regarding Gabriele Sperry, Centerview, which was adopted.

On motion of Senator Dempsey, the Senate recessed until 6:30 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 HBs 116 and 316, with SCS, entitled:

An Act to repeal sections 32.028, 32.087, 105.716, 144.083, and 168.071, RSMo, and to enact in lieu thereof sixteen new sections relating to collection of state money, with a penalty provision and an emergency clause for a certain section.

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

SCS for HCS for HBs 116 and 316, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 116 and 316**

An Act to repeal sections 32.028, 32.087, 32.105, 32.110, 32.115, 32.117, 32.120, 99.1205, 100.286, 100.297, 105.716, 135.010, 135.025, 135.030, 135.090, 135.313, 135.326, 135.327, 135.352, 135.460, 135.481, 135.484, 135.487, 135.490, 135.535, 135.550, 135.562, 135.575, 135.600, 135.630, 135.647, 135.679, 135.700, 135.802, 135.815, 135.825, 135.1150, 137.1018, 143.119, 144.030, 144.083, 168.071, 208.770, 253.545, 253.550, 253.557, 253.559, 348.430, 348.432, 348.434, 348.500, 348.505, 447.708, 620.495, and 660.055, RSMo, and to enact in lieu thereof sixty-three new sections relating to collection of state money, with a penalty provision and an emergency clause.

Was taken up.

Senator Purgason moved that **SCS for HCS for HBs 116 and 316** be adopted.

Senator Purgason offered **SS for SCS for HCS for HBs 116 and 316**, entitled:

**SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 116 and 316**

An Act to repeal sections 32.028, 32.087, 32.105, 32.110, 32.115, 32.117, 32.120, 99.1205, 100.286, 100.297, 105.716, 135.010, 135.025, 135.030, 135.090, 135.313, 135.326, 135.327, 135.352, 135.460, 135.481, 135.484, 135.487, 135.490, 135.535, 135.550, 135.562, 135.575, 135.600, 135.630, 135.647, 135.679, 135.700, 135.802, 135.815, 135.825, 135.1150, 136.055, 137.1018, 143.119, 144.030, 144.062, 144.083, 168.071, 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 208.770, 253.545, 253.550, 253.557, 253.559, 348.430, 348.432, 348.434, 348.500, 348.505, 447.708, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, 620.482, 620.495, and 660.055, RSMo, and to enact in lieu thereof eighty-nine new sections relating to collection of state money, with a penalty provision and an emergency clause.

Senator Purgason moved that **SS for SCS for HCS for HBs 116 and 316** be adopted.

Senator Purgason offered **SA 1:**

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 294, Section 620.2015, Line 12 of said page, by striking “subdivision (5) of

subsection 3” and inserting in lieu thereof the following: “**subsection 7**”; and further amend line 13 of said page, by striking “620.2010” and inserting in lieu thereof the following: “**620.2020**”.

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

Senator Richard offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bills Nos. 116 and 316, Page 203, Section 168.071, Line 4, by inserting after all of said line the following:

“196.1109. All moneys that are appropriated by the general assembly from the life sciences research trust fund shall be appropriated to the life sciences research board to increase the capacity for quality of life sciences research at public and private not-for-profit institutions in the state of Missouri and to thereby:

(1) Improve the quantity and quality of life sciences research at public and private not-for-profit institutions, including but not limited to basic research (including the discovery of new knowledge), translational research (including translating knowledge into a usable form), and clinical research (including the literal application of a therapy or intervention to determine its efficacy), including but not limited to health research in human development and aging, cancer, endocrine, cardiovascular, neurological, pulmonary, and infectious disease, and plant sciences, including but not limited to nutrition and food safety; and

(2) Enhance technology transfer and technology commercialization derived from research at public and private not-for-profit institutions within the centers for excellence. For purposes of sections 196.1100 to 196.1130, “technology transfer and technology commercialization” includes stages of the regular business cycle occurring after research and development of a life science technology, including but not limited to reduction to practice, proof of concept, and achieving federal Food and Drug Administration, United States Department of Agriculture, or other regulatory requirements in addition to the definition in section 348.251. Funds received by the board may be used for purposes authorized in sections 196.1100 to 196.1130 and shall be subject to the restrictions of sections 196.1100 to 196.1130, including but not limited to the costs of personnel, supplies, equipment, and renovation or construction of physical facilities; provided that in any single fiscal year no more than [ten] **thirty** percent of the moneys appropriated shall be used for the construction of physical facilities and further provided that in any fiscal year **up to** eighty percent of the moneys shall be appropriated to build research capacity at public and private not-for-profit institutions and **at least** twenty percent **and no more than fifty percent** of the moneys shall be appropriated for grants to public or private not-for-profit institutions to promote life science technology transfer and technology commercialization. Of the moneys appropriated to build research capacity, twenty percent of the moneys shall be appropriated to promote the development of research of tobacco-related illnesses.

196.1115. 1. The moneys appropriated to the life sciences research board that are not distributed by the board in any fiscal year to a center for excellence or a center for excellence endorsed program pursuant to section 196.1112, if any, shall be held in reserve by the board or shall be awarded on the basis of peer review panel recommendations for capacity building initiatives proposed by public and private not-for-profit academic, research, or health care institutions or organizations, or individuals engaged in competitive research in targeted fields consistent with the provisions of sections 196.1100 to 196.1130.

2. The life sciences research board may, in view of the limitations expressed in section 196.1130:

- (1) Award and enter into grants or contracts relating to increasing Missouri's research capacity at public or private not-for-profit institutions;
- (2) Make provision for peer review panels to recommend and review research projects;
- (3) Contract for [administrative and] support services;
- (4) Lease or acquire facilities and equipment;
- (5) Employ administrative staff; and
- (6) Receive, retain, hold, invest, disburse or administer any moneys that it receives from appropriations or from any other source.

3. The Missouri technology corporation, established under section 348.251, shall serve as the administrative agent for the life sciences research board.

4. The life sciences research board shall utilize as much of the moneys as reasonably possible for building capacity at public and private not-for-profit institutions to do research rather than for administrative expenses. The board shall not in any fiscal year expend more than two percent of the total moneys appropriated to it and of the moneys that it has in reserve or has received from other sources for its own administrative expenses for appropriations over twenty million dollars; three percent for appropriations less than twenty million dollars but more than fifteen million dollars; four percent for appropriations less than fifteen million dollars but more than ten million dollars; five percent for appropriations less than ten million dollars; provided, however, that the general assembly by appropriation from the life sciences research trust fund may authorize a limited amount of additional moneys to be expended for administrative costs.”; and

Further amend said bill, Page 216, Section 253.559, Line 27, by inserting after all of said line the following:

“348.250. Sections 348.250 to 348.275 shall be known and may be cited as the “Missouri Science and Innovation Reinvestment Act”.

348.251. 1. As used in sections 348.251 to 348.266, the following terms mean:

- (1) **“Applicable percentage”, six percent for the fiscal year beginning July 1, 2012, and the next fourteen consecutive fiscal years; five percent for the immediately subsequent five fiscal years; and four percent for the immediately subsequent five fiscal years;**
- (2) **“Applied research”, any activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue of science and innovation, including but not limited to translational research;**
- (3) **“Base year”, fiscal year ending June 30, 2011;**
- (4) **“Base year gross wages”, gross wages paid by science and innovation companies to science and innovation employees during fiscal year ending June 30, 2011;**
- (5) **“Basic research”, any original investigation for the advancement of scientific or technical knowledge of science and innovation;**
- (6) **“Commercialization”, any of the full spectrum of activities required for a new technology, product, or process to be developed from the basic research or conceptual stage through applied**

research or development to the marketplace, including without limitation, the steps leading up to and including licensing, sales, and service;

(7) “Corporation”, the Missouri technology corporation established under this section;

(8) “Fields of applicable expertise”, any of the following fields: science and innovation research, development, or commercialization, including basic research and applied research; corporate finance, venture capital, and private equity related to science and innovation; the business and management of science and innovation companies; education related to science and innovation; or civic or corporate leadership in areas related to science and innovation;

(9) “Inherent conflict of interest”, a fundamental or systematic conflict of interest that prevents a person from serving as a disinterested director of the corporation and from routinely performing his or her duties as a director of the corporation;

(10) “NAICS industry groups” or “NAICS codes”, the North American Industry Classification System developed under the auspices of the United States Office of Management and Budget and adopted in 1997, as may be amended, revised, or replaced by similar classification systems for similar uses from time to time;

(11) “Science and innovation”, the use of compositions and methods in research, development, and manufacturing processes for such diverse areas as agriculture-biotechnology, animal health, biochemistry, bioinformatics, energy, environment, forestry, homeland security, information technology, medical devices, medical diagnostics, medical instruments, medical therapeutics, microbiology, nanotechnology, pharmaceuticals, plant biology, and veterinary medicine, including future developments in such areas;

(12) “Science and innovation company”, a corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, person, group, or other entity that is:

(a) Engaged in the research, development, commercialization, or business of science and innovation in the state, including, without limitation, research, development, or production directed toward developing or providing science and innovation products, processes, or services for specific commercial or public purposes, including hospitals, nonprofit research institutions, incubators, accelerators, and universities currently located or involved in the research, development, commercialization, or business of science and innovation in the state; or

(b) Identified by the following NAICS industry groups or NAICS codes or any amended or successor code sections covering such areas of research, development, and commercial endeavors: 3251; 3253; 3254; 3391; 51121; 54138; 54171; 62231; 111191; 111421; 111920; 111998; 311119; 311211; 311221; 311222; 311223; 325193; 325199; 325221; 325222; 325611; 325612; 325613; 325311; 325312; 325314; 325320; 325411; 325412; 325414; 333298; 334510; 334516; 334517; 339111; 339112; 339113; 339114; 339115; 339116; 424910; 541710; 621511; and 621512.

Each of the above listed four-digit and five-digit codes shall include all six-digit codes in such four-digit and five-digit industry; however, each six-digit code shall stand alone and not indicate the inclusion of other omitted six-digit codes that also are subsets of the pertinent four-digit or five-digit industry to which the included six-digit code belongs;

(13) “Science and innovation employee”, any employee, officer, or director of a science and innovation company who is a state income taxpayer and any employee of a university who is associated with or supports the research, development, commercialization, or business of science and technology in the state and is obligated to pay state income tax to the state;

(14) “Technology application”, the introduction and adaptation of refined management practices in fields such as scheduling, inventory management, marketing, product development, and training in order to improve the quality, productivity and profitability of an existing firm. Technology application shall be considered a component of business modernization;

[(2) “Technology commercialization”, the process of moving investment-grade technology from a business, university or laboratory into the marketplace for application;

(3)] (15) “Technology development”, strategically focused research directed at developing investment-grade technologies which are important for market competitiveness.

2. The governor may, on behalf of the state and in accordance with chapter 355, RSMo, establish a private not-for-profit corporation named the “Missouri Technology Corporation”, to carry out the provisions of sections 348.251 to 348.266. As used in sections [348.251 to 348.266] **348.250 to 348.275** the word “corporation” means the Missouri technology corporation authorized by this section. Before certification by the governor, the corporation shall conduct a public hearing for the purpose of giving all interested parties an opportunity to review and comment [upon] **on** the articles of incorporation, bylaws and [method] **methods** of operation of the corporation. Notice of the hearing shall be given at least fourteen days prior to the hearing.

348.256. **1.** The articles of incorporation [and], bylaws, **and methods of operation** of the Missouri technology corporation shall [provide that:] **be consistent with the provisions of sections 348.250 to 348.275.**

[(1)] **2.** The purposes of the corporation are to contribute to the strengthening of the economy of the state through the development of science and [technology] **innovation**, to promote the modernization of Missouri businesses by supporting the transfer of science, technology and quality improvement methods to the workplace[, and]; to enhance the productivity and modernization of Missouri businesses by providing leadership in the establishment of methods of technology application, technology commercialization and technology development; **to make Missouri businesses, institutions, and universities more competitive and increase their likelihood of success; to support and enhance local and regional strategies and initiatives that capitalize on the unique science and innovation assets across the state; to make Missouri a highly desirable state in which to conduct, facilitate, support, fund, and perform science and innovation research, development, and commercialization; to facilitate and effect the creation, attraction, retention, growth, and enhancement of both existing and new science and innovation companies in the state; to make Missouri a national and international leader in economic activity based on science and innovation; to enhance workforce development; to create and retain quality jobs; to advance scientific knowledge; and to improve the quality of life for the citizens of the state of Missouri in both urban and rural communities.**

[(2)] **3.** The board of directors of the corporation [is] **shall be** composed of fifteen persons. The governor shall annually appoint one of its members, who must be from the private sector, as [chairman] **chairperson**. The board shall consist of the following members:

[(a)] (1) The director of the department of economic development, or the director's designee;

[(b)] (2) The president of the University of Missouri system, or the president's designee;

[(c)] (3) A member of the state senate, appointed by the president pro tem of the senate;

[(d)] (4) A member of the house of representatives, appointed by the speaker of the house;

[(e)] (5) Eleven members appointed by the governor, [two of which shall be from the public sector and nine members from the private sector who shall include, but shall not be limited to, individuals who represent technology-based businesses and industrial interests;

[(f)] with the advice and consent of the senate, who are recognized for outstanding knowledge, leadership, and expertise in one or more of the fields of applicable expertise.

Each of the directors of the corporation who is appointed by the governor shall serve for a term of four years and until a successor is duly appointed[; except that, of the directors serving on the corporation as of August 28, 1995, three directors shall be designated by the governor to serve a term of four years, three directors shall be designated to serve a term of three years, three directors shall be designated to serve a term of two years, and two directors shall be designated to serve a term of one year. Each director shall continue to serve until a successor is duly appointed by the governor;

(3) The corporation may receive money from any source, may borrow money, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(4) The corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 348.261;

(5)].

4. Any changes in the articles of incorporation or bylaws must be approved by the governor[;].

[(6) The corporation shall submit an annual report to the governor and to the Missouri general assembly. The report shall be due on the first day of November for each year and shall include detailed information on the structure, operation and financial status of the corporation. The corporation shall conduct an annual public hearing to receive comments from interested parties regarding the report, and notice of the hearing shall be given at least fourteen days prior to the hearing; and

[(7)] **5.** **At the discretion of the state auditor,** the corporation is subject to an [annual] audit [by the state auditor] and [that] the corporation shall bear the full cost of the audit.

6. Each of the directors of the corporation provided for in subdivisions (1) and (2) of subsection 3 of this section shall remain a director until the designating individual specified in such subdivisions designates a replacement by sending a written communication to the governor and the chairperson of the board of the corporation; provided however, that if the director of economic development or the president of the University of Missouri system designates himself or herself to the corporation board, such person's service as a corporation director shall cease immediately when that person no longer serves as the director of economic development or as the president of the University of Missouri system. Each of the directors of the corporation provided for in subdivisions (3) and (4) of subsection 3 of this section shall remain a director until the appointing member of the general assembly specific in such subdivisions appoints a replacement by sending a written communication to the governor and the chairperson of the corporation board; provided however, that if the speaker

of the house or the president pro tem of the senate appoints himself or herself to the corporation board, such person's service as a corporation director shall cease immediately when that person no longer serves as the speaker of the house or the president pro tem of the senate.

7. Each of the eleven members of the board appointed by the governor shall:

(1) Hold office for the term of appointment and until the governor duly appoints his or her successor; provided that if a vacancy is created by the death, permanent disability, resignation, or removal of a director, such vacancy shall become immediately effective;

(2) Be eligible for reappointment, but members of the board shall not be eligible to serve more than two consecutive four-year terms and shall not be reappointed to the board until they have not served on the board for a period of at least four interim years;

(3) Not have a known inherent conflict of interest at the time of appointment; and

(4) Not have served in an elected office or a cabinet position in state government for a period of two years prior to appointment, unless otherwise provided in this section.

8. Any member of the board may be removed by affirmative vote of eleven members of the board for malfeasance or misfeasance in office, regularly failing to attend meetings, failure to comply with the corporation's conflicts of interest policy, conviction of a felony, or for any cause that renders the member incapable of or unfit to discharge the duties of a director of the corporation.

9. The board shall meet at least four times per year and at such other times as it deems appropriate, or upon call by the president or the chairperson, or upon written request of a majority of the directors of the board. Unless otherwise restricted by Missouri law, the directors may participate in a meeting of the board by means of telephone conference or other electronic communications equipment whereby all persons participating in the meeting can communicate clearly with each other, and participation in a meeting in such manner will constitute presence in person at such meeting.

10. A majority of the total voting membership of the board shall constitute a quorum for meetings. The board may act by a majority of those at any meeting where a quorum is present, except upon such issues as the board may determine shall require a vote of more members of the board for approval or as required by law. All resolutions and orders of the board shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board.

11. Members of the board shall serve without compensation. Members of the board attending meetings of the board, or attending committee or advisory meetings thereof, shall be paid mileage and all other applicable expenses, provided that such expenses are reasonable, consistent with policies established from time to time by the board, and not otherwise inconsistent with law.

12. The board may adopt, repeal, and amend such articles of incorporation, bylaws, and methods of operation that are not contrary to law or inconsistent with sections 348.250 to 348.275, as it deems expedient for its own governance and for the governance and management of the corporation and its committees and advisory boards; provided that any changes in the articles of incorporation or bylaws approved by the board must also be approved by the governor.

13. A president shall direct and supervise the administrative affairs and the general management of the corporation. The president shall be a person of national prominence that has expertise and

credibility in one or more of the fields of applicable expertise with a demonstrated track record of success in leading a mission-driven organization. The president's salary and other terms and conditions of employment shall be set by the board. The board may negotiate and enter into an employment agreement with the president of the corporation, which may provide for compensation, allowances, benefits, and expenses. The president of the corporation shall not be eligible to serve as a member of the board until two years after the end of his or her employment with the corporation. The president of the corporation shall be bound by, and agree to obey, the corporation's conflicts of interest policy, including annually completing and submitting to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

14. The corporation may employ such employees as it may require and upon such terms and conditions as it may establish that are consistent with state and federal law. The corporation may establish personnel, payroll, benefit, and other such systems as authorized by the board, and provide death and disability benefits. Corporation employees, including the president, shall be considered state employees for the purposes of membership in the Missouri state employees' retirement system and the Missouri consolidated health care plan. Compensation paid by the corporation shall constitute pay from a department for purposes of accruing benefits under the Missouri state employees' retirement system. The corporation may also adopt, in accordance with requirements of the federal Internal Revenue Code of 1986, as amended, a defined contribution plan sponsored by the corporation with respect to employees, including the president, employed by the corporation. Nothing in sections 348.250 to 348.275 shall be construed as placing any officer or employee of the corporation or member of the board in the classified or the unclassified service of the state of Missouri under Missouri laws and regulations governing civil service. No employee of the corporation shall be eligible to serve as a member of the board until two years immediately following the end of his or her employment with the corporation. All employees of the corporation shall be bound by, and agree to obey, the corporation's conflicts of interest policy, including annually completing and submitting to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

15. No later than the first day of January each year, the corporation shall submit an annual report to the governor and to the Missouri general assembly which the corporation may contract with a third party to prepare and which shall include:

- (1) A complete and detailed description of the operating and financial conditions of the corporation during the prior fiscal year;
- (2) Complete and detailed information about the distributions from the Missouri science and innovation reinvestment fund and from any income of the corporation;
- (3) Information about the growth of science and innovation research and industry in the state; and
- (4) Information regarding financial or performance audits performed in such year, including any recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of the corporation.

16. The corporation shall keep its books and records in accordance with generally accepted accounting procedures. Within four months following the end of each fiscal year, the corporation shall cause a firm of independent certified public accountants of national repute to conduct and deliver to the board an audit of the financial statements of the corporation and an opinion thereon, to be

conducted in accordance with generally accepted audit standards, provided, however, that this section shall be inapplicable if the board of directors of the corporation determines that insufficient funds have been appropriated to pay for the costs of compliance with these requirements.

17. Within four months following the end of every odd numbered fiscal year, beginning with fiscal year 2016, the corporation shall cause an independent firm of national repute that has expertise in science and innovation research and industry to conduct and deliver to the board an evaluation of the performance of the corporation for the prior two fiscal years, including detailed recommendations for improving the performance of the corporation, provided, however, that this section shall be inapplicable if the board of directors of the corporation determines that insufficient funds have been appropriated to pay for the costs of compliance with these requirements.

18. The corporation shall provide the state auditor a copy of the financial and performance evaluations prepared under subsections 16 and 17 of this section.

19. The corporation shall have perpetual existence until an act of law expressly dissolves the corporation; provided that no such law shall take effect so long as the corporation has obligations or bonds outstanding unless adequate provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the corporation, all property, funds, and assets thereof shall be vested in the state.

20. Except as provided under section 348.266, the state hereby pledges to, and agrees with, recipients of corporation funding or beneficiaries of corporation programs under sections 348.250 to 348.275 that the state shall not limit or alter the rights vested in the corporation under sections 348.250 to 348.275 to fulfill the terms of any agreements made or obligations incurred by the corporation with or to such third parties, or in any way impair the rights and remedies of such third parties until the obligations of the corporation and the state are fully met and discharged in accordance with sections 348.250 to 348.275.

21. The corporation shall be exempt from:

(1) Any general ad valorem taxes upon any property of the corporation acquired and used for its public purposes;

(2) Any taxes or assessments upon any projects or upon any operations of the corporation or the income therefrom;

(3) Any taxes or assessments upon any project or any property or local obligation acquired or used by the corporation under the provisions of sections 348.250 to 348.275, or upon income therefrom.

Purchases by the corporation to be used for its public purposes shall not be subject to sales or use tax under chapter 144. The exemptions hereby granted shall not extend to persons or entities conducting business on the corporations' property for which payment of state and local taxes would otherwise be required.

22. No funds of the corporation shall be distributed to its employees or members of the board; except that, the corporation may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes and the corporation shall be authorized and empowered to pay reasonable compensation for services rendered to, or for, its benefit relating to any of its lawful

purposes, including to pay its employees reasonable compensation.

23. The corporation shall adopt and maintain a conflicts of interest policy to protect the corporation's interests by requiring disclosure by an interested party, appropriate recusal by such person, and appropriate action by the interested party or the board where a conflict of interest may exist or arise between the corporation and a director, officer, employee, or agent of the corporation.

348.257. 1. The board shall establish an executive committee of the corporation, to be composed of the chairperson, the vice-chairperson, and the secretary of the corporation, and two additional directors. The chairperson of the corporation shall serve as the chairperson of the executive committee.

2. The executive committee, in intervals between meetings of the board, may transact any business of the board that has been expressly delegated to the executive committee by the board. If so stipulated by the board, action delegated to the executive committee may be subject to subsequent ratification by the board; provided, however that until ratified or rejected by the board, any action delegated to, and taken by, the executive committee between meetings of the board will be binding upon the corporation as if ratified, and may be relied upon by third parties.

3. The board shall establish an audit committee of the corporation, to be composed of the chairperson of the corporation and four additional directors. The secretary of the corporation shall serve as the chairperson of the audit committee. The audit committee shall be responsible for oversight of the administration of the conflicts of interest policy, working with the president of the corporation to facilitate communications with the corporation's contract auditors, and such other responsibilities delegated to it by the board.

4. The board shall establish and maintain a research alliance of Missouri to be comprised of the chief research officers, or their designee, of the state's leading research universities and a representative of other leading not-for-profit research institutes headquartered in Missouri. Members of the research alliance of Missouri shall be selected for such terms of membership under such terms and condition as the board deems necessary and appropriate to advance the purposes of sections 348.250 to 348.275 and as comparable to other similar public sector bodies. The research alliance of Missouri shall elect a chairperson on an annual basis. The research alliance of Missouri shall prepare annual reports at the direction of the corporation that:

(1) Evaluate the specific areas of Missouri's research strengths and weaknesses and outline current research priorities of the state;

(2) Evaluate the ability of each member to realign their research and development resources, policies, and practices to seize emerging opportunities;

(3) Evaluate and summarize the best national and international practices for technology commercialization of university research and describe efforts that each university member has undertaken to implement best practices, including a description of the specific outcomes university members have achieved in technology commercialization; and

(4) Describe research collaborations by and between members and identify collaboration best practices that can or should be instituted in Missouri.

5. The board may establish other committees, both permanent and temporary, as it deems

necessary. Such committees may include national strategic, scientific and/or commercialization advisory boards comprised of individuals of national or international prominence in science and innovation and/or the business and commercialization of science and innovation.

6. The board may establish rules, policies, and procedures for the selection and conduct of committees and advisory boards, and the research alliance of Missouri; provided however, that the members of such committees and advisory boards agree to be bound by a conflict of interest policy consistent with the highest ethical standards that is suitable for such advisory roles and annually complete and certify to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

348.261. 1. The corporation, after being certified by the governor as provided by section 348.251, [may] shall have all of the powers necessary or convenient to carry out the purposes and provisions of sections 348.250 to 348.275, including the powers as specified therein, and without limitation, the power to:

(1) Establish a statewide business modernization network to assist Missouri businesses in identifying ways to enhance productivity and market competitiveness;

(2) Identify scientific and technological problems and opportunities related to the economy of Missouri and formulate proposals to overcome those problems or realize those opportunities;

(3) Identify specific areas where scientific research and technological investigation will contribute to the improvement of productivity of Missouri manufacturers and farmers;

(4) Determine specific areas in which financial investment in scientific and technological research and development from private businesses located in Missouri could be enhanced or increased if state resources were made available to assist in financing activities;

(5) Assist in establishing cooperative associations of universities in Missouri and of private enterprises for the purpose of coordinating research and development programs that will, consistent with the primary educational function of the universities, aid in the creation of new jobs in Missouri;

(6) Assist in financing the establishment and continued development of technology-intensive businesses in Missouri;

(7) Advise universities of the research needs of Missouri business and improve the exchange of scientific and technological information for the mutual benefit of universities and private business;

(8) Coordinate programs established by universities to provide Missouri businesses with scientific and technological information;

(9) Establish programs in scientific education which will support the accelerated development of technology-intensive businesses in Missouri;

(10) Provide financial assistance through contracts, grants and loans to programs of scientific and technological research and development;

(11) Determine how public universities can increase income derived from the sale or licensure of products or processes having commercial value that are developed as a result of university sponsored research programs;

(12) Contract with innovation centers, as established in section 348.271, small business development

corporations, as established in sections 620.1000 to 620.1007, centers for advanced technology, as established in section 348.272, and other entities or organizations for the provision of technology application, technology commercialization and technology development services. [Such contracting procedures shall not be subject to the provisions of chapter 34; and];

(13) Make direct seed capital or venture capital investments in Missouri business investment funds or businesses [which] **that** demonstrate the promise of growth and job creation. Investments from the corporation may be in the form of debt or equity in the respective businesses;

(14) Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for the exercise of its powers and functions;

(15) Contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply with the provisions of the terms and conditions thereof;

(16) Procure such insurance, participate in such insurance plans, or provide such self insurance or both as it deems necessary or convenient; provided however, the purchase of insurance, participation in an insurance plan, or creation of a self-insurance fund by the corporation shall not be deemed as a waiver or relinquishment of any sovereign immunity to which the corporation or its officers, directors, employees, or agents are otherwise entitled;

(17) Partner with universities or other research institutions in Missouri to attract and recruit world-class science and innovation talent to Missouri;

(18) Expend any and all funds from the Missouri science and innovation reinvestment fund and all other assets and resources of the corporation for the exclusive purpose of fulfilling any purpose, power, or duty of the corporation under sections 348.250 to 348.275, including but not limited to implementing the powers, purposes, and duties of the corporation as enumerated in this section;

(19) Participate in joint ventures and collaborate with any taxpayer, governmental body or agency, insurer, university, or college of the state, or any other entity to facilitate any activities or programs consistent with the purpose and intent of sections 348.250 to 348.275; and

(20) In carrying out any activities authorized by sections 348.250 to 348.275, the corporation provides appropriate assistance, including the making of investments, grants, and loans, and providing time of employees, to any taxpayer, governmental body, or agency, insurer, university, or college of the state, or any other entity, whether or not any such taxpayer, governmental body or agency, insurer, university, or college of the state, or any other entity, is owned or controlled in whole or in part, directly or indirectly, by the corporation.

2. The corporation shall endeavor to maximize the amount of leveraging of nonstate resources, including public and private, cash and in-kind, attained with its investments, grants, loans, or other forms of support. In the case of investments, grants, loans, or other forms of support that emphasize or are specifically intended to impact a particular Missouri county, municipality, or other geographic subdivision of the state, or are otherwise local in nature, the corporation shall give consideration and weight to local matching funds and other matching resources, public and private.

3. Except as expressly provided in sections 348.250 to 348.275, all monies earned or received by the corporation, including all funds derived from the commercialization of science and innovation

products, methods, services, and technology by the corporation, or any affiliate or subsidiary thereof, or from the Missouri science and innovation reinvestment fund, shall belong exclusively to and be subject to the exclusive control of the corporation.

4. The corporation shall have all the powers of a not-for-profit corporation established under Missouri law.

5. The corporation shall assume all moneys, property, or other assets remaining with the Missouri seed capital investment board, established in section 620.641. All powers, duties, and functions performed by the Missouri seed capital investment board shall be transferred to the Missouri technology corporation.

6. The corporation shall not be subject to the provisions of chapter 34.

348.262. In order to assist the corporation in achieving the objectives identified in section 348.261, the department of economic development may contract with the corporation for activities consistent with the corporation's purpose, as specified in [section 348.256] **sections 348.250 to 348.275**. When contracting with the corporation under the provisions of this section, the department of economic development may directly enter into agreements with the corporation and shall not be bound by the provisions of chapter 34, RSMo.

348.263. 1. [The Missouri business modernization and technology corporation shall replace the corporation for science and technology. All moneys, property or any other assets remaining with the corporation for science and technology after all obligations are satisfied on August 28, 1993, shall be transferred to the Missouri business modernization and technology corporation. All powers, duties and functions performed by the Missouri corporation of science and technology on August 28, 1993, shall be transferred to the Missouri business modernization and technology corporation.] **Except as otherwise provided in sections 348.250 to 348.275, the corporation shall be subject to requirements applicable to governmental bodies and records contained in sections 610.010 to 610.225.**

2. [The Missouri technology corporation shall replace the Missouri business modernization and technology corporation. All moneys, property or any other assets remaining with the Missouri business modernization and technology corporation after all obligations are satisfied on August 28, 1994, shall be transferred to the Missouri technology corporation. All powers, duties and functions performed by the Missouri business modernization and technology corporation on August 28, 1994, shall be transferred to the Missouri technology corporation.] **In addition to the exceptions available under sections 610.010 to 610.225, the records of the corporation shall not be subject to the provisions of sections 610.010 to 610.225, when, upon determination by the corporation, the disclosure of the information in the records would be harmful to the competitive position of the corporation and such records contain:**

(1) Proprietary information gathered by, or in the possession of, the corporation from third parties pursuant to a promise of confidentiality;

(2) Contract cost estimates prepared for confidential use in awarding contracts for research, development, construction, renovation, commercialization, or the purchase of goods or services;

(3) Data, records, or information of a proprietary nature produced or collected by, or for, the corporation, its employees, officers, or members of its board;

(4) Third-party financial statements, records, and related data not publicly available that may be shared with the corporation;

(5) Consulting or other reports paid for by the corporation to assist the corporation in connection with its strategic planning and goals; or

(6) The determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the corporation.

3. In addition to the exceptions available under sections 610.010 to 610.225, the corporation, including the board, executive committee, audit committee, and research alliance of Missouri, or other such committees or boards that the corporation may authorize from time to time, may discuss, consider, and take action on any the following in closed session, when upon determination by the corporation, including as appropriate the board, executive committee, audit committee, and research alliance of Missouri, or other such committees or boards that the corporation may authorize from time to time, disclosure of such items would be harmful to the competitive position of the corporation:

(1) Plans that could affect the value of property, real or personal, owned, or desirable for ownership by the corporation;

(2) The condition, acquisition, use, or disposition of real or personal property; or

(3) Contracts for applied research; basic research; science and innovation product development, manufacturing, or commercialization; construction and renovation of science and innovation facilities; or marketing or operational strategies.

348.264. [1.] There is hereby established in the state treasury a special fund to be known as the “Missouri [Technology Investment] **Science and Innovation Reinvestment Fund**”, which shall consist of all moneys which may be appropriated to it by the general assembly **based on the applicable percentage of the amount by which science and innovation employees' gross wages for the year exceeds the base year gross wages pursuant to section 348.265; other funds appropriated to it by the general assembly**, and also any gifts, contributions, grants or bequests received from federal, private or other sources. [Such moneys shall include federal funds which may be received from the National Institute for Science and Technology, the Small Business Administration and the Department of Defense through its Technology Reinvestment Program.] Money in the Missouri [technology investment program] **science and innovation reinvestment fund** shall be used to carry out the provisions of sections [348.251] **348.250** to 348.275. Moneys for business modernization programs, technology application programs, technology commercialization programs and technology development programs established pursuant to the provisions of sections [348.251] **348.250** to 348.275 shall be available from appropriations made by the general assembly from the Missouri [technology investment] **science and innovation reinvestment fund**. Any moneys remaining in the Missouri [technology investment] **science and innovation reinvestment fund** at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, but shall remain in the Missouri technology investment fund.

[2. Notwithstanding the provisions of sections 173.500 to 173.565, RSMo, the Missouri technology investment fund shall be utilized to fund projects which would previously have been funded through the higher education applied projects fund.]

348.265. 1. As soon as practicable after August 28, 2011, the director of the department of economic development, with the assistance of the director of the department of revenue, shall establish the base year gross wages and report the amount of the base year gross wages to the president and board of the corporation, the governor, and the general assembly. Within one hundred

eighty days after the end of each fiscal year beginning with the fiscal year ending June 30, 2011, and for each subsequent fiscal year prior to the end of the last funding year, the director of economic development, with the assistance of the director of the department of revenue, shall determine and report to the president and board of the corporation, governor, and general assembly the amount by which aggregate science and innovation employees' gross wages for the fiscal year exceeds the base year gross wages. The director of economic development and the director of the department of revenue may consider any verifiable evidence, including but not limited to the NAICS codes assigned or recorded by the United States Department of Labor for companies with employees in the state, when determining which organizations should be classified as science and innovation companies.

2. Notwithstanding section 23.250 to the contrary, for each of the twenty-five funding years, beginning July 1, 2011, the director of revenue shall transfer to the Missouri science and innovation reinvestment fund an amount equal to the product of the applicable percentage multiplied by an amount equal to the increase in aggregate science and innovation employees' gross wages for the prior fiscal year, over the base year gross wages. The director of revenue may make estimated payments to the Missouri science and innovation reinvestment fund more frequently based on estimates provided by the director of revenue and reconciled annually.

3. Local political subdivisions may contribute to the Missouri science and innovation reinvestment fund through a grant, contract, or loan by dedicating a portion of any sales tax or property tax increase resulting from increases in science and innovation company economic activity occurring after August 28, 2011, or other such taxes or fees as such local political subdivisions may establish.

4. Funding generated by the provisions of this section shall be expended by the corporation to further its purposes as specified in section 348.256.

5. Upon enactment of this section, the corporation shall prepare a strategic plan for the use of the funding to be generated by the provisions of this section, and may consult with science and innovation partners, including, but not limited to the research alliance of Missouri, as established in section 348.257; the life sciences research board established in section 196.1003; and the innovation centers or centers for advanced technology, as established in section 348.272. The corporation shall make a draft strategic plan available for public comment prior to publication of the final strategic plan.

348.269. 1. Nothing contained in sections 348.250 to 348.275 shall be construed as a restriction or limitation upon any powers that the corporation might otherwise have under chapter 355, and the provisions of sections 348.250 to 348.275 are cumulative to such powers.

2. Nothing in sections 348.250 to 348.275 shall be construed as allowing the board to sell the corporation or substantially all of the assets of the corporation, or to merge the corporation with another institution, without prior authorization by the general assembly.

3. Notwithstanding the provisions of section 23.253 to the contrary, the provisions of sections 348.250 to 348.275 shall not sunset. The provisions of sections 348.250 to 348.275 shall not terminate before the satisfaction of all outstanding obligations, notes, and bonds provided for under sections 348.250 to 348.275.

4. The provisions of sections 348.250 to 348.275 shall not terminate before the satisfaction of all outstanding obligations, notes, and bonds provided for under sections 348.250 to 348.275.

5. If any provision of this Act or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable. Insofar as the provisions of sections 348.250 to 348.275 are inconsistent with the provisions of any other law, general, specific or local, the provisions of sections 348.250 to 348.275 shall be controlling.

348.271. 1. In order to foster the growth of Missouri's economy and to stimulate the creation of new jobs in [technology-based] **science and innovation-based** industry for the state's work force, the Missouri technology corporation, in accordance with the provisions of this section and within the limits of appropriations therefor is authorized to contract with Missouri not-for-profit corporations for the operation of innovation centers within the state. The primary emphasis of some, if not of all innovation centers, shall be in the areas of [technology commercialization, finance and business modernization. Innovation centers operated under the provisions of this section shall provide assistance to individuals and business organizations during the early stages of the development of new technology-based] **science and innovation-based** business ventures. Such assistance may include the provision of facilities, equipment, administrative and managerial support, planning assistance, and such other services and programs that enhance the development of such ventures and such assistance may be provided for fees or other consideration.

2. The innovation centers operated under this section shall counsel and assist the new [technology-based] **science and innovation-based** business ventures in finding a suitable site in the state of Missouri for location of the business upon its graduation from the innovation program. Each innovation center shall annually submit a report of its activities to the department of economic development and the Missouri technology corporation which shall include, but not be limited to, the success rate of the businesses graduating from the center, the progress and locations of businesses which have graduated from the center, the types of businesses which have graduated from the center, and the number of jobs created by the businesses involved in the center.

3. Any contract signed between the corporation and any not-for-profit organization to operate an innovation center in accordance with the provisions of this section shall require that the not-for-profit organization must provide at least a one-hundred-percent match for the funding received from the corporation pursuant to appropriation therefor.

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

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

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

(3) "Person", any individual, corporation, partnership, or other entity, including any charitable corporation which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143;

(4) “Qualified contribution”, cash contribution to a qualified fund;

(5) “Qualified economic development organization”, any corporation organized under the provisions of chapter 355 which has as of January 1, 1991, obtained a contract with the department of economic development to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in the state of Missouri; and the Missouri technology corporation organized pursuant to the provisions of sections [348.253 to 348.266] **348.250 to 348.275**;

(6) “Qualified fund”, any corporation, partnership, joint venture, unincorporated association, trust or other organization which is established under the laws of Missouri after December 31, 1985, which meets all of the following requirements established by this subdivision. The fund shall have as its sole purpose and business the making of investments, of which at least ninety percent of the dollars invested shall be qualified investments. The fund shall enter into a contract with one or more qualified economic development organizations which shall entitle the qualified economic development organizations to receive not less than ten percent of all distributions of equity and dividends or other earnings of the fund. Such contracts shall require the qualified fund to transfer to the Missouri technology corporation organized pursuant to the provisions of sections [348.253 to 348.266] **348.250 to 348.275** this interest and make corresponding distributions thereto in the event the qualified economic development organization holding such interest is dissolved or ceases to do business for a period of one year or more;

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

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

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

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

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

Further amend said bill, Page 323, Section 178.896, Line 19, by inserting after all of said line the following:

“[348.253. 1. The Missouri technology corporation may contract with not-for-profit organizations to carry out the provisions of sections 348.251 to 348.275. By entering into such contracts, the corporation shall attempt to achieve the following objectives:

(1) The establishment of a research alliance which shall advance technology development,

as defined in subdivision (3) of section 348.251. The corporation, in this capacity, shall have the authority to contract directly with centers for advanced technology, as established by section 348.272, and other not-for-profit entities. In proceeding with this objective, the corporation and centers for advanced technology shall utilize the results of targeted industry studies commissioned by the department of economic development;

(2) Technology commercialization, as defined in subdivision (2) of section 348.251;

(3) The establishment of a finance corporation to assist in the implementation of section 348.261; and

(4) The enhancement of technology application, as defined in subdivision (1) of section 348.251.

2. Any contract signed between the corporation and any not-for-profit organization, including innovation centers as defined in section 348.271, shall require that the not-for-profit organization must provide at least one-hundred-percent match for any funding received from the corporation through the technology investment fund, as established in section 348.264.]"; and

Further amend the title and enacting clause accordingly.

Senator Richard moved that the above amendment be adopted.

Senator Crowell offered **SA 1** to **SA 2**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 2

Amend Senate Amendment No. 2 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 29, Section 348.265, Line 26, by inserting immediately after the word "July 1, 2011," the following: "**subject to appropriation**"; and further amend line 28, by inserting immediately after the word "amount" the following "**not to exceed an amount**".

Senator Crowell moved that the above amendment be adopted.

At the request of Senator Purgason, **HCS** for **HBs 116** and **316**, with **SCS, SS** for **SCS, SA 2** and **SA 1** to **SA 2** (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 adopted **SS**, as amended for **SCS** for **HCS** for **HB 45** and has taken up and passed **SS** for **SCS** for **HCS** for **HB 45**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SS** for **HCS** for **HB 193** and has taken up and passed **CCS** for **SS** for **HCS** for **HB 193**.

PRIVILEGED MOTIONS

Senator Rupp, on behalf of the conference committee appointed to act with a like committee from the

House on **SS** for **HCS** for **HB 193** moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON
SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 193

The Conference Committee appointed on Senate Substitute for House Committee Substitute for House Bill No. 193 begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Substitute for House Committee Substitute for House Bill No. 193;
2. That the House recede from its position on House Committee Substitute for House Bill No. 193;
3. That the attached Conference Committee Substitute for Senate Substitute for House Committee Substitute for House Bill No. 193, be Third Read and Finally Passed.

FOR THE HOUSE:

/s/ John Diehl

/s/ Stanley Cox

/s/ Tom Loehner

/s/ Penny V. Hubbard

/s/ Jamilah Nasheed

FOR THE SENATE:

/s/ Scott Rupp

/s/ Jason Crowell

/s/ Brad Lager

/s/ Victor E. Callahan

Robin Wright-Jones

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

YEAS—Senators

Brown	Callahan	Crowell	Cunningham	Curls	Dempsey	Dixon	Engler
Goodman	Justus	Kehoe	Kraus	Lager	Lamping	Lembke	Mayer
Munzlinger	Nieves	Parson	Pearce	Richard	Ridgeway	Rupp	Schaaf
Schaefer	Schmitt	Wasson—27					

NAYS—Senators

Chappelle-Nadal	Green	Keaveny	McKenna	Purgason	Stouffer	Wright-Jones—7
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Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Rupp, **CCS** for **SS** for **HCS** for **HB 193**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 193

An Act to repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof eleven new sections relating to the composition of congressional districts.

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

YEAS—Senators

Brown	Callahan	Crowell	Cunningham	Curls	Dempsey	Dixon	Engler
Goodman	Justus	Kehoe	Kraus	Lager	Lamping	Lembke	Mayer
Munzlinger	Nieves	Parson	Pearce	Richard	Ridgeway	Rupp	Schaaf
Schaefer	Schmitt	Wasson—27					

NAYS—Senators

Chappelle-Nadal	Green	Keaveny	McKenna	Purgason	Stouffer	Wright-Jones—7	
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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 Dempsey moved that motion lay on the table, which motion prevailed.

HOUSE BILLS ON THIRD READING

Senator Purgason moved that **HCS** for **HBs 116** and **316**, with **SCS**, **SS** for **SCS**, **SA 2** and **SA 1** to **SA 2** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SA 1 to **SA 2** was again taken up.

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

SA 2, as amended, was again taken up.

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

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

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Pages 10-11, Section 32.088, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Lembke offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 243, Section 447.708, Line 13 of said page, by striking the word “ten” and inserting in lieu thereof the following: “**five**”.

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

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

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bills Nos. 116 and 316, Pages 154-155, Section 135.1505, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above amendment be adopted.

Senator Stouffer assumed the Chair.

At the request of Senator Green, **SA 5** was withdrawn.

Senator Green offered **SA 6**, which was read:

SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 154, Section 135.1505, Line 20, by striking the word “shall” and inserting in lieu thereof the following: “**may**”.

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

Senator Green offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 150, Section 135.1500, Line 23 of said page, by inserting immediately after the words “manufacturing facility” the following: “, **provided that such facility is not located on property for which tax credits have been requested under the provisions of section 99.1205**”.

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

Senator Nieves assumed the Chair.

Senator Stouffer offered **SA 8**:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 148, Section 135.1150, Line 20 of said page, by inserting immediately after said line the following:

“**135.1180. 1. This section shall be known and may be cited as the “Developmental Disability Care**

Provider Tax Credit Program”.

2. As used in this section, the following terms mean:

(1) “Certificate”, a tax credit certificate issued under this section;

(2) “Department”, the Missouri department of social services;

(3) “Eligible donation”, donations received, by a provider, from a taxpayer that are used solely to provide direct care services to persons with developmental disabilities who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services. For purposes of this section, “direct care services” include, but are not limited to, increasing the quality of care and service for persons with developmental disabilities through improved employee compensation and training;

(4) “Qualified developmental disability care provider” or “provider”, a care provider that provides assistance to persons with developmental disabilities, and is under contract with the Missouri department of social services or department of mental health to provide treatment services for such persons, and that receives eligible donations. Any provider that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible donation made to facilities or locations of the provider which are licensed and accredited;

(5) “Taxpayer”, any of the following individuals or entities who make an eligible donation to a provider:

(a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143;

(b) A corporation subject to the annual corporation franchise tax imposed in chapter 147;

(c) An insurance company paying an annual tax on its gross premium receipts in this state;

(d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148;

(e) An individual subject to the state income tax imposed in chapter 143;

(f) Any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

3. For all taxable years beginning on or after January 1, 2011, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 143, 147, or 148 excluding withholding tax imposed by sections 143.191 to 143.265 in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer’s state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer’s four subsequent taxable years.

4. To claim the credit authorized in this section, a provider may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall

verify that the provider has submitted the following items accurately and completely:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received by the provider; and

(3) Payment from the provider equal to the value of the tax credit for which application is made.

If the provider applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

6. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, 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, 2011, shall be invalid and void.

7. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset four years after August 28, 2011, 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 twelve 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 the title and enacting clause accordingly.

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

Senator Crowell offered SA 9:

SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bills Nos. 116 and 316, Page 48, Section 67.3005, Line 5 of said page, by inserting after all of said line the following:

“99.975. 1. No new applications made pursuant to sections 99.915 to 99.980 shall be approved after [January 1, 2013] **August 28, 2011.**

2. No applications made pursuant to sections 99.915 to 99.980 shall be approved prior to August 28,

2003, except for applications for projects that are located within a county for which public and individual assistance has been requested by the governor pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor pursuant to section 44.100 due to a natural disaster of major proportions that occurred after May 1, 2003, but prior to May 10, 2003, and the development project area is a central business district that sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency.

3. Prior to December 31, 2006, the Missouri development finance board may approve up to two applications made pursuant to sections 99.915 to 99.980 in a home rule city with more than four hundred thousand inhabitants and located in more than one county in which the state sales tax increment for such projects approved pursuant to the provisions of this subsection shall be up to one-half of the incremental increase in all sales taxes levied pursuant to section 144.020. In no event shall the incremental increase include any amounts attributable to retail sales unless the Missouri development finance board and the department of economic development are satisfied based on information provided by the municipality or authority, and such entities have made a finding that a substantial portion of all but a de minimus portion of the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase for an existing facility shall be the amount of all state sales taxes generated pursuant to section 144.020 at the facility in excess of the amount of all state sales taxes generated pursuant to section 144.020 at the facility in the baseline year. The incremental increase in development project areas where the baseline year is the year following the year in which the development project is approved by the municipality pursuant to subdivision (2) of section 99.918 shall be the state sales tax revenue generated by out-of-state businesses relocating into a development project area. The incremental increase for a Missouri facility which relocates to a development project area shall be the amount by which the state sales tax revenue of the facility exceeds the state sales tax revenue for the facility in the calendar year prior to relocation.”; and

Further amend the title and enacting clause accordingly.

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

Senator Kehoe assumed the Chair.

Senator Pearce offered **SA 10**:

SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Pages 197-203, Section 168.071, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Lamping offered **SA 11**:

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Pages 11-17, Section 32.105 of said page, by striking all of said section from the bill; and

Further amend said bill, pages 17-18, section 32.110, by striking all of said section from the bill; and

Further amend said bill, pages 18-27, section 32.115, by striking all of said section and inserting in lieu thereof the following:

“32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

- (1) The annual tax on gross premium receipts of insurance companies in chapter 148;
- (2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030;
- (3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030;
- (4) The tax on other financial institutions in chapter 148;
- (5) The corporation franchise tax in chapter 147;
- (6) The state income tax in chapter 143; and
- (7) The annual tax on gross receipts of express companies in chapter 153.

2. For proposals approved pursuant to section 32.110:

(1) The amount of the tax credit shall not exceed fifty percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in programs approved pursuant to section 32.110;

(2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy percent may be allowed for contributions to programs where activities fall within the scope of special program priorities as defined with the approval of the governor in regulations promulgated by the director of the department of economic development;

(3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for contributions to programs located in any community shall be equal to seventy percent of the total amount contributed where such community is a city, town or village which has fifteen thousand or less inhabitants as of the last decennial census and is located in a county which is either located in:

(a) An area that is not part of a standard metropolitan statistical area;

(b) A standard metropolitan statistical area but such county has only one city, town or village which has more than fifteen thousand inhabitants; or

(c) A standard metropolitan statistical area and a substantial number of persons in such county derive their income from agriculture. Such community may also be in an unincorporated area in such county as provided in subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit of the combined federal and state tax savings to the taxpayer exceed the amount contributed by the taxpayer during the tax year;

(4) Such tax credit allocation, equal to seventy percent of the total amount contributed, shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit allocation is committed, the tax credit allocation for such programs shall then be equal to fifty percent credit of the total amount contributed. Regulations establishing special program priorities are to be promulgated during the first month of each fiscal year and at such times during the year as the public interest dictates. Such credit shall not exceed two

hundred and fifty thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit shall be approved for any bank, bank and trust company, insurance company, trust company, national bank, savings association, or building and loan association for activities that are a part of its normal course of business. Any tax credit not used in the period the contribution was made may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed. Except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six million shall be credits allowed pursuant to section 135.460. If six million dollars in credits are not approved, then the remaining credits may be used for programs approved pursuant to sections 32.100 to 32.125;

(5) The credit may exceed two hundred fifty thousand dollars annually and shall not be limited if community services, crime prevention, education, job training, physical revitalization or economic development, as defined by section 32.105, is rendered in an area defined by federal or state law as an impoverished, economically distressed, or blighted area or as a neighborhood experiencing problems endangering its existence as a viable and stable neighborhood, or if the community services, crime prevention, education, job training, physical revitalization or economic development is limited to impoverished persons.

3. For proposals approved pursuant to section 32.111:

(1) The amount of the tax credit shall not exceed fifty-five percent of the total amount invested in affordable housing assistance activities or market rate housing in distressed communities as defined in section 135.530 by a business firm. Whenever such investment is made in the form of an equity investment or a loan, as opposed to a donation alone, tax credits may be claimed only where the loan or equity investment is accompanied by a donation which is eligible for federal income tax charitable deduction, and where the total value of the tax credits herein plus the value of the federal income tax charitable deduction is less than or equal to the value of the donation. Any tax credit not used in the period for which the credit was approved may be carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed. If the affordable housing units or market rate housing units in distressed communities for which a tax is claimed are within a larger structure, parts of which are not the subject of a tax credit claim, then expenditures applicable to the entire structure shall be reduced on a prorated basis in proportion to the ratio of the number of square feet devoted to the affordable housing units or market rate housing units in distressed communities, for purposes of determining the amount of the tax credit. The total amount of tax credit granted for programs approved pursuant to section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed two million dollars, to be increased by no more than two million dollars each succeeding fiscal year, until the total tax credits that may be approved reaches ten million dollars in any fiscal year;

(2) For any year during the compliance period indicated in the land use restriction agreement, the owner of the affordable housing rental units for which a credit is being claimed shall certify to the commission that all tenants renting claimed units are income eligible for affordable housing units and that the rentals for each claimed unit are in compliance with the provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit the records and accounts of the owner to verify such certification;

(3) In the case of owner-occupied affordable housing units, the qualifying owner occupant shall, before the end of the first year in which credits are claimed, certify to the commission that the occupant is income eligible during the preceding two years, and at the time of the initial purchase contract, but not thereafter.

The qualifying owner occupant shall further certify to the commission, before the end of the first year in which credits are claimed, that during the compliance period indicated in the land use restriction agreement, the cost of the affordable housing unit to the occupant for the claimed unit can reasonably be projected to be in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant acquiring the affordable housing unit during the compliance period indicated in the land use restriction agreement shall make the same certification;

(4) If at any time during the compliance period the commission determines a project for which a proposal has been approved is not in compliance with the applicable provisions of sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one hundred fifty days of notice to the owner either seek injunctive enforcement action against the owner, or seek legal damages against the owner representing the value of the tax credits, or foreclose on the lien in the land use restriction agreement, selling the project at a public sale, and paying to the owner the proceeds of the sale, less the costs of the sale and less the value of all tax credits allowed herein. The commission shall remit to the director of revenue the portion of the legal damages collected or the sale proceeds representing the value of the tax credits. However, except in the event of intentional fraud by the taxpayer, the proposal's certificate of eligibility for tax credits shall not be revoked.

4. For proposals approved pursuant to section 32.112, the amount of the tax credit shall not exceed fifty-five percent of the total amount contributed to a neighborhood organization by business firms. Any tax credit not used in the period for which the credit was approved may be carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed. The total amount of tax credit granted for programs approved pursuant to section 32.112 shall not exceed one million dollars for each fiscal year.

5. The total amount of tax credits used for market rate housing in distressed communities pursuant to sections 32.100 to 32.125 shall not exceed thirty percent of the total amount of all tax credits authorized pursuant to sections 32.111 and 32.112.

6. Notwithstanding any provision of law to the contrary, no tax credits provided under sections 32.100 to 32.125 shall be authorized on or after August 28, 2015. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to August 28, 2015, or a taxpayer's ability to redeem such tax credits.”; and

Further amend said bill, pages 27-29, section 32.117, by striking all of said section from the bill; and

Further amend said bill, page 29, section 32.120, lines 19-25 of said page, by striking all of said section from the bill; and

Further amend said bill, page 78, section 135.327, lines 14-25 of said page, by striking all of the underlined language from said lines; and

Further amend said bill and section, page 81, lines 19-28 of said page, by striking all of the underlined language from said lines; and

Further amend said bill and section, page 82, lines 1-3 of said page, by striking all of the underlined language from said lines; and

Further amend said bill, pages 89-94, section 135.460, by striking all of said section and inserting in lieu thereof the following:

“135.460. 1. This section and sections 620.1100 and 620.1103 shall be known and may be cited as the “Youth Opportunities and Violence Prevention Act”.

2. As used in this section, the term “taxpayer” shall include corporations as defined in section 143.441 or 143.471, any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, and individuals, individual proprietorships and partnerships.

3. A taxpayer shall be allowed a tax credit against the tax otherwise due pursuant to chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, chapter 147, chapter 148, or chapter 153 in an amount equal to thirty percent for property contributions and fifty percent for monetary contributions of the amount such taxpayer contributed to the programs described in subsection 5 of this section, not to exceed two hundred thousand dollars per taxable year, per taxpayer; except as otherwise provided in subdivision (5) of subsection 5 of this section. The department of economic development shall prescribe the method for claiming the tax credits allowed in this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536. The provisions of this section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

4. The tax credits allowed by this section shall be claimed by the taxpayer to offset the taxes that become due in the taxpayer's tax period in which the contribution was made. Any tax credit not used in such tax period may be carried over the next five succeeding tax periods.

5. The tax credit allowed by this section may only be claimed for monetary or property contributions to public or private programs authorized to participate pursuant to this section by the department of economic development and may be claimed for the development, establishment, implementation, operation, and expansion of the following activities and programs:

(1) An adopt-a-school program. Components of the adopt-a-school program shall include donations for school activities, seminars, and functions; school-business employment programs; and the donation of property and equipment of the corporation to the school;

(2) Expansion of programs to encourage school dropouts to reenter and complete high school or to complete a graduate equivalency degree program;

(3) Employment programs. Such programs shall initially, but not exclusively, target unemployed youth living in poverty and youth living in areas with a high incidence of crime;

(4) New or existing youth clubs or associations;

(5) Employment/internship/apprenticeship programs in business or trades for persons less than twenty years of age, in which case the tax credit claimed pursuant to this section shall be equal to one-half of the amount paid to the intern or apprentice in that tax year, except that such credit shall not exceed ten thousand dollars per person;

(6) Mentor and role model programs;

(7) Drug and alcohol abuse prevention training programs for youth;

(8) Donation of property or equipment of the taxpayer to schools, including schools which primarily educate children who have been expelled from other schools, or donation of the same to municipalities, or not-for-profit corporations or other not-for-profit organizations which offer programs dedicated to youth violence prevention as authorized by the department;

(9) Not-for-profit, private or public youth activity centers;

(10) Nonviolent conflict resolution and mediation programs;

(11) Youth outreach and counseling programs.

6. Any program authorized in subsection 5 of this section shall, at least annually, submit a report to the department of economic development outlining the purpose and objectives of such program, the number of youth served, the specific activities provided pursuant to such program, the duration of such program and recorded youth attendance where applicable.

7. The department of economic development shall, at least annually submit a report to the Missouri general assembly listing the organizations participating, services offered and the number of youth served as the result of the implementation of this section.

8. The tax credit allowed by this section shall apply to all taxable years beginning after December 31, 1995.

9. For the purposes of the credits described in this section, in the case of a corporation described in section 143.471, partnership, limited liability company described in section 347.015, cooperative, marketing enterprise, or partnership, in computing Missouri's tax liability, such credits shall be allowed to the following:

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

(2) The partners of the partnership;

(3) The members of the limited liability company; and

(4) Individual members of the cooperative or marketing enterprise. Such credits shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

10. Notwithstanding any provision of law to the contrary, no tax credits provided under this section shall be authorized on or after August 28, 2015. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to August 28, 2015, or a taxpayer's ability to redeem such tax credits.”; and

Further amend said bill, pages 105-109, section 135.550, by striking all of said section and inserting in lieu thereof the following:

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

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

(2) “Shelter for victims of domestic violence”, a facility located in this state which meets the definition

of a shelter for victims of domestic violence pursuant to section 455.200 and which meets the requirements of section 455.220;

(3) “State tax liability”, in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, chapter 147, chapter 148, and chapter 153, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143;

(4) “Taxpayer”, a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, or an individual subject to the state income tax imposed by the provisions of chapter 143.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a shelter for victims of domestic violence.

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

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

5. The director of the department of social services shall determine, at least annually, which facilities in this state may be classified as shelters for victims of domestic violence. The director of the department of social services may require of a facility seeking to be classified as a shelter for victims of domestic violence whatever information is reasonably necessary to make such a determination. The director of the department of social services shall classify a facility as a shelter for victims of domestic violence if such facility meets the definition set forth in subsection 1 of this section.

6. The director of the department of social services shall establish a procedure by which a taxpayer can determine if a facility has been classified as a shelter for victims of domestic violence, and by which such taxpayer can then contribute to such shelter for victims of domestic violence and claim a tax credit. Shelters for victims of domestic violence shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to shelters for victims of domestic violence in any one fiscal year shall not exceed two million dollars.

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

8. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

9. Notwithstanding any provision of law to the contrary, no tax credits provided under this section shall be authorized on or after August 28, 2015. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to August 28, 2015, or a taxpayer's ability to redeem such tax credits.”; and

Further amend said bill, pages 115-119, section 135.600, by striking all of said section and inserting in lieu thereof the following:

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

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

(2) “Maternity home”, a residential facility located in this state established for the purpose of providing housing and assistance to pregnant women who are carrying their pregnancies to term, and which is exempt from income taxation under the United States Internal Revenue Code;

(3) “State tax liability”, in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, chapter 147, chapter 148, and chapter 153, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143;

(4) “Taxpayer”, a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, or an individual subject to the state income tax imposed by the

provisions of chapter 143.

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

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

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

5. The director of the department of social services shall determine, at least annually, which facilities in this state may be classified as maternity homes. The director of the department of social services may require of a facility seeking to be classified as a maternity home whatever information is reasonably necessary to make such a determination. The director of the department of social services shall classify a facility as a maternity home if such facility meets the definition set forth in subsection 1 of this section.

6. The director of the department of social services shall establish a procedure by which a taxpayer can determine if a facility has been classified as a maternity home, and by which such taxpayer can then contribute to such maternity home and claim a tax credit. Maternity homes shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to maternity homes in any one fiscal year shall not exceed two million dollars.

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

8. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

9. Notwithstanding any provision of law to the contrary, no tax credits provided under this section shall be authorized on or after August 28, 2015. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to August 28, 2015, or a taxpayer's ability to redeem such tax credits.”; and

Further amend said bill, pages 119-124, section 135.630, by striking all of said section and inserting in lieu thereof the following:

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

- (1) “Contribution”, a donation of cash, stock, bonds, or other marketable securities, or real property;
- (2) “Director”, the director of the department of social services;
- (3) “Pregnancy resource center”, a nonresidential facility located in this state:

(a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and

(b) Where childbirths are not performed; and

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

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

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

(f) When providing medical services, such medical services must be performed in accordance with Missouri statute; and

(g) Which is exempt from income taxation pursuant to the Internal Revenue Code of 1986, as amended;

(4) “State tax liability”, in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, excluding sections 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, excluding sections 143.191 to 143.265 and related provisions;

(5) “Taxpayer”, a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, or an individual subject to the state income tax imposed by the provisions of chapter 143, or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

2. For all tax years beginning on or after January 1, 2007, a taxpayer shall be allowed to claim a tax credit against the taxpayer’s state tax liability in an amount equal to fifty percent of the amount such taxpayer contributed to a pregnancy resource center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer’s state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed

in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

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

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

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

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

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

9. Notwithstanding any other law to the contrary, any tax credits granted under this section may be assigned, transferred, sold, or otherwise conveyed without consent or approval. Such taxpayer, hereinafter the assignor for purposes of this section, may sell, assign, exchange, or otherwise transfer earned tax credits:

- (1) For no less than seventy-five percent of the par value of such credits; and
- (2) In an amount not to exceed one hundred percent of annual earned credits.

10. [Pursuant to section 23.253 of the Missouri sunset act:

(1) Any new program authorized under this section shall automatically sunset six years after August 28, 2006, 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 twelve 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 a program authorized under this section is sunset.] **Pursuant to section 23.253 of the Missouri sunset act, the provisions of the program authorized under this section are hereby reauthorized and shall automatically sunset on August 28, 2015.**”; and

Further amend the title and enacting clause accordingly.

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

Senator Kraus offered **SA 12**:

SENATE AMENDMENT NO. 12

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 290, Section 620.2015, Line 9, by inserting immediately after the word “under” the following:

“**subsection 2 of**”; and further amend line 11, by striking the word “the”; and further amend lines 12-13, by striking all of said lines and inserting in lieu there of the following: “**one hundred percent of the withholding tax from full-time jobs that would otherwise be**”; and further amend line 15, by inserting immediately after “143.265,” the following: “**for a period of ten years**”; and

Further amend said bill and section, page 294, line 12, by striking the words “subdivision (5) of subsection 3” and inserting in lieu thereof the following “**subsection 7**”; and further amend line 13 by striking “620.2010” and inserting in lieu thereof the following “**620.2020**”.

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

Senator Stouffer offered **SA 13**, which was read:

SENATE AMENDMENT NO. 13

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Pages 162-165, Section 136.055, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Ridgeway offered **SA 14**, which was read:

SENATE AMENDMENT NO. 14

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 158, Section 135.1513, Line 17, by inserting at the end of said line the following: “**and**”; and further amend said section, page 159, lines 1-7, by striking all of said lines from the bill and inserting in lieu thereof the following: “**January 1, 2013.**”.

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

Senator Lager offered **SA 15**:

SENATE AMENDMENT NO. 15

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

Bill Nos. 116 and 316, Page 208, Section 253.550, Line 19, by inserting immediately after “253.559.” the following: **“The limitations provided under this subsection shall not apply to applications approved under the provisions of subsection 3 of section 253.559 for projects to receive less than two hundred seventy-five thousand dollars in tax credits.”**; and

Further amend said bill and section, page 209, line 7, by inserting immediately after “2011;” the following: **“or”**; and further amend lines 8-10, by striking all of said lines and renumbering the remaining subdivision accordingly.

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

Senator Schaefer offered **SA 16**:

SENATE AMENDMENT NO. 16

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 & 316, Pages 85-89, Section 135.352, by striking all of said section from the bill and inserting in lieu thereof the following:

“135.352. 1. A taxpayer owning an interest in a qualified Missouri project shall, subject to the limitations provided under the provisions of subsection 3 of this section, be allowed a state tax credit, whether or not allowed a federal tax credit, to be termed the Missouri low-income housing tax credit, if the commission issues an eligibility statement for that project.

2. For qualified Missouri projects placed in service after January 1, 1997, the Missouri low-income housing tax credit available to a project shall be such amount as the commission shall determine is necessary to ensure the feasibility of the project, up to an amount equal to the federal low-income housing tax credit for a qualified Missouri project, for a federal tax period, and such amount shall be subtracted from the amount of state tax otherwise due for the same tax period. **No more than one hundred million dollars in tax credits provided under sections 135.350 to 135.363 shall be authorized in any fiscal year beginning on or after July 1, 2011.**

3. No more than six million dollars in tax credits shall be authorized each fiscal year for projects financed through tax-exempt bond issuance. **No tax credits shall be authorized after June 30, 2011, for projects financed through tax-exempt bond issuance.**

4. The Missouri low-income housing tax credit shall be taken against the taxes and in the order specified pursuant to section 32.115. The credit authorized by this section shall not be refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be carried back to any of the taxpayer's three prior taxable years or carried forward to any of the taxpayer's five subsequent taxable years. **For projects authorized on or after July 1, 2011, any amount of credit that exceeds the tax due for a taxpayer's taxable year may be carried forward to any of the taxpayer's five subsequent taxable years but shall not be carried back to any of the taxpayer's previous taxable years.**

5. All or any portion of Missouri tax credits issued in accordance with the provisions of sections 135.350 to 135.362 may be allocated to parties who are eligible pursuant to the provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994, an owner of a qualified Missouri project shall certify to the director the amount of credit allocated to each taxpayer. The owner of the project shall provide to the director appropriate information so that the low-income housing tax credit can be properly allocated.

6. In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section 135.355, any statement submitted to the director as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each taxpayer subject to the recapture and the amount of credit previously allocated to such taxpayer.

7. A taxpayer that receives tax credits under the provisions of sections 253.545 to 253.559 shall be ineligible to receive tax credits under the provisions of sections 135.350 to 135.363 for the same project.

8. The director of the department may promulgate rules and regulations necessary to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

9. Notwithstanding any provision of law to the contrary, no tax credits provided under this section shall be authorized on or after August 28, 2019. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to August 28, 2019, or a taxpayer's ability to redeem such tax credits.”; and

Further amend said bill, pages 94-95, section 135.481, by striking all of said section of the bill; and

Further amend said bill, page 96, section 135.484, lines 11-18, by striking all of the underlined language on said lines; and

Further amend said bill and section, page 97, line 1, by striking all of the opening and closing brackets and underlined language on said line; and further amend line 18, by striking “August 28, 2014” and inserting in lieu thereof the following: “**July 1, 2011**”; and further amend line 21, by striking “August 28, 2014” and inserting in lieu thereof the following: “**July 1, 2011**”; and

Further amend said bill, section 208.770, page 205, line 3 by inserting after all of said line the following:

“215.020. 1. There is hereby created and established as a governmental instrumentality of the state of Missouri the “Missouri Housing Development Commission” which shall constitute a body corporate and politic.

2. The commission shall consist of the governor, lieutenant governor, the state treasurer, the state attorney general, and six members to be selected by the governor, with the advice and consent of the senate. The persons to be selected by the governor shall be individuals knowledgeable in the areas of housing, finance or construction. Not more than four of the members appointed by the governor shall be from the same political party. The members of the commission appointed by the governor shall serve the following terms: Two shall serve two years, two shall serve three years, and two shall serve four years, respectively. Thereafter, each appointment shall be for a term of four years. If for any reason a vacancy occurs, the governor, with the advice and consent of the senate, shall appoint a new member to fill the unexpired term. Members are eligible for reappointment.

3. Six members of the commission shall constitute a quorum. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission. No action shall be taken by the commission except upon the affirmative vote of at least six of the members of the commission.

4. Each member of the commission appointed by the governor is entitled to compensation of fifty

dollars per diem plus his reasonable and necessary expenses actually incurred in discharging his duties under sections 215.010 to 215.250.

5. The employment of an executive director or chief executive officer by the commission, including the executive director or chief executive officer serving in such capacity on the effective date of this act, shall be subject to the advice and consent of the senate in the same manner as an appointment subject to the provisions of Article IV, Section 51 of the Missouri Constitution.”; and

Further amend said bill, page 305, section 660.055, line 26, by inserting immediately after all of said line the following:

“Section 1. An insurance company claiming a state premium tax credit or deduction shall not be required to pay any additional retaliatory tax levied pursuant to section 375.916 as a result of claiming such credit or deduction.”; and

Further amend the title and enacting clause accordingly.

Senator Schaefer moved that the above amendment be adopted.

Senator Purgason offered **SA 1 to SA 16**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 16

Amend Senate Amendment No. 16 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Page 3, Section 135.352, Line 17, by striking “2019” and inserting in lieu thereof the following: “**2015**”; and further amend line 19 by striking “2019” and inserting in lieu thereof the following: “**2015**”.

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

SA 16, as amended, was again taken up.

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

Senator Mayer offered **SA 17**, which was read:

SENATE AMENDMENT NO. 17

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 116 and 316, Pages 165-167, Section 137.1018, by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

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

Senator Purgason moved that **SS for SCS for HCS for HBs 116 and 316**, as amended, be adopted, which motion prevailed.

Senator Purgason moved that **SS for SCS for HCS for HBs 116 and 316**, as amended, be read the 3rd time and passed and was recognized to close.

President Pro Tem Mayer referred **SS for SCS for HCS for HBs 116 and 316**, as amended, to the Committee on Ways and Means and Fiscal Oversight.

President Pro Tem Mayer assumed the Chair.

SIGNING OF BILLS

The President Pro Tem announced that all other business would be suspended and **CCS** for **SS** for **HCS** for **HB 193**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bill would be signed by the President Pro Tem to the end that it may become law. No objections being made, the bill was so read by the Secretary and signed by the President Pro Tem.

Senator Kehoe assumed the Chair.

MESSAGES FROM THE GOVERNOR

The following message was received from the Governor, reading of which was waived:

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102
April 27, 2011

TO THE SECRETARY OF THE SENATE
96TH GENERAL ASSEMBLY
FIRST REGULAR SESSION
STATE OF MISSOURI

Herewith I return to you House Committee Substitute for Senate Bill No. 161 entitled:

AN ACT

To repeal sections 273.327, 273.345, 348.400, 348.407, and 348.412, RSMo, and sections 273.327, 273.345, 273.347, and 1 as truly agreed to and finally passed by or as enacted by senate substitute for senate committee substitute for senate bills nos. 113 & 95, the ninety-sixth general assembly, first regular session, and to enact in lieu thereof seven new sections relating to agriculture, with penalty provisions and an emergency clause for certain sections.

On April 27, 2011, I approved said House Committee Substitute for Senate Bill No. 161.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

REFERRALS

President Pro Tem Mayer referred **HJR 29** and **HJR 6** to the Committee on Ways and Means and Fiscal Oversight.

RESOLUTIONS

Senator Goodman offered Senate Resolution No. 941, regarding the late Lloyd Presley, Branson, which was adopted.

INTRODUCTIONS OF GUESTS

Senator Justus introduced to the Senate, Nicholas Gold, Colorado.

Senator Justus introduced to the Senate, Matthew Grimaldi, Kansas City; and Matthew was made an honorary page.

Senator Richard introduced to the Senate, his wife, Patty, Gwen Delano, Jacci Pim, Peggy Fuller, Joyce Masters and Sonya Nagle, Joplin; Kit Brothers and Suzie Ramsour, Webb City; and Judy Opel and Cheryl

Broyles, Jefferson City.

Senator Chappelle-Nadal introduced to the Senate, Claire Glasspiegel, Hartford, Connecticut.

Senator Lamping introduced to the Senate, Erin Royals, Kansas City.

Senator Stouffer introduced to the Senate, students from Tri-County Christian School, Macon.

Senator Richard introduced to the Senate, Principal Rory Mauschbaugh, staff and eleven eighth grade students from Everton Middle School.

Senator Mayer introduced to the Senate, the Physician of the Day, Dr. Gene Leroux, M.D., Doniphan.

Senator McKenna introduced to the Senate, Marilyn Kraemer and one hundred nineteen fourth grade students from Antonia Elementary School, Imperial.

Senator Kehoe introduced to the Senate, representatives of Missouri Electric Cooperatives.

Senator Stouffer introduced to the Senate, students from Wentworth Military Academy, Lexington.

Senator Pearce introduced to the Senate, Christy Garnett, Independence; Holly Bennett, Blue Springs; Kimberly Holger and Janet West, Holden; David Leehy, Kingsville; and Lisa Thomas, Pleasant Hill; representatives of NEA.

Senator Richard introduced to the Senate, Kim Dunlap, Caryn Deckard, Beverly Carpenter, Barbara Long, parents and twenty-eight fifth grade students from McKinley Elementary School, Joplin.

Senator Dixon introduced to the Senate, Staff Ambassadors from Missouri State University, Springfield.

Senator Pearce introduced to the Senate, Mrs. Danielle Roach, Mrs. Kim Gibler, Mrs. Annette Leathers, Mrs. Windy Crawford and students Travis Crawford, Kaylie Roach, Gabe Fisher, Kayden Sweet, Jill Grosshart and Kara Fisher, Training Center Christian School, Garden City.

Senator Mayer introduced to the Senate, Assistant Principal Sheldon Tyler, President Megan Richardson, Caroline Penney, Landon Jones, Drew Dye, Mallory Robertson, Skyler Kinsey, Mary Payne, Clinton Summers, Austin McWilliams, Andy Whitworth and Parker Smith, representatives of Poplar Bluff Teenage Republicans.

Senator Lager introduced to the Senate, students from Rockport School District.

On motion of Senator Dempsey, the Senate adjourned under the rules.

SENATE CALENDAR

FIFTY-NINTH DAY—THURSDAY, APRIL 28, 2011

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 579

HCS for HB 366

HCS for HBs 600, 337 & 413

HCS for HB 161

HCS for HB 523

HCS for HB 473

THIRD READING OF SENATE BILLS

SCS for SB 11-McKenna (In Fiscal Oversight)
 SB 204-Dempsey, et al (In Fiscal Oversight)

SCS for SB 122-Schaaf (In Fiscal Oversight)
 SJR 12-Green (In Fiscal Oversight)

SENATE BILLS FOR PERFECTION

1. SB 260-Wasson, with SCS
2. SB 425-Goodman, with SCS
3. SB 400-Kraus, with SCS
4. SB 392-Rupp, with SCS
5. SB 403-Nieves
6. SB 329-Nieves
7. SB 353-Engler
8. SJR 16-Goodman, with SCS

9. SB 391-Lager
10. SB 253-Callahan and Cunningham, with SCS
11. SB 223-Mayer
12. SB 119-Schaefer
13. SB 150-Munzlinger
14. SB 84-Wright-Jones
15. SB 45-Wright-Jones
16. SB 14-Pearce, with SCS

HOUSE BILLS ON THIRD READING

1. HJR 2-McGhee, et al (Goodman)
 (In Fiscal Oversight)
2. HCS for HBs 112 & 285, with SCS (Brown)
3. HCS for HB 197, with SCA 1
4. HCS for HB 143 (Goodman)
5. HJR 29-Solon, et al (Munzlinger)
 (In Fiscal Oversight)
6. HB 282-Franz, with SCS (Crowell)
7. HB 499-Wells, et al (Wasson)
8. HCS for HB 70 (Goodman)
9. HB 199-Kelley, et al (Parson)
10. HB 256-Cox, et al, with SCS
11. HB 260-Cox, et al
12. HCS for HB 214, with SCS

13. HCS for HB 641, with SCS
14. HCS#2 for HB 609, with SCS (Wasson)
15. HCS for HBs 294, 123, 125, 113, 271
 & 215, with SCS (Munzlinger)
16. HCS for HB 315 (Cunningham)
17. HB 361-Leara
18. HB 648-Montecillo (Rupp)
19. HJR 6-Cierpiot, et al (In Fiscal Oversight)
20. HCS for HB 336
21. HB 340-Klippenstein, et al
22. HCS for HB 545, with SCS (Schaaf)
23. HB 190-Ruzicka (Brown)
24. HCS for HB 250, with SCS
25. HB 101-Loehner, with SCS (Cunningham)

INFORMAL CALENDAR

THIRD READING OF SENATE BILLS

SCS for SB 18-Schmitt

SS for SB 231-Lager

SENATE BILLS FOR PERFECTION

SBs 1 & 206-Ridgeway, with SCS & SA 1
(pending)

SBs 7, 5, 74 & 169-Goodman, with SCS

SB 10-Rupp

SB 23-Keaveny, with SCS & SS for SCS
(pending)

SB 25-Schaaf, with SCS & SS for SCS
(pending)

SB 28-Brown

SB 37-Lembke, with SCS

SB 52-Cunningham

SB 72-Kraus, with SS (pending)

SBs 88 & 82-Schaaf, with SCS & SA 1 (pending)

SB 120-Stouffer, with SS (pending)

SB 130-Rupp, with SCS & SS for SCS (pending)

SB 155-Rupp, with SCS

SB 175-Munzlinger, et al, with SA 1 (pending)

SB 176-Munzlinger, et al

SBs 189, 217, 246, 252 & 79-Schmitt, with SCS

SB 200-Crowell

SB 203-Schmitt, et al, with SS (pending)

SB 208-Lager

SB 209-Lager

SB 228-Pearce

SB 242-Cunningham, with SCS & SS for SCS
(pending)

SB 247-Pearce, with SS (pending)

SB 264-Rupp, with SCS

SB 278-Munzlinger, et al

SB 280-Purgason, et al, with SCS & SS
for SCS (pending)

SBs 291, 184 & 294-Pearce, with SCS & SA 4
(pending)

SB 299-Munzlinger, with SCS (pending)

SB 326-Wasson

SBs 369 & 370-Cunningham, with SCS

SB 390-Schmitt, et al

SBs 408 & 80-Crowell, with SCS

SB 420-Mayer, with SCS

SJR 11-Munzlinger, with SCS

SJR 15-Nieves, et al, with SS (pending)

HOUSE BILLS ON THIRD READING

HCS for HB 61

HB 71-Nasheed, et al

SS for SCS for HCS for HBs 73 & 47
(Crowell) (In Fiscal Oversight)

SS for SCS for HCS for HBs 116 & 316
(Purgason) (In Fiscal Oversight)

SS for SCS for HB 137-Thompson, et al
(Pearce) (In Fiscal Oversight)

HB 204-Hoskins, et al (Stouffer)

HCS for HB 338 (Lager)

HB 339-Pollock, et al, with SS (pending)
(Lager)

HB 442-Franz (Parson)

HCS for HB 556

HB 738-Nasheed, et al, with SCS (pending)
(Cunningham)

SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 68-Mayer, with HCS, as amended

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

HCS for HB 2, with SCS (Schaefer)	HCS for HB 8, with SCS (Schaefer)
HCS for HB 3, with SCS (Schaefer)	HCS for HB 9, with SCS (Schaefer)
HCS for HB 4, with SCS (Schaefer)	HCS for HB 10, with SCS (Schaefer)
HCS for HB 5, with SCS (Schaefer)	HCS for HB 11, with SCS (Schaefer)
HCS for HB 6, with SCS (Schaefer)	HCS for HB 12, with SCS (Schaefer)
HCS for HB 7, with SCS, as amended (Schaefer)	HCS for HB 13, with SCS (Schaefer)

RESOLUTIONS

Reported from Committee

SR 179-Purgason	HCR 11-Nolte, et al (Justus)
HCR 15-Brown (50), et al (Curls)	HCR 34-Hampton, et al (Munzlinger)

To be Referred

HCR 32-Bernskoetter (Kehoe)	HCR 46-Nolte, et al
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