

# Journal of the Senate

FIRST REGULAR SESSION

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**SIXTY-SIXTH DAY—TUESDAY, MAY 10, 2011**

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“So let us not grow weary in doing what is right, for we will reap at harvest time, if we don’t give up.” (Galatians 6:9)

Gracious God, it has been a long session with days whisking by and the work increasing and now in this final week we have much to accomplish. Give us the strength to persist in spite of life’s obstacles and do what is needful and right. So walk with us these days and let us look and find areas to celebrate with one another. 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 and KRCG-TV 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 Goodman offered Senate Resolution No. 1065, regarding Tyler White, Reeds Spring, which was adopted.

Senator Goodman offered Senate Resolution No. 1066, regarding Ryan Eugene Drake, which was adopted.

Senator Goodman offered Senate Resolution No. 1067, regarding Mr. and Mrs. Tommie Anderson, Branson West, which was adopted.

Senator Lamping offered Senate Resolution No. 1068, regarding Alpha Epsilon Pi at the University of Missouri-Columbia, which was adopted.

### PRIVILEGED MOTIONS

Senator Kehoe moved that the Senate refuse to concur in **HCS** for **SB 250**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

### 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 **HCS** for **SB 220**, as amended. Representatives: Diehl, Elmer, Korman, Kelly (24) and Carlson.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SB 59**, as amended. Representatives: Diehl, Cox, Jones (117), McManus 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 **HCS** for **SB 322**, as amended. Representatives: Silvey, Stream, Flanigan, Kelly (24) and Carter.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SB 61**, as amended. Representatives: Diehl, Cox, Richardson, Nasheed and Hubbard.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SS** for **SB 226**, as amended. Representatives: Franz, Bernskoetter, Hough, Sifton and Schupp.

Also,

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

has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SB 145**, as amended. Representatives: Gatschenberger, Schneider, Diehl, Hummel and McManus.

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 **SCS** for **SB 270**, entitled:

An Act to repeal sections 28.190, 29.280, 30.060, 30.070, 30.080, 54.330, 105.030, 105.040, 105.050, 115.123, 115.241, and 115.293, RSMo, and to enact in lieu thereof thirteen new sections relating to elections.

With House Amendment Nos. 1, 2, 3, 4, 5 and 6.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 270, Section 115.123, Pages 4 and 5 by removing all of said Section from the bill and inserting in lieu thereof the following:

“115.123. 1. All public elections shall be held on Tuesday. Except as provided in subsections 2[, 3, ] and [4] **3** of this section, and section 247.180, all public elections shall be held on the general election day, the primary election day, the general municipal election day, the first Tuesday after the first Monday in February or November, or on another day expressly provided by city or county charter, [the first Tuesday after the first Monday in June] and in nonprimary years on the first Tuesday after the first Monday in August.

2. Notwithstanding the provisions of subsection 1 of this section, an election for a presidential primary held pursuant to sections [115.755] **115.758** to 115.785 shall be held on the first Tuesday after the first Monday in March of each presidential election year.

3. The following elections shall be exempt from the provisions of subsection 1 of this section:

- (1) Bond elections necessitated by fire, vandalism or natural disaster;
- (2) Elections for which ownership of real property is required by law for voting; and
- (3) Special elections to fill vacancies and to decide tie votes or election contests.

4. No city or county shall adopt a charter or charter amendment which calls for elections to be held on dates other than those established in subsection 1 of this section.

5. Nothing in this section prohibits a charter city or county from having its primary election in March if the charter provided for a March primary before August 28, 1999.

6. Nothing in this section shall prohibit elections held pursuant to section 65.600, but no other issues shall be on the March ballot except pursuant to this chapter.”; and

Further amend said bill, Page 8, Section 115.241 (repealed), Line 2 by inserting after all of said Section and Line the following:

“[115.755. A statewide presidential preference primary shall be held on the first Tuesday after the first Monday in February of each presidential election year.]”; and

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

## HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 270, Page 5, Section 115.293, Line 11, by inserting after all of said section and line the following:

“181.060. 1. The general assembly may appropriate moneys for state aid to public libraries, which moneys shall be administered by the state librarian, and distributed as specified in rules and regulations promulgated by the Missouri state library, and approved by the secretary of state.

2. At least fifty percent of the moneys appropriated for state aid to public libraries shall be apportioned to all public libraries established and maintained under the provisions of the library laws or other laws of the state relating to libraries. The allocation of the moneys shall be based on an equal per capita rate for the population of each city, village, town, township, urban public library district, county or consolidated library district in which any library is or may be established, in proportion to the population according to the latest federal census of the cities, villages, towns, townships, school districts, county or regional library districts maintaining public libraries primarily supported by public funds which are designed to serve the general public. No grant shall be made to any public library which is tax supported if the rate of tax levied or the appropriation for the library should be decreased below the rate in force on December 31, 1946, or on the date of its establishment. Grants shall be made to any public library if a public library tax of at least ten cents per one hundred dollars assessed valuation has been voted in accordance with sections 182.010 to 182.460 or as authorized in section 137.030 and is duly assessed and levied for the year preceding that in which the grant is made, or if the appropriation for the public library in any city of first class yields one dollar or more per capita for the previous year according to the population of the latest federal census or if the amount provided by the city for the public library, in any other city in which the library is not supported by a library tax, is at least equal to the amount of revenue which would be realized by a tax of ten cents per one hundred dollars assessed valuation if the library had been tax supported. Except that, no grant under this section shall be affected because of a reduction in the rate of levy which is required by the provisions of section 137.073, **or because of a voluntary reduction in the levy following the enactment of a district sales tax under section 182.802, if the proceeds from the sales tax equal or exceed the reduction in revenue from the levy.**

3. The librarian of the library together with the treasurer of the library or the treasurer of the city if there is no library treasurer shall certify to the state librarian the annual tax income and rate of tax or the appropriation for the library on the date of the enactment of this law, and of the current year, and each year thereafter, and the state librarian shall certify to the commissioner of administration the amount to be paid to each library.

4. The balance of the moneys shall be administered and supervised by the state librarian who may provide grants to public libraries for:

(1) Establishment, on a population basis to newly established city, county city/county or consolidated libraries;

(2) Equalization to city/county[.], urban public, county or consolidated libraries;

(3) Reciprocal borrowing;

(4) Technological development;

(5) Interlibrary cooperation;

(6) Literacy programs; and

(7) Other library projects or programs that may be determined by the local library, library advisory committee and the state library staff that would improve access to library services by the residents of this state. Newly established libraries shall certify through the legally established board or the governing body of the city supporting the library and the librarian of the library to the state librarian the fact of establishment, the rate of tax, the assessed valuation of the library district and the annual tax yield of the library. The state librarian shall then certify to the commissioner of administration the amount of establishment grant to be paid to the libraries and warrants shall be issued for the amount allocated and approved. The sum appropriated for state aid to public libraries shall be separate and apart from any and all appropriations made to the state library.

**182.802. 1. As used in this section, the following terms mean:**

**(1) “Public library district”, any city library district, county library district, city-county library district, municipal library district, consolidated library district, or urban library district;**

**(2) “Qualified voters” or “voters”, any individuals residing within the public library district who are eligible to be registered voters and who have registered to vote under chapter 115, or, if no individuals are eligible and registered to vote reside within the proposed district, all of the owners of real property located within the proposed district who have unanimously petitioned for or consented to the adoption of an ordinance by the governing body imposing a tax authorized in this section. If the owner of the property within the proposed district is a political subdivision or corporation of the state, the governing body of such political subdivision or corporation shall be considered the owner for purposes of this section.**

**2. The board of directors of any public library district located at least partially within the following counties may impose a tax as provided in this section:**

**(1) Any county of the third classification without a township form of government and with more than forty thousand eight hundred but fewer than forty thousand nine hundred inhabitants;**

**(2) Any county of the third classification without a township form of government and with more than thirteen thousand five hundred but fewer than thirteen thousand six hundred inhabitants;**

**(3) Any county of the third classification without a township form of government and with more than thirteen thousand two hundred but fewer than thirteen thousand three hundred inhabitants;**

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

**(5) Any county of the third classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants;**

**(6) Any county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants;**  
or

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

**3. The board of directors of any public library district described in subsection 1 of this section**

may, upon a majority vote of the board, impose a sales tax on all retail sales made within the district which are subject to sales tax under chapter 144. The tax authorized in this section shall not exceed one-half of one cent, and shall be imposed solely for the purpose of funding the operation and maintenance of public libraries within the boundaries of the district. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

4. No sales tax imposed under this section shall become effective unless the board of directors of the district submits to the voters within the district at a county or state general, primary, or special election a proposal to authorize the board of directors of the district to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the calendar quarter immediately following the adoption of the sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed under this section.

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

7. If the tax is repealed or terminated by any means, all remaining revenues generated from the sales tax shall continue to be used solely for the designated purposes, and the board of directors shall retain for a period of one year two percent of the amount collected after the repeal or termination to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts.”; and

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

#### HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 270, Page 5, Section 115.293, Line 11, by inserting after all of said line the following:

“130.021. 1. Every committee shall have a treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state. A committee may also have a deputy treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state and serve in the capacity of committee treasurer in the event the committee treasurer is unable for any reason to perform the treasurer’s duties.

2. Every candidate for offices listed in subsection 1 of section 130.016 who has not filed a statement of exemption pursuant to that subsection and every candidate for offices listed in subsection 6 of section

130.016 who is not excluded from filing a statement of organization and disclosure reports pursuant to subsection 6 of section 130.016 shall form a candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all further contributions received by such candidate and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee. Nothing in this chapter shall prevent a candidate from appointing himself or herself as a committee of one and serving as the person's own treasurer, maintaining the candidate's own records and filing all the reports and statements required to be filed by the treasurer of a candidate committee.

3. A candidate who has more than one candidate committee supporting the person's candidacy shall designate one of those candidate committees as the committee responsible for consolidating the aggregate contributions to all such committees under the candidate's control and direction as required by section 130.041. No person shall form a new committee or serve as a deputy treasurer of any committee as defined in section 130.011 until the person or the treasurer of any committee previously formed by the person or where the person served as treasurer or deputy treasurer has filed all required campaign disclosure reports and statements of limited activity for all prior elections and paid outstanding previously imposed fees assessed against that person by the ethics commission.

4. (1) Every committee shall have a single official fund depository within this state which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan association, or a federally or state-chartered credit union in which the committee shall open and thereafter maintain at least one official depository account in its own name. An "official depository account" shall be a checking account or some type of negotiable draft or negotiable order of withdrawal account, and the official fund depository shall, regarding an official depository account, be a type of financial institution which provides a record of deposits, canceled checks or other canceled instruments of withdrawal evidencing each transaction by maintaining copies within this state of such instruments and other transactions. All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer or candidate. Contributions received by a committee shall not be commingled with any funds of an agent of the committee, a candidate or any other person, except that contributions from a candidate of the candidate's own funds to the person's candidate committee shall be deposited to an official depository account of the person's candidate committee. No expenditure shall be made by a committee when the office of committee treasurer is vacant except that when the office of a candidate committee treasurer is vacant, the candidate shall be the treasurer until the candidate appoints a new treasurer.

(2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a committee's official depository account and deposit such funds in one or more savings accounts in the committee's name in any bank, savings and loan association or credit union within this state, and may also withdraw funds from an official depository account for investment in the committee's name in any certificate of deposit, bond or security. Proceeds from interest or dividends from a savings account or other investment or proceeds from withdrawals from a savings account or from the sale of an investment shall not be expended or reinvested, except in the case of renewals of certificates of deposit, without first redepositing such proceeds in an official depository account. Investments, other than savings accounts, held outside the committee's official depository account at any time during a reporting period shall be disclosed by

description, amount, any identifying numbers and the name and address of any institution or person in which or through which it is held in an attachment to disclosure reports the committee is required to file. Proceeds from an investment such as interest or dividends or proceeds from its sale, shall be reported by date and amount. In the case of the sale of an investment, the names and addresses of the persons involved in the transaction shall also be stated. Funds held in savings accounts and investments, including interest earned, shall be included in the report of money on hand as required by section 130.041.

5. The treasurer or deputy treasurer acting on behalf of any person or organization or group of persons which is a committee by virtue of the definitions of committee in section 130.011 and any candidate who is not excluded from forming a committee in accordance with the provisions of section 130.016 shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than the date for filing the first report required pursuant to the provisions of section 130.046. The statement of organization shall contain the following information:

(1) The name, mailing address and telephone number, if any, of the committee filing the statement of organization. If the committee is deemed to be affiliated with a connected organization as provided in subdivision (10) of section 130.011, the name of the connected organization, or a legally registered fictitious name which reasonably identifies the connected organization, shall appear in the name of the committee. If the committee is a candidate committee, the name of the candidate shall be a part of the committee's name;

(2) The name, mailing address and telephone number of the candidate;

(3) The name, mailing address and telephone number of the committee treasurer, and the name, mailing address and telephone number of its deputy treasurer if the committee has named a deputy treasurer;

(4) The names, mailing addresses and titles of its officers, if any;

(5) The name and mailing address of any connected organizations with which the committee is affiliated;

(6) The name and mailing address of its depository, and the name and account number of each account the committee has in the depository. The account number of each account shall be redacted prior to disclosing the statement to the public;

(7) Identification of the major nature of the committee such as a candidate committee, campaign committee, political action committee, political party committee, incumbent committee, or any other committee according to the definition of committee in section 130.011;

(8) In the case of the candidate committee designated in subsection 3 of this section, the full name and address of each other candidate committee which is under the control and direction of the same candidate, together with the name, address and telephone number of the treasurer of each such other committee;

(9) The name and office sought of each candidate supported or opposed by the committee;

(10) The ballot measure concerned, if any, and whether the committee is in favor of or opposed to such measure.

6. A committee may omit the information required in subdivisions (9) and (10) of subsection 5 of this section if, on the date on which it is required to file a statement of organization, the committee has not yet determined the particular candidates or particular ballot measures it will support or oppose.

7. A committee which has filed a statement of organization and has not terminated shall not be required to file another statement of organization, except that when there is a change in any of the information previously reported as required by subdivisions (1) to (8) of subsection 5 of this section an amended statement of organization shall be filed within twenty days after the change occurs, but no later than the date of the filing of the next report required to be filed by that committee by section 130.046.

8. Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed. The termination statement shall include: the distribution made of any remaining surplus funds and the disposition of any deficits; and the name, mailing address and telephone number of the individual responsible for preserving the committee's records and accounts as required in section 130.036.

9. Any statement required by this section shall be signed and attested by the committee treasurer or deputy treasurer, and by the candidate in the case of a candidate committee.

10. A committee domiciled outside this state shall **not** be required to file a statement of organization and appoint a treasurer residing in this state and open an account in a depository within this state[]; provided that either of the following conditions prevails:

(1) The aggregate of all contributions received from persons domiciled in this state exceeds twenty percent in total dollar amount of all funds received by the committee in the preceding twelve months; or

(2) The aggregate of all contributions and expenditures made to support or oppose candidates and ballot measures in this state exceeds one thousand five hundred dollars in the current calendar year].

11. If a committee domiciled in this state receives a contribution of one thousand five hundred dollars or more from any committee domiciled outside of this state, the committee domiciled in this state shall file a disclosure report with the commission. The report shall disclose the full name, mailing address, telephone numbers and domicile of the contributing committee and the date and amount of the contribution. The report shall be filed within forty-eight hours of the receipt of such contribution if the contribution is received after the last reporting date before the election.”; and

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

HOUSE AMENDMENT NO. 4

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 270, Page 8, Section 190.056, Line 88, by inserting after all of said section and line, the following:

**“Section 1. Notwithstanding the provisions of sections 77.230 and 78.440, any individual who is twenty four years of age or older shall be eligible to serve as mayor in a city of the third classification with a form of government organized under sections 78.430 to 78.640.”; and**

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

HOUSE AMENDMENT NO. 5

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 270, Page 1, Section A, Line 4 by inserting after said line the following:

“11.010. The official manual, commonly known as the “Blue Book”, compiled and electronically published by the secretary of state on its official website is the official manual of this state, and it is

unlawful for any officer or employee of this state **except the secretary of state**, or any board, or department or any officer or employee thereof, to cause to be printed, at state expense, any duplication or rearrangement of any part of the manual. It is also unlawful for the secretary of state to publish, or permit to be published in the manual any duplication, or rearrangement of any part of any report, or other document, required to be printed at the expense of the state which has been submitted to and rejected by him or her as not suitable for publication in the manual.

**11.025. Notwithstanding any other provision of law, the secretary of state may enter into an agreement directly with a nonprofit organization for such nonprofit organization to print and distribute copies of the official manual. The secretary of state shall provide to the organization the electronic version of the official manual prepared and published under this chapter. The nonprofit organization shall not alter, add, or delete any information provided by the secretary of state. Information published about the organization in the official manual shall be limited to the name of the organization and its contact information. The official manual shall not contain advertising or information promoting any entity or individual. The organization shall charge a fee for a copy of the official manual to cover the cost of production and distribution. The nonprofit organization shall be subject to an independent audit, ordered by the state and paid for by the nonprofit organization, to account for income and expenses for the sale, production, and distribution of the official manual. After such audit, any surplus funds generated by the nonprofit organization through the sale of the manual shall be transferred to the state treasurer for deposit in the state’s general revenue fund.”;** and

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

#### HOUSE AMENDMENT NO. 6

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 270, Page 4, Section 105.050, Line 8, by inserting after all of said section and line, the following:

**“115.043. Each election authority may make all rules and regulations, not inconsistent with statutory provisions, necessary for the registration of voters and the conduct of elections. Such rules and regulations may include a procedure by which an election authority may provide each registered voter residing within the election authority’s jurisdiction the option of providing the voter’s email address to the election authority to use for providing information to voters in conjunction with the conduct of elections. Providing information to a voter’s email address by an election authority shall not be construed to fulfill the election authority’s responsibility to provide notice or other election communications to any voter as required by state law.”;** and

Further amend said bill, Page 5, Section 115.123, Line 20, by inserting after all of said section and line, the following:

**“115.155. 1. The election authority shall provide for the registration of each voter. Each application shall be in substantially the following form: APPLICATION FOR REGISTRATION Are you a citizen of the United States?**

YES

NO

Will you be 18 years of age on or before election day?

YES

NO

IF YOU CHECKED "NO" IN RESPONSE TO EITHER OF THESE QUESTIONS, DO NOT COMPLETE THIS FORM.

IF YOU ARE SUBMITTING THIS FORM BY MAIL AND ARE REGISTERING FOR THE FIRST TIME, PLEASE SUBMIT A COPY OF A CURRENT, VALID PHOTO IDENTIFICATION. IF YOU DO NOT SUBMIT SUCH INFORMATION, YOU WILL BE REQUIRED TO PRESENT ADDITIONAL IDENTIFICATION UPON VOTING FOR THE FIRST TIME SUCH AS A BIRTH CERTIFICATE, A NATIVE AMERICAN TRIBAL DOCUMENT, OTHER PROOF OF UNITED STATES CITIZENSHIP, A VALID MISSOURI DRIVERS LICENSE OR OTHER FORM OF PERSONAL IDENTIFICATION.

.....	.....
	Township (or Ward)
.....	.....
Name	Precinct
.....	.....
Home Address	Required Personal Identification Information
.....	
City            ZIP	
.....	.....
Date of Birth	Place of Birth (Optional)
.....	.....
Telephone Number (Optional)	Mother's Maiden Name (Optional)
.....	.....
Occupation (Optional)	Last Place Previously Registered
.....	.....
Last four digits of Social Security Number (Required for registration unless no Social Security number exists for Applicant)	Under What Name
Remarks:	
	.....
	When

I am a citizen of the United States and a resident of the state of Missouri. I have not been adjudged incapacitated by any court of law. If I have been convicted of a felony or of a misdemeanor connected with

the right of suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to law. I do solemnly swear that all statements made on this card are true to the best of my knowledge and belief. I UNDERSTAND THAT IF I REGISTER TO VOTE KNOWING THAT I AM NOT LEGALLY ENTITLED TO REGISTER, I AM COMMITTING A CLASS ONE ELECTION OFFENSE AND MAY BE PUNISHED BY IMPRISONMENT OF NOT MORE THAN FIVE YEARS OR BY A FINE OF BETWEEN TWO THOUSAND FIVE HUNDRED DOLLARS AND TEN THOUSAND DOLLARS OR BY BOTH SUCH IMPRISONMENT AND FINE.

.....

Signature of Voter

Date

.....

Signature of Election Official

2. After supplying all information necessary for the registration records, each applicant who appears in person before the election authority shall swear or affirm the statements on the registration application by signing his or her full name, witnessed by the signature of the election authority or such authority’s deputy registration official. Each applicant who applies to register by mail pursuant to section 115.159, or pursuant to section 115.160 or 115.162, shall attest to the statements on the application by his or her signature.

3. Upon receipt by mail of a completed and signed voter registration application, a voter registration application forwarded by the division of motor vehicle and drivers licensing of the department of revenue pursuant to section 115.160, or a voter registration agency pursuant to section 115.162, the election authority shall, if satisfied that the applicant is entitled to register, transfer all data necessary for the registration records from the application to its registration system. Within seven business days after receiving the application, the election authority shall send the applicant a verification notice. If such notice is returned as undeliverable by the postal service within the time established by the election authority, the election authority shall not place the applicant’s name on the voter registration file.

4. If, upon receipt by mail of a voter registration application or a voter registration application forwarded pursuant to section 115.160 or 115.162, the election authority determines that the applicant is not entitled to register, such authority shall, within seven business days after receiving the application, so notify the applicant by mail and state the reason such authority has determined the applicant is not qualified. The applicant may have such determination reviewed pursuant to the provisions of section 115.223. If an applicant for voter registration fails to answer the question on the application concerning United States citizenship, the election authority shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form before the next election.

5. It shall be the responsibility of the secretary of state to prescribe specifications for voter registration documents so that they are uniform throughout the state of Missouri and comply with the National Voter Registration Act of 1993, including the reporting requirements, and so that registrations, name changes and transfers of registrations within the state may take place as allowed by law.

6. All voter registration applications shall be preserved in the office of the election authority.

**7. Each election authority may provide each applicant for voter registration with the option of providing the applicant’s email address with the applicant’s voter registration form.”; and**

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

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SB 284**, entitled:

An Act to repeal sections 144.030, 338.055, and 338.330, RSMo, and to enact in lieu thereof three new sections relating to pharmacy, with an emergency clause for a certain section.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 284, Section 338.330, Page 13, Line 38, by inserting after all of said section and line the following:

**“376.1257. 1. Any health benefit plan that provides coverage and benefits for cancer chemotherapy treatment shall not require a higher co-payment, deductible, or coinsurance amount for a prescribed orally administered anticancer medication that is used to kill or slow the growth of cancerous cells than what the plan requires for an intravenously administered or injected cancer medication that is provided, regardless of formulation or benefit category determination by the health carrier administering the health benefit plan.**

**2. A health carrier shall not achieve compliance with the provisions of this section by imposing an increase in co-payment, deductible, or coinsurance amount for an intravenously administered or injected cancer chemotherapy agent covered under the health benefit plan.**

**3. Nothing in this section shall be interpreted to prohibit a health carrier from requiring prior authorization or imposing other appropriate utilization controls in approving coverage for any chemotherapy.**

**4. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.**

**5. As used in this section, the terms “health benefit plan” and “health carrier” shall have the same meanings ascribed to such terms in section 376.1350.**

**6. Coverage under this section shall be limited to Federal Drug Administration approved indications and National Comprehensive Cancer Network recommendations.**

**7. Coverage under this section may be administered by a specialty pharmacy network.”;** 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.

**HOUSE BILLS ON SECOND READING**

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

**HCS for HB 999**—Judiciary and Civil and Criminal Jurisprudence.

**HCS for HB 732**—Financial and Governmental Organizations and Elections.

**HCS for HBs 504, 505 and 874**—Judiciary and Civil and Criminal Jurisprudence.

**HB 658**—Judiciary and Civil and Criminal Jurisprudence.

**HCS for HB 707**—Jobs, Economic Development and Local Government.

**HB 138**—General Laws.

Senator Stouffer assumed the Chair.

**PRIVILEGED MOTIONS**

Senator Brown moved that the Senate refuse to concur in **HCS for SCS for SB 29**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

**HOUSE BILLS ON THIRD READING**

**HJR 2**, introduced by Representative McGhee, et al, entitled:

Joint Resolution submitting to the qualified voters of Missouri an amendment repealing section 5 of article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the right to pray.

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

On motion of Senator Goodman, **HJR 2** 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 Goodman, title to the bill was agreed to.

Senator Goodman 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 412**, with **SCS**, entitled:

An Act to repeal section 338.330, RSMo, and to enact in lieu thereof one new section relating to wholesale drug distributors.

Was taken up by Senator Wasson.

**SCS for HCS for HB 412**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 412

An Act to repeal sections 338.055 and 338.330, RSMo, and to enact in lieu thereof two new sections relating to the authority of the board of pharmacy, with an emergency clause for a certain section.

Was taken up.

Senator Wasson moved that **SCS for HCS for HB 412** be adopted.

Senator Brown offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 412, Page 1, Section A, Line 3, by inserting immediately after said line the following:

“338.010. 1. The “practice of pharmacy” means the interpretation, implementation, and evaluation of medical prescription orders, including **any legend drugs under 21 U.S.C. Section 353**; receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by the prescription order so long as the prescription order is specific to each patient for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical prescription orders and administration of viral influenza, pneumonia, shingles and meningitis vaccines by written protocol authorized by a physician for persons twelve years of age or older as authorized by rule or the administration of pneumonia, shingles, and meningitis vaccines by written protocol authorized by a physician for a specific patient as authorized by rule; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners, **and veterinarians and their clients about legend drugs**, about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of his **or her** duties. This assistance in no way is intended to relieve the pharmacist from his **or her** responsibilities for compliance with this chapter and he **or she** will be responsible for the actions of the auxiliary personnel acting in his **or her** assistance. This chapter shall also not be construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry, **or** podiatry, or veterinary medicine **only for use in animals**, or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220 in the compounding, **administering, prescribing**, or dispensing of his **or her** own prescriptions.

2. Any pharmacist who accepts a prescription order for a medication therapeutic plan shall have a written protocol from the physician who refers the patient for medication therapy services. The written protocol and the prescription order for a medication therapeutic plan shall come from the physician only, and shall not come from a nurse engaged in a collaborative practice arrangement under section 334.104, or from a physician assistant engaged in a supervision agreement under section 334.735.

3. Nothing in this section shall be construed as to prevent any person, firm or corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

4. Nothing in this section shall be construed to apply to or interfere with the sale of nonprescription drugs and the ordinary household remedies and such drugs or medicines as are normally sold by those engaged in the sale of general merchandise.

5. No health carrier as defined in chapter 376 shall require any physician with which they contract to enter into a written protocol with a pharmacist for medication therapeutic services.

6. This section shall not be construed to allow a pharmacist to diagnose or independently prescribe pharmaceuticals.

7. The state board of registration for the healing arts, under section 334.125, and the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Such rules shall require protocols to include provisions allowing for timely communication between the pharmacist and the referring physician, and any other patient protection provisions deemed appropriate by both boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither board shall separately promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. 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, 2007, shall be invalid and void.

8. The state board of pharmacy may grant a certificate of medication therapeutic plan authority to a licensed pharmacist who submits proof of successful completion of a board-approved course of academic clinical study beyond a bachelor of science in pharmacy, including but not limited to clinical assessment skills, from a nationally accredited college or university, or a certification of equivalence issued by a nationally recognized professional organization and approved by the board of pharmacy.

9. Any pharmacist who has received a certificate of medication therapeutic plan authority may engage in the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by a prescription order from a physician that is specific to each patient for care by a pharmacist.

10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized by the written protocol or the physician's prescription order.”; and

Further amend said bill, page 4, section 338.055, line 115, by inserting immediately after said line the

following:

“338.140. 1. The board of pharmacy shall have a common seal, and shall have power to adopt such rules and bylaws not inconsistent with law as may be necessary for the regulation of its proceedings and for the discharge of the duties imposed pursuant to sections 338.010 to 338.198, and shall have power to employ an attorney to conduct prosecutions or to assist in the conduct of prosecutions pursuant to sections 338.010 to 338.198.

2. The board shall keep a record of its proceedings.

3. The board of pharmacy shall make annually to the governor and, upon written request, to persons licensed pursuant to the provisions of this chapter a written report of its proceedings.

4. The board of pharmacy shall appoint an advisory committee composed of [five] **six** members, one of whom shall be a representative of pharmacy but who shall not be a member of the pharmacy board, three of whom shall be representatives of wholesale drug distributors as defined in section 338.330, [and] one of whom shall be a representative of drug manufacturers, **and one of whom shall be a licensed veterinarian recommended to the board of pharmacy by the board of veterinary medicine**. The committee shall review and make recommendations to the board on the merit of all rules and regulations dealing with pharmacy distributors, wholesale drug distributors [and], drug manufacturers, **and veterinary legend drugs** which are proposed by the board.

5. A majority of the board shall constitute a quorum for the transaction of business.

6. Notwithstanding any other provisions of law to the contrary, the board may issue letters of reprimand, censure or warning to any holder of a license or registration required pursuant to this chapter for any violations that could result in disciplinary action as defined in section 338.055.

338.150. Any person authorized by the board of pharmacy is hereby given the right of entry and inspection upon all open premises purporting or appearing to be drug or chemical stores, apothecary shops, pharmacies or places of business for exposing for sale, or the dispensing or selling of drugs, pharmaceuticals, medicines, chemicals or poisons or for the compounding of physicians’ **or veterinarians’** prescriptions.

338.210. 1. Pharmacy refers to any location where the practice of pharmacy occurs or such activities are offered or provided by a pharmacist or another acting under the supervision and authority of a pharmacist, including every premises or other place:

(1) Where the practice of pharmacy is offered or conducted;

(2) Where drugs, chemicals, medicines, **any legend drugs under 21 U.S.C. Section 353**, prescriptions, or poisons are compounded, prepared, dispensed or sold or offered for sale at retail;

(3) Where the words “pharmacist”, “apothecary”, “drugstore”, “drugs”, and any other symbols, words or phrases of similar meaning or understanding are used in any form to advertise retail products or services;

(4) Where patient records or other information is maintained for the purpose of engaging or offering to engage in the practice of pharmacy or to comply with any relevant laws regulating the acquisition, possession, handling, transfer, sale or destruction of drugs, chemicals, medicines, prescriptions or poisons.

2. All activity or conduct involving the practice of pharmacy as it relates to an identifiable prescription or drug order shall occur at the pharmacy location where such identifiable prescription or drug order is first

presented by the patient or the patient's authorized agent for preparation or dispensing, unless otherwise expressly authorized by the board.

3. The requirements set forth in subsection 2 of this section shall not be construed to bar the complete transfer of an identifiable prescription or drug order pursuant to a verbal request by or the written consent of the patient or the patient's authorized agent.

4. The board is hereby authorized to enact rules waiving the requirements of subsection 2 of this section and establishing such terms and conditions as it deems necessary, whereby any activities related to the preparation, dispensing or recording of an identifiable prescription or drug order may be shared between separately licensed facilities.

5. If a violation of this chapter or other relevant law occurs in connection with or adjunct to the preparation or dispensing of a prescription or drug order, any permit holder or pharmacist-in-charge at any facility participating in the preparation, dispensing, or distribution of a prescription or drug order may be deemed liable for such violation.

6. Nothing in this section shall be construed to supersede the provisions of section 197.100.

338.220. 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. A permit shall not be required for an individual licensed pharmacist to perform nondispensing activities outside of a pharmacy, as provided by the rules of the board. A permit shall not be required for an individual licensed pharmacist to administer drugs, vaccines, and biologicals by protocol, as permitted by law, outside of a pharmacy. The following classes of pharmacy permits or licenses are hereby established:

- (1) Class A: Community/ambulatory;
- (2) Class B: Hospital outpatient pharmacy;
- (3) Class C: Long-term care;
- (4) Class D: Nonsterile compounding;
- (5) Class E: Radio pharmaceutical;
- (6) Class F: Renal dialysis;
- (7) Class G: Medical gas;
- (8) Class H: Sterile product compounding;
- (9) Class I: Consultant services;
- (10) Class J: Shared service;
- (11) Class K: Internet;
- (12) Class L: Veterinary.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued

shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

4. Class L: veterinary permit shall not be construed to prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding, **administering, prescribing,** or dispensing of their own prescriptions, **medicine, drug, or pharmaceutical product to be used for animals.**

5. [Notwithstanding any other law to the contrary] **Except for any legend drugs under 21 U.S.C. Section 353,** the provisions of this section shall not apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating animals.

338.240. 1. Upon evidence satisfactory to the said Missouri board of pharmacy:

(1) That the pharmacy for which a permit, or renewal thereof, is sought, will be conducted in full compliance with sections 338.210 to 338.300, with existing laws, and with the rules and regulations as established hereunder by said board;

(2) That the equipment and facilities of such pharmacy are such that it can be operated in a manner not to endanger the public health or safety;

(3) That such pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary and orderly manner;

(4) That the management of said pharmacy is under the supervision of either a registered pharmacist, or an owner or employee of the owner, who has at his **or her** place of business a registered pharmacist employed for the purpose of compounding physician's **or veterinarian's** prescriptions in the event any such prescriptions are compounded or sold;

(5) That said pharmacy is operated in compliance with the rules and regulations legally prescribed with respect thereto by the Missouri board of pharmacy, a permit or renewal thereof shall be issued to such persons as the said board of pharmacy shall deem qualified to conduct such pharmacy.

**2. In lieu of a registered pharmacist as required by subdivision (4) of subsection 1 of this section, a pharmacy permit holder that only holds a class L veterinary permit and no other pharmacy permit, may designate a supervising registered pharmacist who shall be responsible for reviewing the activities and records of the class L pharmacy permit holder as established by the board by rule. The supervising registered pharmacist shall not be required to be physically present on site during the business operations of a class L pharmacy permit holder identified in subdivision (5) of subsection 1 of this section when noncontrolled legend drugs under 21 U.S.C. Section 353 are being dispensed for use in animals, but shall be specifically present on site when any noncontrolled drugs for use in animals are being compounded.”;** and

Further amend the title and enacting clause accordingly.

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

Senator Crowell offered SA 2:

## SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 412, Page 1, In the Title, Line 3, by striking the words “the authority of the board of”; and

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

“208.798. [1. The provisions of sections 208.550 to 208.568 shall terminate following notice to the revisor of statutes by the Missouri RX plan advisory commission that the Medicare Prescription Drug, Improvement and Modernization Act of 2003 has been fully implemented.

2. Pursuant to section 23.253 of the Missouri sunset act, the provisions of the new program authorized under sections 208.780 to 208.798 shall automatically sunset August 28, 2011, unless reauthorized by an act of the general assembly] **The provisions of sections 208.780 to 208.798 shall terminate on August 28, 2014.**”; and

Further amend the title and enacting clause accordingly.

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

Senator Wasson moved that **SCS** for **HCS** for **HB 412**, as amended, be adopted, which motion prevailed.

Senator Wasson moved that **SCS** for **HCS** for **HB 412**, as amended, be read the 3rd time and passed and was recognized to close.

President Pro Tem Mayer referred **SCS** for **HCS** for **HB 412**, as amended, to the Committee on Ways and Means and Fiscal Oversight.

**HCS** for **HB 407**, entitled:

An Act to amend chapter 379, RSMo, by adding thereto one new section relating to certificates of insurance for property and casualty insurance coverage.

Was taken up by Senator Parson.

On motion of Senator Parson, **HCS** for **HB 407** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
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—Senators—None

Absent—Senator Engler—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

Senator Parson 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 265**, with **SCS**, entitled:

An Act to amend chapter 324, RSMo, by adding thereto one new section relating to professional registration.

Was taken up by Senator Wasson.

**SCS** for **HCS** for **HB 265**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 265

An Act to amend chapter 324, RSMo, by adding thereto one new section relating to notifying employers regarding the licensing status of employees.

Was taken up.

Senator Wasson moved that **SCS** for **HCS** for **HB 265** be adopted.

Senator Wasson offered **SS** for **SCS** for **HCS** for **HB 265**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 265

An Act to repeal sections 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 436.405, 436.412, 436.445, 436.450, 436.455, and 436.456, RSMo, and to enact in lieu thereof fourteen new sections relating to professional registration.

Senator Wasson moved that **SS** for **SCS** for **HCS** for **HB 265** be adopted.

Senator Kehoe assumed the Chair.

Senator Schaaf offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 265, Page 1, In the Title, Line 6 of the title, by striking “**professional registration**” and inserting in lieu thereof the following: “licensure of certain professions”; and

Further amend said bill, page 2, section 324.014, line 7, 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.”; and

Further amend said bill, page 13, section 333.171, line 19, by inserting after all of said line the following:

**“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 a board investigation or to facilitate settlement negotiations with the board, in the course of voluntary exchange of information with another state’s licensing authority, pursuant to a court order, 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 contested 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 contested 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 contested 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 contested hearing to determine if by clear and convincing 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 excessive use or abuse of controlled substances, 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. The board shall promulgate rules and regulations to carry out the provisions of this section.**

**6. 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. 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, 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 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;

(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].

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 apply to the administrative hearing commission for an emergency suspension or restriction of 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, regardless of whether the patient consented;**

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

**(3) Possession of a controlled substance in violation of chapter 195 or any state or federal law, rule, or regulation, excluding record keeping violations;**

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

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

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

**(7) A report from a board approved facility or a professional health program stating the licensee is not fit to practice. For purposes of this section, a licensee is deemed to have waived all objections to the admissibility of testimony from the provider of the examination and admissibility of the**

examination reports. The licensee shall sign all necessary releases for the board to obtain and use the examination during a hearing; or

(8) Any conduct for which the board may discipline that constitutes a serious danger to the health, safety, or welfare of a patient or the public.

2. The board shall submit existing affidavits and existing certified court records together with a complaint alleging the facts in support of the board's request for an emergency suspension or restriction to the administrative hearing commission and shall supply the administrative hearing commission with the last home or business addresses on file with the board for the licensee. Within one business day of the filing of the complaint, the administrative hearing commission shall return a service packet to the board. The service packet shall include the board's complaint and any affidavits or records the board intends to rely on that have been filed with the administrative hearing commission. The service packet may contain other information in the discretion of the administrative hearing commission. Within twenty-four hours of receiving the packet, the board shall either personally serve the licensee or leave a copy of the service packet at all of the licensee's current addresses on file with the board. Prior to the hearing, the licensee may file affidavits and certified court records for consideration by the administrative hearing commission.

3. Within five days of the board's filing of the complaint, the administrative hearing commission shall review the information submitted by the board and the licensee and shall determine based on that information if probable cause exists pursuant to subsection 1 of this section and shall issue its findings of fact and conclusions of law. If the administrative hearing commission finds that there is probable cause, the administrative hearing commission shall enter the order requested by the board. The order shall be effective upon personal service or by leaving a copy at all of the licensee's current addresses on file with the board.

4. The administrative hearing commission shall hold a hearing within forty-five days of the board's filing of the complaint to determine if cause for discipline exists. The administrative hearing commission may grant a request for a continuance, but shall in any event, hold the hearing within one hundred twenty days of the board's initial filing. The board shall be granted leave to amend its complaint if it is more than thirty days prior to the hearing. If less than thirty days, the board may be granted leave to amend if public safety requires.

(1) If no cause for discipline exists, the administrative hearing commission shall issue findings of fact, conclusions of law, and an order terminating the emergency suspension or restriction.

(2) If cause for discipline exists, the administrative hearing commission shall issue findings of fact and conclusions of law and order the emergency suspension or restriction to remain in full force and effect pending a disciplinary hearing before the board. The board shall hold a hearing following the certification of the record by the administrative hearing commission and may impose any discipline otherwise authorized by state law.

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

7. If the administrative hearing commission does not find probable cause and does not grant the emergency suspension or restriction, the board shall remove all reference to such emergency suspension or restriction from its public records. Records relating to the suspension or restriction

shall be maintained in the board's 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 request of the licensee.

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

(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 of 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 disciplinary action against the licensee's license, certification or registration issued by any other state, by any other agency or entity of this state or any other state or the United States or its territories, or any other country;

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

**(2) The board shall provide the licensee not less than ten days notice of any hearing held pursuant to 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.**

**9. A final decision of the administrative hearing commission or the board shall be subject to judicial review pursuant to 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 may be satisfied by the prescribing physician's designee when treatment is provided in:

(1) A hospital as defined in section 197.020;

(2) A hospice program as defined in section 197.250;

(3) Home health services provided by a home health agency as defined in section 197.400;

(4) Accordance with a collaborative practice agreement as defined in section 334.104;

(5) Conjunction with a physician assistant licensed pursuant to section 334.738;

(6) Consultation with another physician who has an ongoing physician-patient relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications; or

(7) 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 for a period not to exceed three years; 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 22, section 436.456, line 1, 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[.];

(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.”; and

“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 Schaaf moved that the above amendment be adopted, which motion prevailed.

Senator Wasson moved that **SS** for **SCS** for **HCS** for **HB 265**, as amended, be adopted, which motion prevailed.

Senator Wasson moved that **SS** for **SCS** for **HCS** for **HB 265**, 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 **HB 265**, as amended, to the Committee on Ways and Means and Fiscal Oversight.

At the request of Senator Stouffer, **HB 484** was placed on the Informal Calendar.

At the request of Senator Stouffer, **HCS** for **HB 430**, with **SCS**, was placed on the Informal Calendar.

At the request of Senator Dempsey, **HB 1008**, with **SCS**, was placed on the Informal Calendar.

**HCS** for **HB 604**, with **SCS**, entitled:

An Act to repeal sections 210.496, 211.447, and 453.070, RSMo, and to enact in lieu thereof three new sections relating to parental rights of individuals with disabilities.

Was taken up by Senator Rupp.

**SCS** for **HCS** for **HB 604**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 604

An Act to repeal sections 210.112, 210.496, 210.498, 210.565, 210.566, 211.031, 211.447, and 453.070, RSMo, and to enact in lieu thereof eleven new sections relating to parental rights.

Was taken up.

Senator Rupp moved that **SCS** for **HCS** for **HB 604** be adopted.

Senator Rupp offered **SS** for **SCS** for **HCS** for **HB 604**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 604

An Act to repeal sections 210.112, 210.496, 210.498, 210.565, 211.031, 211.447, and 453.070, RSMo,

and to enact in lieu thereof ten new sections relating to parental rights.

Senator Rupp moved that **SS** for **SCS** for **HCS** for **HB 604** be adopted, which motion prevailed.

On motion of Senator Rupp, **SS** for **SCS** for **HCS** for **HB 604** 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 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.

**HCS** for **HB 111**, with **SCS**, was placed on the Informal Calendar.

**HCS** for **HB 562**, with **SCS**, entitled:

An Act to repeal sections 210.101 and 210.102, RSMo, and to enact in lieu thereof three new sections relating to the Missouri children's services commission which oversees the Missouri task force on prematurity and infant mortality.

Was taken up by Senator Schmitt.

**SCS** for **HCS** for **HB 562**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 562

An Act to repeal sections 210.101, 210.102, 210.211, and 210.245, RSMo, and to enact in lieu thereof seven new sections relating to the well-being of children, with a penalty provision.

Was taken up.

Senator Schmitt moved that **SCS** for **HCS** for **HB 562** be adopted.

At the request of Senator Schmitt, **HCS** for **HB 562**, with **SCS** (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 **SCS** for **HB 798, HB 141, HB 153, HCS** for **HB 363, HB 415** and **HB 813** and has taken up and passed **SCS** for **HB 798, HB 141, HB 153, HCS** for **HB 363, HB 415** and **HB 813**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 307** and **HB 812** and has taken up and passed **SCS** for **HB 307** and **HB 812**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 388** and has taken up and passed **SCS** for **HB 388**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HCS** for **HB 631** and has taken up and passed **SCS** for **HCS** for **HB 631**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 270** and has taken up and passed **SCS** for **HB 270**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 186** and has taken up and passed **SCS** for **HB 186**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 149** and has taken up and passed **SCS** for **HB 149**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SB 250**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SCS** for **SB 29**, as amended, and grants the Senate a conference thereon.

**PRIVILEGED MOTIONS**

Senator Kraus moved that the Senate refuse to concur in **HCS** for **SCS** for **SB 270**, as amended, and request the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Wasson moved that the Senate refuse to concur in **HCS** for **SB 284**, as amended, and request

the House to recede from its position or, failing to do so, grant the Senate a conference thereon, which motion prevailed.

### **CONFERENCE COMMITTEE APPOINTMENTS**

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **HCS** for **SB 250**, as amended: Senators Kehoe, Goodman, Engler, Callahan and Keaveny.

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **HCS** for **SCS** for **SB 29**, as amended: Senators Brown, Dempsey, Crowell, Justus and Keaveny.

President Pro Tem Mayer assumed the Chair.

### **REPORTS OF STANDING COMMITTEES**

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

Mr. President: Your Committee on Health, Mental Health, Seniors and Families, to which was referred **HCS** for **HBs 300, 334 and 387**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Purgason, Chairman of the Committee on 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 **HCS** for **HB 506**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

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

Mr. President: Your Committee on the Judiciary and Civil and Criminal Jurisprudence, to which was referred **HCS** for **HBs 600, 337 and 413**, 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 report:

Mr. President: Your Committee on General Laws, to which was referred **HCS** for **HB 213**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Pearce, Chairman of the Committee on Education, submitted the following report:

Mr. President: Your Committee on Education, to which was referred **HCS** for **HBs 223 and 231**, begs leave to report that it has considered the same and recommends that the bill do pass.

On behalf of Senator Schmitt, Chairman of the Committee on Jobs, Economic Development and Local Government, Senator Dempsey submitted the following report:

Mr. President: Your Committee on Jobs, Economic Development and Local Government, to which was referred **HCS** for **HB 840**, begs leave to report that it has considered the same and recommends that the bill do pass.

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

Mr. President: Your Committee on Agriculture, Food Production and Outdoor Resources, to which was referred **HCS** for **HB 344**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

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

### **RECESS**

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

### **RESOLUTIONS**

Senator Goodman offered Senate Resolution No. 1069, regarding Evdokia Romanova, Samara, Russia, which was adopted.

Senator Nieves offered Senate Resolution No. 1070, regarding Ian Yenser, Union, which was adopted.

Senator Engler offered Senate Resolution No. 1071, regarding Rebecca L. Ruth, which was adopted.

Senator Engler offered Senate Resolution No. 1072, regarding Janice A. Volz, which was adopted.

Senator Engler offered Senate Resolution No. 1073, regarding Judy A. Rosener, which was adopted.

Senator Richard offered Senate Resolution No. 1074, regarding Bill Gipson, Carl Junction, which was adopted.

Senator Richard offered Senate Resolution No. 1075, regarding Parker Scott Belden, Joplin, which was adopted.

Senator Green offered Senate Resolution No. 1076, regarding Phyllis Hughes, which was adopted.

Senator Goodman offered Senate Resolution No. 1077, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. John Brafford, Mt. Vernon, which was adopted.

Senator Munzlinger offered Senate Resolution No. 1078, regarding the Twenty-fifth Wedding Anniversary of Mr. and Mrs. Ronald Alexander, Memphis, which was adopted.

Senator Goodman offered Senate Resolution No. 1079, regarding Port of Kimberling Resort Hotel, which was adopted.

Senator Goodman offered Senate Resolution No. 1080, regarding the late Lloyd Presley, Branson, which was adopted.

Senator Parson offered Senate Resolution No. 1081, regarding Kimberly Wilken, Cole Camp, which was adopted.

Senator Parson offered Senate Resolution No. 1082, regarding Danielle Farr, Creighton, which was adopted.

Senator Engler offered Senate Resolution No. 1083, regarding Keaton Stewart Ashlock, Bolivar, which was adopted.

### **MESSAGES FROM THE HOUSE**

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS**, as amended, for **SCS** for **HCS** for **HBs 73** and **47** and has taken up and passed **SS** for **SCS** for **HCS** for **HBs 73** and **47**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 256** and has taken up and passed **SCS** for **HB 256**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HCS** for **HB 214** and has taken up and passed **SCS** for **HCS** for **HB 214**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 737** and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SB 250**, as amended. Representatives: Schad, Cierpiot, Higdon, Colona and Swearingen.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SCS** for **SB 29**, as amended. Representatives: Jones (117), Wells, Frederick, Talboy and Swinger.

**PRIVILEGED MOTIONS**

Senator Stouffer moved that **SB 3**, with **HCS No. 2**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

**HCS No. 2** for **SB 3**, as amended, was again taken up.

Senator Stouffer moved that **HCS No. 2** for **SB 3**, as amended, be adopted, which motion prevailed by the following vote:

YEAS—Senators

Brown	Callahan	Cunningham	Dempsey	Dixon	Engler	Goodman	Green
Keaveny	Kehoe	Kraus	Lager	Lamping	Mayer	McKenna	Munzlinger
Nieves	Parson	Pearce	Richard	Rupp	Schaaf	Schaefer	Schmitt

Stouffer—25

NAYS—Senators

Chappelle-Nadal	Crowell	Curls	Justus	Lembke	Purgason	Ridgeway	Wright-Jones—8
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Absent—Senator Wasson—1

Absent with leave—Senators—None

Vacancies—None

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

YEAS—Senators

Brown	Callahan	Cunningham	Dempsey	Dixon	Engler	Goodman	Green
Keaveny	Kehoe	Kraus	Lager	Lamping	Mayer	McKenna	Munzlinger
Nieves	Parson	Pearce	Richard	Rupp	Schaaf	Schaefer	Schmitt
Stouffer—25							

NAYS—Senators

Chappelle-Nadal	Crowell	Curls	Justus	Lembke	Purgason	Ridgeway	Wasson
Wright-Jones—9							

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

Senator Stouffer 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.

### HOUSE BILLS ON THIRD READING

At the request of Senator Rupp, **HB 525** was placed on the Informal Calendar.

**HCS** for **HB 523**, with **SCS**, was placed on the Informal Calendar.

**HB 167**, introduced by Representative Nolte, et al, with **SCA 1**, entitled:

An Act to repeal section 302.173, RSMo, and to enact in lieu thereof one new section relating to drivers' examinations.

Was taken up by Senator Nieves.

**SCA 1** was taken up.

Senator Nieves moved that the above committee amendment be adopted.

At the request of Senator Nieves, **HB 167**, with **SCA 1** (pending), was placed on the Informal Calendar.

At the request of Senator Wasson, **HB 402** was placed on the Informal Calendar.

**HCS** for **HBs 470** and **429**, with **SCS**, entitled:

An Act to repeal sections 67.641 and 143.183, RSMo, and to enact in lieu thereof two new sections

relating to the nonresident entertainers tax.

Was taken up by Senator Rupp.

**SCS** for **HCS** for **HBs 470** and **429**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NOS. 470 and 429

An Act to repeal sections 67.641 and 143.183, RSMo, and to enact in lieu thereof two new sections relating to the nonresident entertainers tax.

Was taken up.

Senator Rupp moved that **SCS** for **HCS** for **HBs 470** and **429** be adopted.

Senator Rupp offered **SS** for **SCS** for **HCS** for **HBs 470** and **429**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NOS. 470 and 429

An Act to repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to the nonresident entertainers tax.

Senator Rupp moved that **SS** for **SCS** for **HCS** for **HBs 470** and **429** be adopted.

Senator Lager offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 470 and 429, Page 3, Section 143.183, Line 20, by striking the opening bracket “[” on said line and further amend line 22 by striking the closing bracket “]”; and further amend line 26 by striking the opening bracket “[” and closing bracket “]” on said line; and further amend page 4 line 9 by striking the opening bracket “[” on said line and further amend line 11 by striking the closing bracket “]”; and further amend line 15 by striking the opening bracket “[” on said line and further amend line 16 by striking the closing bracket “]”; and further amend line 25 by striking the opening bracket “[” on said line and further amend line 27 by striking the closing bracket “]”; and further amend page 5 line 3 by striking the opening bracket “[” on said line and further amend line 4 by striking the closing bracket “]”; and further amend line 14 by striking the opening bracket “[” on said line and further amend line 16 by striking the closing bracket “]”; and further amend line 20 by striking the opening bracket “[” on said line and further amend line 21 by striking the closing bracket “]”; and further amend page 6 line 21 by striking the opening bracket “[” on said line and further amend line 23 by striking the closing bracket “]”; and further amend line 27 by striking the opening bracket “[” on said line and further amend line 28 by striking the closing bracket “]”; and further amend page 7 line 9 by striking the opening bracket “[” on said line and further amend line 19 by striking the closing bracket “]”.

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

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

## SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 470 and 429, Page 5, Section 143.183, Line 28, by inserting immediately after the word “year” the following “[”]; and further amend page 6 line 19 by inserting after the word “grants” the following “[”].

Senator Ridgeway moved that the above amendment be adopted.

Senator Stouffer assumed the Chair.

At the request of Senator Rupp, **HCS** for **HBs 470** and **429**, with **SCS**, **SS** for **SCS** and **SA 2** (pending), was placed on the Informal Calendar.

**HCS** for **HB 38**, with **SCS**, entitled:

An Act to amend chapter 221, RSMo, by adding thereto one new section relating to jailors.

Was taken up by Senator Wright-Jones.

**SCS** for **HCS** for **HB 38**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 38

An Act to repeal section 71.220, RSMo, and to enact in lieu thereof two new sections relating to jails.

Was taken up.

Senator Wright-Jones moved that **SCS** for **HCS** for **HB 38** be adopted, which motion prevailed.

On motion of Senator Wright-Jones, **SCS** for **HCS** for **HB 38** 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	Kraus	Lager	Lamping
Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wright-Jones—32

NAYS—Senator Wasson—1

Absent—Senator Kehoe—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

On motion of Senator Wright-Jones, title to the bill was agreed to.

Senator Wright-Jones moved that the vote by which the bill passed be reconsidered.

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

**HB 68**, introduced by Representative Scharnhorst, entitled:

An Act to repeal section 190.308, RSMo, and to enact in lieu thereof one new section relating to misuse of emergency telephone service, with an existing penalty provision.

Was taken up by Senator Nieves.

On motion of Senator Nieves, **HB 68** 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	Kraus	Lager	Lamping
Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schmitt	Stouffer	Wasson	Wright-Jones—32

NAYS—Senator Schaefer—1

Absent—Senator Kehoe—1

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.

**HCS** for **HB 161**, with **SCS**, entitled:

An Act to repeal sections 67.1000, 67.1002, 67.1003, 67.1005, 67.1006, and 67.1008, RSMo, and to enact in lieu thereof five new sections relating to county transient guest taxes for tourism purposes.

Was taken up by Senator Parson.

**SCS** for **HCS** for **HB 161**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 161

An Act to repeal sections 67.1000, 67.1002, 67.1003, 67.1005, 67.1006, 67.1008, and 94.900, RSMo, and to enact in lieu thereof six new sections relating to certain taxes imposed by local governments.

Was taken up.

Senator Parson moved that **SCS** for **HCS** for **HB 161** be adopted.

Senator Parson offered **SS** for **SCS** for **HCS** for **HB 161**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 161

An Act to repeal sections 67.1000, 67.1002, 67.1003, 67.1005, 67.1006, 67.1303, 67.1956, 94.900, and 181.060, RSMo, and to enact in lieu thereof nine new sections relating to certain taxes imposed by local governments.

Senator Parson moved that **SS** for **SCS** for **HCS** for **HB 161** be adopted, which motion prevailed.

Senator Ridgeway assumed the Chair.

On motion of Senator Parson, **SS** for **SCS** for **HCS** for **HB 161** was read the 3rd time and passed by the following vote:

YEAS—Senators

Callahan	Chappelle-Nadal	Crowell	Curls	Dempsey	Dixon	Engler	Goodman
Justus	Kehoe	Lamping	Mayer	McKenna	Munzlinger	Parson	Pearce
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson

Wright-Jones—25

NAYS—Senators

Brown	Cunningham	Green	Keaveny	Kraus	Lager	Lembke	Nieves
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Purgason—9

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

Senator Parson 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**

Senator Lager moved that the Senate refuse to recede from its position on **SCS** for **HB 737**, and grant the House a conference thereon, which motion prevailed.

**HOUSE BILLS ON THIRD READING**

**HCS** for **HB 430**, with **SCS**, entitled:

An Act to repeal sections 301.3084, 302.181, 304.120, 387.040, 387.050, 387.080, 387.110, 387.207, 390.051, 390.061, 390.116, 390.280, and 571.101, RSMo, and to enact in lieu thereof twenty new sections relating to transportation.

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

**SCS** for **HCS** for **HB 430**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 430

An Act to repeal sections 21.795, 70.441, 144.030, 226.095, 226.520, 227.107, 301.010, 301.3084, 302.181, 302.291, 302.309, 302.341, 302.700, 304.120, 304.200, 304.820, 323.020, 387.040, 387.050, 387.080, 387.110, 387.207, 390.051, 390.061, 390.116, 390.280, 558.021, 571.101, and 577.023, RSMo, and to enact in lieu thereof thirty-eight new sections relating to transportation, with existing penalty provisions and a contingent effective dates for certain sections.

Was taken up.

Senator Stouffer moved that **SCS** for **HCS** for **HB 430** be adopted.

Senator Stouffer offered **SS** for **SCS** for **HCS** for **HB 430**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 430

An Act to repeal sections 21.795, 70.441, 144.030, 226.095, 226.520, 227.107, 301.010, 301.147, 301.225, 301.559, 301.560, 301.562, 302.181, 302.291, 302.309, 302.341, 302.700, 304.120, 304.180, 304.200, 387.040, 387.050, 387.080, 387.110, 387.207, 390.051, 390.061, 390.116, 390.280, 558.021, 571.101, and 577.023, RSMo, and to enact in lieu thereof forty-three new sections relating to transportation, with penalty provisions, a contingent effective dates for certain sections, and effective dates for certain sections.

Senator Stouffer moved that **SS** for **SCS** for **HCS** for **HB 430** be adopted.

Senator Green raised the point of order that **SS** for **SCS** and **SCS** are out of order as they go beyond the scope and title of the underlying bill.

The point of order was referred to the President Pro Tem who took it under advisement, which placed the bill back on the Informal Calendar.

**REPORTS OF STANDING COMMITTEES**

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

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCR 32**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **HCS** for **HCR 39**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

**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 **HB 137** and has taken up and passed **SS** for **SCS** for **HB 137**, as amended.

Emergency clause adopted.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HCS** for **HB 641** and has taken up and passed **SCS** for **HCS** for **HB 641**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has concurred in **SCA 1** to **HCS** for **HB 197** and has taken up and passed **HCS** for **HB 197**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has concurred in **SA 1** to **HB 340** and has taken up and passed **HB 340**, as amended.

Emergency clause adopted.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS** for **HCS** for **HB 338** and has taken up and passed **SS** for **HCS** for **HB 338**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HCS** for **HB 578** and has taken up and passed **SCS** for **HCS** for **HB 578**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS** for **SCS** for **HB 282**, as amended and has taken up and passed **SS** for **SCS** for **HB 282**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS** for **SCS** for **HCS** for **HB 604** and has taken up and passed **SS** for **SCS** for **HCS** for **HB 604**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SCS** for **HB 591** and has taken up and passed **SCS** for **HB 591**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS No. 2**, as amended, for **HB 648** and has taken up and passed **SS No. 2** for **HB 648**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SB 284**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to recede from its position on **HCS** for **SCS** for **SB 270**, as amended, and grants the Senate a conference thereon.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SCS** for **SB 270**, as amended. Representatives: Dugger, Wells, Smith (150), Conway (27) and Newman.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SCS** for **SB 323**.

With House Amendment Nos. 1 and 3.

#### HOUSE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 323, Page 2, Section 29.375, Line 20, by inserting after all of said section and 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 department staff shall report to an executive director who shall be appointed by the governor and such executive director shall implement only those policies which are presented by the executive director and approved by the commission.**

**6. The employment of the executive director, including the executive director serving in such capacity on the effective date of this section, 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 shall be for a term of three years subject to reappointment for additional terms. Each additional term shall be subject to the advice and consent of the senate.”; and**

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

#### HOUSE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bill No. 323, Page 2, Section 29.375, Line 20, by inserting after all of said line the following:

**“4. In addition, a comparative audit of the Missouri House of Representatives and the Missouri Senate shall be performed.”; and**

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

Emergency clause defeated.

In which the concurrence of the Senate is respectfully requested.

#### CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **HCS** for **SB 284**, as amended: Senators Wasson, Parson, Richard, Callahan and Curls.

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **HCS** for **SCS** for **SB 270**, as amended: Senators Kraus, Engler, Cunningham, Justus and Wright-Jones.

#### PRIVILEGED MOTIONS

Senator Lager moved that **SB 187**, with **HCS**, be taken up for 3rd reading and final passage, which motion prevailed.

**HCS** for **SB 187**, entitled:

#### HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 187

An Act to repeal sections 67.402, 226.720, and 537.296, RSMo, and to enact in lieu thereof three new sections relating to nuisance actions, with penalty provisions.

Was taken up.

Senator Lager moved that **HCS** for **SB 187** be adopted, which motion prevailed by the following vote:

YEAS—Senators

Brown	Callahan	Crowell	Cunningham	Dempsey	Dixon	Engler	Goodman
Kehoe	Kraus	Lager	Lamping	Mayer	Munzlinger	Nieves	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schmitt	Stouffer	Wasson—24

NAYS—Senators

Chappelle-Nadal	Curls	Green	Justus	Keaveny	Lembke	McKenna	Wright-Jones—8
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Absent—Senators

Parson	Schaefer—2
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Absent with leave—Senators—None

Vacancies—None

On motion of Senator Lager, **HCS for SB 187** was read the 3rd time and passed by the following vote:

YEAS—Senators

Brown	Callahan	Crowell	Cunningham	Dempsey	Dixon	Engler	Goodman
Kehoe	Kraus	Lager	Lamping	Mayer	Munzlinger	Nieves	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schmitt	Stouffer	Wasson—24

NAYS—Senators

Chappelle-Nadal	Curls	Green	Justus	Keaveny	Lembke	McKenna	Wright-Jones—8
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Absent—Senators

Parson	Schaefer—2
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Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

Senator Lager 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.

Senator Engler, on behalf of the conference committee appointed to act with a like committee from the House on **HCS for SB 282**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 282

The Conference Committee appointed on House Committee Substitute for Senate Bill No. 282, with

House Amendment Nos. 1, 2, 3 and 4, House Amendment No. 1 to House Amendment No. 5, and House Amendment No. 5, as amended, 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 House recede from its position on House Committee Substitute for Senate Bill No. 282, as amended;
2. The Senate recede from its position on Senate Bill No. 282;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Bill No. 282, be Third Read and Finally Passed.

## FOR THE SENATE:

/s/ Kevin Engler

/s/ Jay Wasson

/s/ Ron Richard

/s/ Jolie Justus

/s/ Robin Wright-Jones

## FOR THE HOUSE:

/s/ Tony Dugger

/s/ Jason Smith

/s/ Stan Cox

/s/ Pat Conway

/s/ Stacey Newman

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

## YEAS—Senators

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

## NAYS—Senators

Green Lager—2

Absent—Senator Parson—1

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Engler, **CCS** for **HCS** for **SB 282**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 282

An Act to repeal sections 28.190, 29.280, 30.060, 30.070, 30.080, 52.010, 54.033, 54.330, 78.090, 105.030, 105.040, 105.050, 115.015, 115.123, 115.124, 115.127, 115.241, 115.293, 115.342, 115.601, 115.637, 115.755, and 115.761, RSMo, and to enact in lieu thereof twenty-three new sections relating to elections, with penalty provisions.

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	Lamping	Lembke
Mayer	McKenna	Munzlinger	Nieves	Pearce	Purgason	Richard	Ridgeway
Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson	Wright-Jones—31	

NAYS—Senators

Green Lager—2

Absent—Senator Parson—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

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

Senator Keaveny, on behalf of the conference committee appointed to act with a like committee from the House on **HCS** for **SB 59**, as amended, moved that the following conference committee report be taken up, which motion prevailed.

CONFERENCE COMMITTEE REPORT ON HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 59

The Conference Committee appointed on House Committee Substitute for Senate Bill No. 59, with House Amendment Nos. 1, 2, 3, 4, 5 & 6, House Amendment No. 1 to House Amendment No. 7, and House Amendment No. 7, as amended, 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 House recede from its position on House Committee Substitute for Senate Bill No. 59, as amended;
2. The Senate recede from its position on Senate Bill No. 59;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Bill No. 59, be Third Read and Finally Passed.

FOR THE SENATE:

- /s/ Joseph P. Keaveny
- /s/ Jack A.L. Goodman
- /s/ Jason Crowell
- /s/ Luann Ridgeway

FOR THE HOUSE:

- /s/ John Diehl
- /s/ Stan Cox
- /s/ Caleb Jones
- /s/ Chris Kelly

/s/ Jolie Justus

/s/ Kevin McManus

Senator Keaveny moved that the above conference committee report be adopted, 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	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson

Wright-Jones—33

NAYS—Senators—None

Absent—Senator Parson—1

Absent with leave—Senators—None

Vacancies—None

On motion of Senator Keaveny, **CCS** for **HCS** for **SB 59**, entitled:

CONFERENCE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 59

An Act to repeal sections 404.710, 456.3-301, 456.5-505, 456.8-813, 469.411, 469.437, 469.459, 475.060, 475.061, 475.115, 482.305, and 482.315, RSMo, and to enact in lieu thereof forty-two new sections relating to judicial procedures.

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	Pearce	Purgason
Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson

Wright-Jones—33

NAYS—Senators—None

Absent—Senator Parson—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

Senator Keaveny 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 Stouffer moved that **HCS** for **HB 430**, with **SCS**, **SS** for **SCS** and point of order (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

At the request of Senator Green, the point of order was withdrawn.

**SS** for **SCS** for **HCS** for **HB 430**, was again taken up.

Senator Stouffer offered **SA 1**:

**SENATE AMENDMENT NO. 1**

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Pages 79-83, Section 302.181, by striking all of said section from the bill; and

Further amend said bill, pages 83 to 87, section 302.291, by striking all of said section from the bill; and

Further amend said bill, pages 137 to 146, section 571.101 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 prevailed.

Senator Stouffer offered **SA 2**:

**SENATE AMENDMENT NO. 2**

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 116, Section 304.180, Line 12 of said page, by striking the following: “the Arkansas state line” and inserting in lieu thereof the following: “**U.S. Highway 36**”.

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

Senator Stouffer offered **SA 3**:

**SENATE AMENDMENT NO. 3**

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 18, Section 144.030, Line 13 of said page, by striking said line and inserting in lieu thereof the following: “trailers used by [common] carriers [, as defined in section”]; and further amend line 14 of said page, by inserting after “390.020,]” the following: “**who have received federal authority to haul for hire**”.

Senator Stouffer 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 No. 430, Page 118, Section 304.200, Line 11, by inserting immediately after said line the following:

“**304.289. The timing of any traffic-control signal shall conform to regulations promulgated by the**

**Department of Transportation. The department of transportation shall establish minimal yellow light change interval times for traffic-control devices. The minimal yellow light change interval time shall be established in accordance with nationally recognized engineering standards set forth in the Manual on Uniform Traffic Control Devices, and any such established time shall not be less than the recognized national standard.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Lembke offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 78, Section 301.4036, Line 29, by inserting after all of said line the following:

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

- (1) “Circuit court”, each circuit court in the state;
- (2) “Commercial motor vehicle”, a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;
- (3) “Conviction”, any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant’s appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed pursuant to section 302.302 is appealed, the term “conviction” means the original judgment of conviction for the purpose of determining the assessment of points, and the date of final judgment affirming the conviction shall be the date determining the beginning of any license suspension or revocation pursuant to section 302.304;
- (4) “Director”, the director of revenue acting directly or through the director’s authorized officers and agents;
- (5) “Farm tractor”, every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;
- (6) “Highway”, any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;
- (7) “Incompetent to drive a motor vehicle”, a person who has become physically incapable of meeting the prescribed requirements of an examination for an operator’s license, or who has been adjudged by a probate division of the circuit court in a capacity hearing of being incapacitated;
- (8) “License”, a license issued by a state to a person which authorizes a person to operate a motor vehicle;
- (9) “Motor vehicle”, any self-propelled vehicle not operated exclusively upon tracks except motorized bicycles, as defined in section 307.180;
- (10) “Motorcycle”, a motor vehicle operated on two wheels; however, this definition shall not include motorized bicycles as defined in section 301.010;

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

(12) “Moving violation”, that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, inclusive, relating to sizes and weights of vehicles. **The term “moving violation” shall also include any violation of any state law, county ordinance, or municipal ordinance governing the operation of a motor vehicle with respect to violations described in section 304.010 and sections 304.271 to 304.331. Such traffic violations shall be deemed moving violations regardless of how such violations are enforced or whether or not such violations are committed within or outside the presence of a law enforcement officer at the time of the violation;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Further amend the title and enacting clause accordingly.

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

Senator Lembke offered **SA 6**:

#### SENATE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 111, Section 304.120, Line 11, by inserting after all of said line the following:

**“304.152. All moving violations, as that term is defined in section 302.010, shall be subject to the assessment of points as provided under subsection 1 of section 302.302, notwithstanding any provision of a municipal or county ordinance to the contrary. No county, city, town, village, municipality, or other political subdivision of this state may enact, adopt or enforce any law, ordinance, regulation, or order that authorizes the prosecution or enforcement of a moving violation without the assessment of points. Nor shall any political subdivision of this state enact an ordinance that provides that no points will be assessed for a violation that is a moving violation in nature. Any law, ordinance, regulation, or order that violates or circumvents the provisions of this section, section 302.010, section 302.302, or section 302.225 shall be null and void.”; and**

Further amend the title and enacting clause accordingly.

Senator Lembke moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Kehoe, Nieves, McKenna and Schaaf.

**SA 6** failed of adoption by the following vote:

YEAS—Senators

Crowell	Cunningham	Goodman	Kraus	Lembke	Mayer	Nieves	Ridgeway
Schaaf—9							

NAYS—Senators

Brown	Callahan	Chappelle-Nadal	Curls	Dempsey	Dixon	Engler	Green
Justus	Keaveny	Kehoe	Lager	Lamping	McKenna	Munzlinger	Pearce
Richard	Rupp	Schaefer	Schmitt	Stouffer	Wasson	Wright-Jones—23	

Absent—Senators

Parson Purgason—2

Absent with leave—Senators—None

Vacancies—None

Senator Lager assumed the Chair.

Senator Lembke offered **SA 7**:

**SENATE AMENDMENT NO. 7**

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 28, Section 144.030, Line 20, by inserting after all of said line the following:

“136.055. 1. Any person who is selected or appointed by the state director of revenue as provided in subsection 2 of this section to act as an agent of the department of revenue, whose duties shall be the processing of motor vehicle title and registration transactions and the collection of sales and use taxes when required under sections 144.070 and 144.440, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

- (1) For each motor vehicle or trailer registration issued, renewed or transferred--three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147;
- (2) For each application or transfer of title--two dollars and fifty cents;
- (3) For each instruction permit, nondriver license, chauffeur’s, operator’s or driver’s license issued for a period of three years or less--two dollars and fifty cents and five dollars for licenses or instruction permits issued or renewed for a period exceeding three years;
- (4) For each notice of lien processed--two dollars and fifty cents;
- (5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception--two dollars.

2. The director of revenue shall award fee office contracts under this section through a competitive bidding process. The competitive bidding process shall give priority to organizations and entities that are exempt from taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code of 1986, as amended, and political subdivisions, including but not limited to, municipalities, counties, and fire

protection districts. The director of the department of revenue may promulgate rules and regulations necessary to carry out the provisions of this subsection. 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 subsection 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, 2009, shall be invalid and void.

3. All fees collected by a tax-exempt organization may be retained and used by the organization.

4. All fees charged shall not exceed those in this section. The fees imposed by this section shall be collected by all permanent offices and all full-time or temporary offices maintained by the department of revenue.

5. Any person acting as agent of the department of revenue for the sale and issuance of registrations, licenses, and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

**6. Any person acting as agent of the department of revenue for the collection of sales and use tax when required under sections 144.070 and 144.440 shall be entitled to deduct and retain an amount equal to two percent of the motor vehicle sales tax under section 144.140 to offset the actual cost incurred by such person, on behalf of the department of revenue, in the collection of such taxes in accordance with the provisions of Article IV Section 30(b) of the Missouri Constitution.**

7. The fees authorized by this section shall not be collected by motor vehicle dealers acting as agents of the department of revenue under section 32.095 or those motor vehicle dealers authorized to collect and remit sales tax under subsection 8 of section 144.070.

[7.] **8.** Notwithstanding any other provision of law to the contrary, the state auditor may audit all records maintained and established by the fee office in the same manner as the auditor may audit any agency of the state, and the department shall ensure that this audit requirement is a necessary condition for the award of all fee office contracts. No confidential records shall be divulged in such a way to reveal personally identifiable information.”; and

Further amend the title and enacting clause accordingly.

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

Senator Stouffer offered **SA 8**, which was read:

SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 155, Section C, Lines 2-13, by striking all of said section from the bill.

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

Senator Wasson offered **SA 9**:

SENATE AMENDMENT NO. 9

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

Bill No. 430, Page 87, Section 302.291, Line 12, by inserting after all of said line the following:

“302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

- (1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 . . . . . 2 points  
(except any violation of municipal stop sign ordinance where no accident is involved . . . . . 1 point)
- (2) Speeding  
In violation of a state law . . . . . 3 points  
In violation of a county or municipal ordinance . . . . . 2 points
- (3) Leaving the scene of an accident  
in violation of section 577.060 . . . . . 12 points  
In violation of any county or municipal ordinance . . . . . 6 points
- (4) Careless and imprudent driving  
in violation of subsection 4 of section 304.016 . . . . . 4 points  
In violation of a county or municipal ordinance . . . . . 2 points
- (5) Operating without a valid license  
in violation of subdivision (1) or (2) of subsection 1 of section 302.020:  
  - (a) For the first conviction . . . . . 2 points
  - (b) For the second conviction . . . . . 4 points
  - (c) For the third conviction . . . . . 6 points
- (6) Operating with a suspended or revoked license prior to restoration of operating privileges . . . . . 12 points
- (7) Obtaining a license by misrepresentation . . . . . 12 points

(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs ..... 8 points

(9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent or more by weight ..... 12 points

(10) For the first conviction for driving with blood alcohol content eight-hundredths of one percent or more by weight  
In violation of state law ..... 8 points

In violation of a county or municipal ordinance or federal law or regulation ..... 8 points

(11) Any felony involving the use of a motor vehicle ..... 12 points

(12) Knowingly permitting unlicensed operator to operate a motor vehicle ..... 4 points

(13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025 ..... 4 points

(14) Endangerment of a highway worker in violation of section 304.585 ..... 4 points

(15) Aggravated endangerment of a highway worker in violation of section 304.585 ..... 12 points

(16) For a conviction of violating a municipal ordinance that prohibits tow truck operators from stopping at or proceeding to the scene of an accident unless they have been requested to stop or proceed to such scene by a party involved in such accident or by an officer of a public safety agency . . . . . 4 points

**(17) Endangerment of an emergency responder in violation of section 304.894 . . . . . 4 points**

**(18) Aggravated endangerment of an emergency responder in violation of section 304.894 . . . . . 12 points**

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subdivisions (1) to (13) of subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the state highways and transportation commission, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700 or a violation committed by an individual who has been issued a commercial driver's license or is required to obtain a commercial driver's license in this state or any other state, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. A court using a centralized violation bureau established under section 476.385 may elect to have the bureau order and verify completion of a driver-improvement program or motorcycle-rider training course as prescribed by order of the court. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which

occurred during the operation of a motorcycle, the program shall meet the standards established by the state highways and transportation commission pursuant to sections 302.133 to 302.137. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.”; and

Further amend said bill, Page 118, Section 304.200, Line 11, by inserting after all of said line the following:

**“304.890. As used in sections 304.890 to 304.894, the following terms shall mean:**

**(1) “Active emergency”, any incident occurring on a highway, as the term “highway” is defined in section 302.010, that requires emergency services from any emergency responder;**

**(2) “Active emergency zone”, any area upon or around any highway, which is visibly marked by emergency responders performing work for the purpose of emergency response, and where an active emergency, or incident removal, is temporarily occurring. This area includes the lanes of highway leading up to an active emergency or incident removal, beginning within three hundred feet of visual sighting of:**

**(a) Appropriate signs or traffic control devices posted or placed by emergency responders; or**

**(b) An emergency vehicle displaying active emergency lights or signals;**

**(3) “Emergency responder”, any law enforcement officer, paid or volunteer firefighter, first responder, emergency medical worker, tow truck operator, or other emergency personnel responding to an emergency on a highway.**

**304.892. 1. Upon the first conviction, finding of guilt, or plea of guilty by any person for a moving violation, as the term “moving violation” is defined in section 302.010, or any offense listed in section 302.302, other than a violation described in subsection 2 of this section, when the violation or offense occurs within an active emergency zone, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized by law. Upon a second or subsequent conviction, finding of guilt, or plea of guilty, the court shall assess a fine of seventy-five dollars in addition to any other fine authorized by law.**

**2. Upon the first conviction, finding of guilt, or plea of guilty by any person for a speeding violation under either section 304.009 or 304.010, or a passing violation under subsection 3 of this section, when the violation or offense occurs within an active emergency zone and emergency responders were present in such zone at the time of the offense or violation, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law. Upon a second or subsequent conviction, finding of guilt, or plea of guilty, the court shall assess a fine of three hundred dollars in addition to any other fine authorized by law. However, no person assessed an additional fine under this subsection shall also be assessed an additional fine under subsection 1 of this section.**

**3. The driver of a motor vehicle may not overtake or pass another motor vehicle within an active**

emergency zone. Violation of this subsection is a class C misdemeanor.

4. The additional fines imposed by this section shall not be construed to enhance the assessment of court costs or the assessment of points under section 302.302.

**304.894. 1.** A person commits the offense of endangerment of an emergency responder for any of the following offenses when the offense occurs within an active emergency zone:

(1) Exceeding the posted speed limit by fifteen miles per hour or more;

(2) Passing in violation of subsection 3 of section 304.892;

(3) Failure to stop for an active emergency zone flagman or emergency responder, or failure to obey traffic control devices erected, or personnel posted, in the active emergency zone for purposes of controlling the flow of motor vehicles through the zone;

(4) Driving through or around an active emergency zone via any lane not clearly designated for motorists to control the flow of traffic through or around the active emergency zone;

(5) Physically assaulting, attempting to assault, or threatening to assault an emergency responder with a motor vehicle or other instrument;

(6) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices erected to control the flow of traffic to protect emergency responders and motorists unless the action was necessary to avoid an obstacle, an emergency, or to protect the health and safety of an occupant of the motor vehicle or of another person; or

(7) Committing any of the following offenses for which points may be assessed under section 302.302:

(a) Leaving the scene of an accident in violation of section 577.060;

(b) Careless and imprudent driving in violation of subsection 4 of section 304.016;

(c) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020;

(d) Operating with a suspended or revoked license;

(e) Driving while in an intoxicated condition or under the influence of controlled substances or drugs or driving with an excessive blood alcohol content;

(f) Any felony involving the use of a motor vehicle.

2. Upon a finding of guilt or a plea of guilty for committing the offense of endangerment of an emergency responder under subsection 1 of this section, if no injury or death to an emergency responder resulted from the offense, the court shall assess a fine of not more than one thousand dollars, and four points shall be assessed to the operator's license pursuant to section 302.302.

3. A person commits the offense of aggravated endangerment of an emergency responder upon a finding of guilt or a plea of guilty for any offense under subsection 1 of this section when such offense results in the injury or death of an emergency responder. Upon a finding of guilt or a plea of guilty for committing the offense of aggravated endangerment of an emergency responder, in addition to any other penalty authorized by law, the court shall assess a fine of not more than five thousand dollars if the offense resulted in injury to an emergency responder, and ten thousand dollars if the

**offense resulted in the death of an emergency responder. In addition, twelve points shall be assessed to the operator's license pursuant to section 302.302.**

**4. Except for the offense established under subdivision (6) of subsection 1 of this section, no person shall be deemed to have committed the offense of endangerment of an emergency responder except when the act or omission constituting the offense occurred when one or more emergency responders were responding to an active emergency.**

**5. No person shall be cited for, or found guilty of, endangerment of an emergency responder or aggravated endangerment of an emergency responder, for any act or omission otherwise constituting an offense under subsection 1 of this section, if such act or omission resulted in whole or in part from mechanical failure of the person's vehicle, or from the negligence of another person or emergency responder.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Stouffer offered **SA 10**:

#### SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 33, Section 226.520, Line 2 of said page, by inserting after all of said line the following:

“226.540. Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; tri-vision, projection, and other changeable message signs shall be allowed subject to Missouri highways and transportation commission regulations;

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal;

(2) Size of signs:

(a) The maximum area for any one sign shall be eight hundred square feet with a maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border and trim but excluding the base or apron, supports, and other structural members. The area shall be measured as established herein and in rules promulgated by the commission. In determining the size of a conforming or nonconforming sign structure, temporary cutouts and extensions installed for the length of a specific display contract shall not be considered a substantial increase to the size of the permanent display; provided the actual square footage of such temporary cutouts or extensions may not exceed thirty-three percent of the permanent display area. Signs erected in accordance with the provisions of sections 226.500 to 226.600 prior to August 28, 2002, which fail to meet the requirements of this provision shall be deemed legally nonconforming as defined herein;

(b) The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but such sign structure shall be considered as one sign;

(c) After August 28, 1999, no new sign structure shall be erected in which two or more displays are stacked one above the other. Stacked structures existing on or before August 28, 1999, in accordance with sections 226.500 to 226.600 shall be deemed legally nonconforming and may be maintained in accordance with the provisions of sections 226.500 to 226.600. Structures displaying more than one display on a horizontal basis shall be allowed, provided that total display areas do not exceed the maximum allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of this subdivision;

(3) Spacing of signs:

(a) On all interstate highways, freeways, and nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. No sign structure shall be erected within one thousand four hundred feet of an existing sign on the same side of the highway;

b. Outside of incorporated municipalities, no structure may be located adjacent to or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five hundred feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. For purpose of this subparagraph, the term "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall not be considered "incorporated municipalities" if it is finally determined that such would have the effect of making Missouri be in noncompliance with the requirements of Title 23, United States Code, Section 131;

(b) The spacing between structure provisions of this subdivision do not apply to signs which are separated by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time. Directional or other official signs or those advertising the sale or lease of the property on which they are located, or those which advertise activities on the property on which they are located, including products sold, shall not be counted, nor shall measurements be made from them for the purpose of compliance with spacing provisions;

(c) No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor

vehicle operator's view of approaching, merging, or intersecting traffic;

(d) The measurements in this section shall be the minimum distances between outdoor advertising sign structures measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to outdoor advertising sign structures located on the same side of the highway involved;

(4) As used in this section, the words “unzoned commercial and industrial land” shall be defined as follows: that area not zoned by state or local law or ordinance and on which there is located one or more permanent structures used for a commercial business or industrial activity or on which a commercial or industrial activity is actually conducted together with the area along the highway extending outwardly seven hundred fifty feet from and beyond the edge of such activity. All measurements shall be from the outer edges of the regularly used improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial activity and along and parallel to the edge of the pavement of the highway. Unzoned land shall not include:

(a) Land on the opposite side of the highway from an unzoned commercial or industrial area as defined in this section and located adjacent to highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended, unless the opposite side of the highway qualifies as a separate unzoned commercial or industrial area; or

(b) Land zoned by a state or local law, regulation, or ordinance;

(5) “Commercial or industrial activities” as used in this section means those which are generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including seasonal roadside fresh produce stands;

(c) Transient or temporary activities;

(d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way or not visible from the main traveled way;

(e) Activities conducted in a building principally used as a residence;

(f) Railroad tracks and minor sidings;

(6) The words “unzoned commercial or industrial land” shall also include all areas not specified in this section which constitute an “unzoned commercial or industrial area” within the meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may be amended. As used in this section, the words “zoned commercial or industrial area” shall refer to those areas zoned commercial or industrial by the duly constituted zoning authority of a municipality, county, or other lawfully established political subdivision of the state, or by the state and which is within seven hundred fifty feet of one or more permanent commercial or industrial activities. Commercial or industrial activities as used in this section are limited to those activities:

(a) In which the primary use of the property is commercial or industrial in nature;

(b) Which are clearly visible from the highway and recognizable as a commercial business;

(c) Which are permanent as opposed to temporary or transitory and of a nature that would customarily be restricted to commercial or industrial zoning in areas comprehensively zoned; and

(d) In determining whether the primary use of the property is commercial or industrial pursuant to paragraph (a) of this subdivision, the state highways and transportation commission shall consider the following factors:

- a. The presence of a permanent and substantial building;
- b. The existence of utilities and local business licenses, if any, for the commercial activity;
- c. On-premise signs or other identification;
- d. The presence of an owner or employee on the premises for at least twenty hours per week;

(7) In zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of sections 226.500 to 226.600 and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of this section shall not apply to the erection of signs in such areas. Notwithstanding any other provisions of this section, after August 28, 1992, with respect to any outdoor advertising which is regulated by the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

(a) No county or municipality shall issue a permit to allow a regulated sign to be newly erected without a permit issued by the state highways and transportation commission;

(b) A county or municipality may charge a reasonable one-time permit or inspection fee to assure compliance with local wind load and electrical requirements when the sign is first erected, but a county or municipality may not charge a permit or inspection fee for such sign after such initial fee. Changing the display face or performing routine maintenance shall not be considered as erecting a new sign;

**(c) Local regulations adopted pursuant to this section or section 71.288 may be more restrictive than the size, lighting, and spacing provisions specified in this section, provided such local regulations allow for customary usage and comply with the intent of this section. Local regulations may not prohibit off-premise outdoor advertising structures on commercial or industrial property within six hundred sixty feet of federal aid primary or interstate highways. In the event a local regulation is determined by the courts to be prohibitive, unreasonable, or failing to allow for customary usage; statutory size, lighting, and spacing regulations shall automatically apply in such areas until such time as a valid local ordinance complying with the requirements under this section is adopted by the local zoning authority;**

(8) The state highways and transportation commission on behalf of the state of Missouri, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the attorney general of this state shall institute proceedings described in subsection (1) of that Section 131.

**226.541. 1. As used in this section, the following words or phrases mean:**

**(1) "Conforming out of standard signs", signs that fail to meet the current statutory and**

**administrative rule requirements for outdoor advertising but currently comply with the terms of the federal/state agreement and meet the August 27, 1999, statutory and administrative rule requirements that governed outdoor advertising and the highway beautification act of 1965;**

**(2) “Federal/state agreement”, an agreement executed between the United States Department of Transportation and the state highways and transportation commission on February 22, 1972, for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system;**

**(3) “Reset”, movement of a sign structure from one location to another location on the same or adjoining property, if the adjoining property is zoned commercial or industrial and the owner of the sign has obtained the legal right to erect a sign on the adjoining property from its owner, as authorized by a sign permit amendment and the terms of an executed written partial waiver and reset agreement between the permit owner and the state highways and transportation commission;**

**(4) “Substantially rebuilt”, any reconstruction or repair of a sign that requires the replacement of fifty-one percent or more of the sign structure's support poles in a twelve-month period.**

**2. Subject to the provisions of this section, conforming out of standard signs shall be treated as conforming signs under commission administrative rules, including new display technologies, lighting, cutouts, and extensions, except that such signs shall not be substantially rebuilt except in accordance with the provisions of this section. New technologies, lighting, cutouts, and extensions may be utilized on conforming and conforming out of standard signs in accordance with Missouri department of transportation regulations.**

**3. On the date the commission approves funding for any phase or portion of construction or reconstruction of any street or highway, the rules in effect for outdoor advertising on August 27, 1999, shall be reinstated for that section of highway scheduled for construction and there shall immediately be a moratorium imposed on the issuance of state sign permits for new sign structures.**

**4. Owners of existing signs which meet the requirements for outdoor advertising in effect on August 27, 1999, and the requirements of the federal/state agreement and who voluntarily execute a partial waiver and reset agreement may reset such signs on the same or adjoining property. Such reset agreements shall be contingent upon obtaining any required local approval to reset the sign structure. Any sign which has been reset must still comply with the August 27, 1999, outdoor advertising regulations after it has been reset.**

**5. Owners of existing signs who elect to reset qualifying signs shall receive compensation representing the actual cost to reset the existing sign. Signs which have been reset under these provisions must be reconstructed of the same type materials and may not exceed the square footage of the original sign structure.**

**6. Sign owners may elect to reset existing qualifying signs by executing a partial waiver and reset agreement with the commission. Such agreement shall specify the size, type, and location of the rebuilt sign and the reset expenses to be paid to the owner by the commission. In the event the owner fails to execute such an agreement within one hundred twenty days of receiving written notice the sign will be displaced by construction, the commission shall have the right at its sole discretion to initiate normal condemnation procedures for the compensated removal of the sign.**

**7. Immediately upon the completion of construction on any section of highway, the moratorium**

on new permits shall be lifted and the rules for outdoor advertising in effect on the date the construction is completed shall apply to such section of highway.

**8. Local zoning authorities may prohibit the resetting of qualifying signs which fail to comply with local regulations.**

**9. All signs shall be subject to the biennial inspection fees under section 226.550.”; and**

Further amend the title and enacting clause accordingly.

Senator Stouffer moved that the above amendment be adopted.

Senator Justus offered **SA 1 to SA 10:**

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 10

Amend Senate Amendment No. 10 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 9, Section 226.541, Line 27 of said page, by inserting immediately after the word “section” the following: “, **and if allowed by applicable local regulation**”; and further amend line 3 of page 10, by striking all of said line and inserting in lieu thereof the following: “**with the provisions of this section. If allowed by applicable local regulations, new technologies, lighting,**”.

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

**SA 10**, as amended, was again taken up.

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

Senator Green offered **SA 11:**

SENATE AMENDMENT NO. 11

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 118, Section 304.200, Line 11, by inserting after all of said line the following:

**“304.920. 1. A county, city, town, village, municipality, state agency, or other political subdivision shall only employ the use of automated speed enforcement systems to enforce speeding violations in a school zone, construction zone, work zone, or a MoDOT-Designated Travel Safe Zone as defined in section 304.590.**

**2. As used in this section, the term “automated speed enforcement system” means a device with one or more motor vehicle sensors, including, but not limited to, photographic devices, radar devices, laser devices, or other electrical or mechanical devices, designed to record the speed of a motor vehicle and to obtain a clear photograph or other recorded image of the motor vehicle and the motor vehicle’s license plate, which automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded image of a motor vehicle at the time it is used or operated in violation of the posted speed limit.”; and**

Further amend the title and enacting clause accordingly.

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

Senator Wright-Jones offered **SA 12:**

SENATE AMENDMENT NO. 12

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

Bill No. 430, Page 76, Section 301.562, Line 26 of said page, by inserting after all of said line the following:

“301.3084. 1. Any person may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight[, after an annual contribution of an emblem-use authorization fee to the Friends of the Missouri Women’s Council. Any contribution to the Friends of the Missouri Women’s Council pursuant to this section, except reasonable administrative costs, shall be designated for the sole purpose of providing breast cancer services, including but not limited to screening, treatment, staging, and follow-up services. The Friends of the Missouri Women’s Council hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any person may annually apply for the use of the emblem]. **Upon making a twenty-five dollar annual contribution to the breast cancer awareness fund, established in this section, the vehicle owner may apply for a “Breast Cancer Awareness” license plate. If the contribution is made directly to the state treasurer, the state treasurer shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the “Breast Cancer Awareness” license plate. If the contribution is made directly to the director of revenue, the director shall note the contribution and the owner may then apply for the “Breast Cancer Awareness” plate. The applicant for such plate must pay a fifteen dollar fee in addition to the regular registration fees and present any other documentation required by law for each set of “Breast Cancer Awareness” plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.**

2. [Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Friends of the Missouri Women’s Council, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized] **The “Breast Cancer Awareness”** license plate [which] shall bear a graphic design depicting the breast cancer awareness pink ribbon symbol [with the words “Breast Cancer Awareness” forming an oval around the symbol,] and shall bear the words [“MISSOURI WOMEN’S COUNCIL”] **“BREAST CANCER AWARENESS”** in place of the words “SHOW-ME STATE”. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with a breast cancer awareness emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

**4. There is hereby created in the state treasury the “Breast Cancer Awareness Fund” which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly, and bequests to the fund. The fund shall be administered by the department of health and senior services.**

**5. The state treasurer or the director of revenue shall deposit the twenty-five dollar annual contribution in the breast cancer awareness fund. Funds deposited pursuant to subsection 1 of this section shall be used to support breast cancer awareness activities conducted by the department of health and senior services.**

**6. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.”; and**

Further amend the title and enacting clause accordingly.

Senator Wright-Jones moved that the above amendment be adopted, which motion prevailed.

Senator Schaaf offered **SA 13**:

SENATE AMENDMENT NO. 13

Amend Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 430, Page 118, Section 304.200, Line 11, by inserting after all of said line the following:

**“304.286. No county, city, town, village, municipality, state agency, or other political subdivision of this state that is authorized to issue a notice of violation for a violation of a state or local traffic law or regulation, shall use or employ an automated photo red light enforcement system at any intersection within its jurisdiction. As used in this section, the term “automated photo red light enforcement system” shall mean a device, consisting of a camera or cameras and a vehicle sensor or sensors, installed to work in conjunction with a traffic control signal, which is used to produce recorded images of motor vehicles entering an intersection against a red signal indication.”; and**

Further amend the title and enacting clause accordingly.

Senator Schaaf moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Crowell, Cunningham, Lembke and Kraus.

**SA 13** failed of adoption by the following vote:

YEAS—Senators

Crowell	Cunningham	Goodman	Kraus	Lager	Lembke	Nieves	Purgason
Ridgeway	Rupp	Schaaf	Schmitt—12				

NAYS—Senators

Brown	Callahan	Chappelle-Nadal	Curls	Dempsey	Engler	Green	Justus
Keaveny	Kehoe	Lamping	Mayer	McKenna	Pearce	Richard	Schaefer
Stouffer	Wasson	Wright-Jones—19					

Absent—Senators

Dixon	Munzlinger	Parson—3
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Absent with leave—Senators—None

Vacancies—None

Senator Stouffer moved that **SS** for **SCS** for **HCS** for **HB 430**, as amended, be adopted, which motion prevailed.

Senator Stouffer moved that **SS** for **SCS** for **HCS** for **HB 430**, 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 **HB 430**, as amended, to the Committee on Ways and Means and Fiscal Oversight.

### 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 **HB 737**. Representatives: Redmon, Funderburk, Houghton, Holsman and Quinn.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **HCS** for **SB 284**, as amended. Representatives: Sater, Smith (150), Weter, Jones (63) and Swinger.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SB 38**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **SS** for **SB 202**, entitled:

An Act to repeal section 130.028, RSMo, and to enact in lieu thereof one new section relating to labor organizations, with penalty provisions.

With House Amendment Nos. 1, 2 and 3.

### HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 202, Page 2, Section 130.028, Line 48, by inserting after all of said section and line, the following:

**“6. Notwithstanding other provisions of the law to the contrary, it shall be unlawful for a public entity or the state to discriminate against or otherwise penalize, punish, or refuse to allow to bid or award a public works contract to a bidder based on the bidders union affiliation or non-union affiliation or agreements to or with unions or non-union entities. The act of discriminating against a bidder based on union or non-union affiliation is a class C misdemeanor and a fine up to \$5,000 shall be levied.”**; and

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

HOUSE AMENDMENT NO. 2

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 202, Page 1, Section A, Line 2, by inserting after all of said line the following:

“105.935. 1. Any state employee who has accrued any overtime hours may choose to use those hours as compensatory leave time provided that the leave time is available and agreed upon by both the state employee and his or her supervisor.

2. A state employee who is a nonexempt employee pursuant to the provisions of the Fair Labor Standards Act shall be eligible for payment of overtime in accordance with subsection 4 of this section. A nonexempt state employee who works on a designated state holiday shall be granted equal compensatory time off duty or shall receive, at his or her choice, the employee’s straight time hourly rate in cash payment. A nonexempt state employee shall be paid in cash for overtime unless the employee requests compensatory time off at the applicable overtime rate. As used in this section, the term “state employee” means any person who is employed by the state and earns a salary or wage in a position normally requiring the actual performance by him or her of duties on behalf of the state, but shall not include any employee who is exempt under the provisions of the Fair Labor Standards Act or any employee of the general assembly.

3. Beginning on January 1, 2006, and annually thereafter each department shall pay all nonexempt state employees in full for any overtime hours accrued during the previous calendar year which have not already been paid or used in the form of compensatory leave time. All nonexempt state employees shall have the option of retaining up to a total of eighty compensatory time hours **at any time during the year**.

4. The provisions of subsection 2 of this section shall only apply to nonexempt state employees who are otherwise eligible for compensatory time under the Fair Labor Standards Act, excluding employees of the general assembly. Any nonexempt state employee requesting cash payment for overtime worked shall notify such employee’s department in writing of such decision and state the number of hours, no less than twenty, for which payment is desired. The department shall pay the employee within the calendar month following the month in which a valid request is made. Nothing in this section shall be construed as creating a new compensatory benefit for state employees.

5. Each department shall, by November first of each year, notify the commissioner of administration, the house budget committee chair, and the senate appropriations committee chair of the amount of overtime paid in the previous fiscal year and an estimate of overtime to be paid in the current fiscal year. The fiscal year estimate for overtime pay to be paid by each department shall be designated as a separate line item in the appropriations bill for that department. The provisions of this subsection shall become effective July 1, 2005.

6. Each state department shall report quarterly to the house of representatives budget committee chair, the senate appropriations committee chair, and the commissioner of administration the cumulative number of accrued overtime hours for department employees, the dollar equivalent of such overtime hours, the number of authorized full-time equivalent positions and vacant positions, the amount of funds for any vacant positions which will be used to pay overtime compensation for employees with full-time equivalent positions, and the current balance in the department’s personal service fund.

7. This section is applicable to overtime earned under the Fair Labor Standards Act. This section is applicable to employees who are employed in nonexempt positions providing direct client care or custody in facilities operating on a twenty-four-hour seven-day-a-week basis in the department of corrections, the

department of mental health, the division of youth services of the department of social services, and the veterans commission of the department of public safety.”; and

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

### HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Substitute for Senate Bill No. 202, Page 2, Section 130.028, Line 48, by inserting after all of said line the following:

“429.010. 1. Any person who shall do or perform any work or labor upon land, rent any machinery or equipment, or use any rental machinery or equipment, or furnish any material, fixtures, engine, boiler or machinery for any building, erection or improvements upon land, or for repairing, grading, excavating, or filling of the same, or furnish and plant trees, shrubs, bushes or other plants or provides any type of landscaping goods or services or who installs outdoor irrigation systems under or by virtue of any contract with the owner or proprietor thereof, or his or her agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, upon complying with the provisions of sections 429.010 to 429.340, shall have for his or her work or labor done, machinery or equipment rented or materials, fixtures, engine, boiler, machinery, trees, shrubs, bushes or other plants furnished, or any type of landscaping goods or services provided, a lien upon such building, erection or improvements, and upon the land belonging to such owner or proprietor on which the same are situated, to the extent of three acres; or if such building, erection or improvements be upon any lot of land in any town, city or village, or if such building, erection or improvements be for manufacturing, industrial or commercial purposes and not within any city, town or village, then such lien shall be upon such building, erection or improvements, and the lot, tract or parcel of land upon which the same are situated, and not limited to the extent of three acres, to secure the payment of such work or labor done, machinery or equipment rented, or materials, fixtures, engine, boiler, machinery, trees, shrubs, bushes or other plants or any type of landscaping goods or services furnished, or outdoor irrigation systems installed; except that if such building, erection or improvements be not within the limits of any city, town or village, then such lien shall be also upon the land to the extent necessary to provide a roadway for ingress to and egress from the lot, tract or parcel of land upon which such building, erection or improvements are situated, not to exceed forty feet in width, to the nearest public road or highway. Such lien shall be enforceable only against the property of the original purchaser of such plants unless the lien is filed against the property prior to the conveyance of such property to a third person. For claims involving the rental of machinery or equipment to others who use the rental machinery or equipment, the lien shall be for the reasonable rental value of the machinery or equipment during the period of actual use and any periods of nonuse taken into account in the rental contract, while the machinery or equipment is on the property in question.

2. There shall be no lien involving the rental of machinery or equipment unless:

(1) The improvements are made on commercial property;

(2) The amount of the claim exceeds five thousand dollars; and

(3) The party claiming the lien provides written notice within five business days of the commencement of the use of the rental machinery or equipment to the property owner that rental machinery or equipment is being used upon their property. Such notice shall identify the name of the entity that rented the machinery

or equipment, the machinery or equipment being rented, and the rental rate. Nothing contained in this subsection shall apply to persons who use rented machinery or equipment in performing the work or labor described in subsection 1 of this section.

**3. (1) No lien shall be permitted on behalf of a collective bargaining unit fringe benefit fund with respect to all employee benefits, dues, and fringe costs arising out of the performance of work by a subcontractor or a lower tier subcontractor unless:**

**(a) a. The subcontractor or lower tier subcontractor is delinquent, which means being at least thirty days late, in making timely payments of employee benefits, dues, or fringe costs to the fund.**

**b. If the fund has actual knowledge that the delinquency relates to work performed on a particular project, the fund shall advise the original contractor for the project in question in writing of the fact of such delinquency, identifying the subcontractor or lower tier subcontractor at issue and an approximation of the amount of the obligation at issue within fifteen days after the subcontractor or lower tier subcontractor at issue becomes delinquent in payment.**

**c. If the fund does not have the actual knowledge described in subparagraph b. of this paragraph at a time that will permit it to comply with the timing requirements of subparagraph b. of this paragraph, the fund shall provide the written notice required by subparagraph b. of this paragraph within ten days after the fund acquires such actual knowledge.**

**d. An original contractor or subcontractor may make a request in writing for a written confirmation from the fund confirming that for a specific subcontractor or any of its specifically identified lower tier subcontractors with respect to a specifically identified project, all employee benefits, dues, and fringe costs arising out of the performance of the work on such project by the subcontractor and all of its lower tier subcontractors otherwise due to the fund have been paid. Such written requests shall be deemed effective if sent by certified mail, return receipt requested. The fund shall respond in writing by certified mail, return receipt requested, to such a request for confirmation within ten days of the fund's receipt of the request; and**

**(b) The fund has timely and accurately responded to any request for confirmation made under the terms of paragraph (a) of this subdivision.**

**(2) The obligations of this subsection shall apply with equal force and effect to like claims by a fund under a payment bond issued by an original contractor on a construction project, regardless of whether such construction project is a private project or a public works project.”; and**

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

In which the concurrence of the Senate is respectfully requested.

#### **CONFERENCE COMMITTEE APPOINTMENTS**

President Pro Tem Mayer appointed the following conference committee to act with a like committee from the House on **SCS** for **HB 737**: Senators Lager, Munzlinger, Pearce, Callahan and Curls.

President Pro Tem Mayer assumed the Chair.

#### **REPORTS OF STANDING COMMITTEES**

Senator Engler, Chairman of the Committee on Financial and Governmental Organizations and

Elections, submitted the following report:

Mr. President: Your Committee on Financial and Governmental Organizations and Elections, to which was referred **HCS** for **HB 552**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Pearce, Chairman of the Committee on Education, submitted the following report:

Mr. President: Your Committee on Education, to which was referred **HCS** for **HB 473**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Lager assumed the Chair.

Senator Mayer, Chairman of the Committee on Gubernatorial Appointments, submitted the following reports, reading of which was waived:

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

Donald Cupps, Democrat, as a member of the University of Missouri Board of Curators;

Also,

Joseph Cavato, Democrat, as a member of the Health and Educational Facilities Authority;

Also,

Bryan Hampton, as a member of the Crime Laboratory Review Commission;

Also,

Shane Mecham and Michael Sparks, as members of the Missouri Head Injury Advisory Council;

Also,

Garry Kemp, Democrat, as a member of the Jackson County Sports Complex Authority;

Also,

Mary Ellen Miller, Democrat, as a member and Chair of the Jackson County Board of Election Commissioners;

Also,

Randall Relford, as a member of the Missouri Dental Board;

Also,

Daniel Kappel, Republican, as a member of the Missouri Community Service Commission;

Also,

Lisa Reynolds-Korobey and Suzanne Taggart, as members of the Child Abuse and Neglect Review Board;

Also,

Joseph Nicholson, as a member of the Board of Cosmetology and Barber Examiners;

Also,

Anthony Bologna, Democrat, as a member and Chair of the Clay County Board of Election Commissioners;

Also,

Michael Whitehead, Republican, as a member of the Jackson County Board of Election Commissioners.

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

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

### **REFERRALS**

President Pro Tem Mayer referred **HCS** for **HBs 600, 337 and 413**, with **SCS**; **HCS** for **HB 213**; **HCS** for **HB 840**; and **HCS** for **HB 473** to the Committee on Ways and Means and Fiscal Oversight.

### **RESOLUTIONS**

Senator Goodman offered Senate Resolution No. 1084, regarding Ann Hall, Purdy, which was adopted.

### **INTRODUCTIONS OF GUESTS**

Senator Justus introduced to the Senate, the Physician of the Day, Dr. Jeremy Burd, M.D., Kansas City.

Senator Brown introduced to the Senate, Aeon Strange, Rolla; and Aeon was made an honorary page.

Senator Schaaf introduced to the Senate, Addie Von Drehle, Laini Reynolds, Meg Thoma and Catherine Brooks.

On motion of Senator Dempsey, the Senate adjourned under the rules.

### **SENATE CALENDAR**

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SIXTY-SEVENTH DAY—WEDNESDAY, MAY 11, 2011

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### **FORMAL CALENDAR**

### **VETOED BILLS**

SCS for SB 188-Lager, et al

## THIRD READING OF SENATE BILLS

SCS for SB 11-McKenna  
(In Fiscal Oversight)

SB 204-Dempsey, et al  
(In Fiscal Oversight)

## SENATE BILLS FOR PERFECTION

- |   |                            |
|---|----------------------------|
| 1. SB 260-Wasson, with SCS                      | 11. SB 223-Mayer           |
| 2. SB 425-Goodman, with SCS                     | 12. SB 119-Schaefer        |
| 3. SB 400-Kraus, with SCS                       | 13. SB 150-Munzlinger      |
| 4. SB 392-Rupp, with SCS                        | 14. SB 84-Wright-Jones     |
| 5. SB 403-Nieves                                | 15. SB 45-Wright-Jones     |
| 6. SB 329-Nieves                                | 16. SB 14-Pearce, with SCS |
| 7. SB 353-Engler                                | 17. SB 281-Kraus           |
| 8. SJR 16-Goodman, with SCS                     | 18. SB 399-Kraus           |
| 9. SB 391-Lager                                 | 19. SB 44-Wright-Jones     |
| 10. SB 253-Callahan and Cunningham,<br>with SCS |                            |

## HOUSE BILLS ON THIRD READING

- |  |   |
|--|---|
| 1. HCS for HB 431, with SCS (Justus)<br>(In Fiscal Oversight)          | 10. HCS for HBs 300, 334 & 387, with SCS<br>(Mayer)                         |
| 2. HB 151-Kelly (24) and Molendorp<br>(Schaefer) (In Fiscal Oversight) | 11. HCS for HB 506, with SCS (Lembke)                                       |
| 3. HB 139-Smith (150), et al<br>(Cunningham) (In Fiscal Oversight)     | 12. HCS for HBs 600, 337 & 413, with SCS<br>(Goodman) (In Fiscal Oversight) |
| 4. HB 184-Dugger, with SCS (Purgason)                                  | 13. HCS for HB 213 (Mayer)<br>(In Fiscal Oversight)                         |
| 5. HCS for HB 664, with SCS (Schmitt)                                  | 14. HCS for HBs 223 & 231 (Crowell)   |
| 6. HCS for HB 366 (Richard)<br>(In Fiscal Oversight)                   | 15. HCS for HB 840 (Schmitt)<br>(In Fiscal Oversight)                       |
| 7. HB 675-Largent and Hoskins (Parson)                                 | 16. HCS for HB 344, with SCS (Munzlinger)                                   |
| 8. HCS for HJR 3 (Brown)<br>(In Fiscal Oversight)                      | 17. HCS for HB 552, with SCS  |
| 9. HB 458-Loehner, et al (Brown)                                       | 18. HCS for HB 473 (In Fiscal Oversight)                                    |

## 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  
SS for HB 71-Nasheed, et al (Engler)  
HCS for HB 89, with SCS & SS for SCS  
(pending) (Lager)  
HCS for HB 111, with SCS (Goodman)  
HCS for HBs 112 & 285, with SCS (Brown)  
HCS for HB 143 (Goodman)  
HB 167-Nolte, et al, with SCA 1  
(pending) (Nieves)  
HB 183-Silvey (Kraus)  
SS for SCS for HCS for HB 265 (Wasson)  
(In Fiscal Oversight)

HCS for HBs 294, 123, 125, 113, 271 &  
215, with SCS & SS for SCS (pending)  
(Munzlinger)  
HCS for HB 336 (Schmitt)  
HB 361-Leara (Cunningham)  
HB 402-Diehl and Korman (Wasson)  
SCS for HCS for HB 412 (Wasson)  
(In Fiscal Oversight)  
SS for SCS for HCS for HB 430 (Stouffer)  
(In Fiscal Oversight)  
HB 442-Franz, with SA 2 (pending)  
(Parson)

HB 462-Pollock, with SCS (Lager)  
 HCS for HB 464, with SCS & SA 2  
 (pending) (Wasson)  
 HCS for HBs 470 & 429, with SCS, SS for  
 SCS & SA 2 (pending) (Rupp)  
 HB 484-Faith (Stouffer)  
 HCS for HB 523, with SCS (Pearce)  
 HB 525-Molendorp (Rupp)  
 HCS for HB 545, with SCS & SS for SCS  
 (pending) (Schaaf)  
 HCS for HB 556  
 HCS for HB 562, with SCS (pending)  
 (Schmitt)

HCS#2 for HB 609, with SCS (pending)  
 (Wasson)  
 HB 661-Wells, et al, with SCS (Lamping)  
 HB 667-Carter, et al (Wright-Jones)  
 HCS for HB 697, with SCS (pending)  
 (Dixon)  
 HB 738-Nasheed, et al, with SCS  
 (pending) (Cunningham)  
 HB 1008-Long, et al, with SCS (Dempsey)  
 HJR 6-Cierpiot, et al (Cunningham)  
 HJR 29-Solon, et al, with SA 1 (pending)  
 (Munzlinger)

#### SENATE BILLS WITH HOUSE AMENDMENTS

SS for SCS for SB 58-Stouffer and  
 Lembke, with HCS, as amended  
 SB 71-Parson, with HSA 1 for HA 1, as  
 amended & HA 2  
 SB 97-Engler, with HCS#2, as amended  
 SS for SB 118-Stouffer, with HCS, as  
 amended

SS for SB 202-Crowell, with HCS, as  
 amended  
 SCS for SB 219-Wasson, with HCS, as  
 amended  
 SCS for SB 323-Schaefer, with HA 1 & HA 3

#### BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

##### In Conference

SS#2 for SCS for SB 8-Goodman, with HCS,  
 as amended  
 SCS for SB 29-Brown, with HCS, as amended  
 SB 59-Keaveny, with HCS, as amended  
 (Senate adopted CCR and passed CCS)  
 SB 61-Keaveny, with HCS, as amended  
 SS for SB 135-Schaefer, with HCS, as  
 amended  
 SB 145-Dempsey, with HCS,  
 as amended

SB 173-Dixon and Kehoe, with HCS, as  
 amended  
 SB 220-Wasson, with HCS, as amended  
 SS for SB 226-Engler, with HCS, as  
 amended  
 SB 250-Kehoe, with HCS, as amended  
 SCS for SB 270-Kraus, with HCS, as  
 amended  
 SB 282-Engler, with HCS, as amended  
 (Senate adopted CCR and passed CCS)

SB 284-Wasson, with HCS, as amended  
SB 322-Schaefer, with HCS, as amended  
HB 101-Loehner, with SCS, as amended  
(Cunningham)

HB 142-Gatschenberger, with SCS, as  
amended (Dempsey)  
HB 737-Redmon and Shumake, with SCS  
(Lager)

RESOLUTIONS

Reported from Committee

SR 179-Purgason  
HCS for HCR 23 (Dixon)  
HCR 37-Franklin, et al (Wright-Jones)

HCR 42-Funderburk, et al (Lembke)  
HCR 32-Bernskoetter (Kehoe)  
HCS for HCR 39

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