

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SCS/House Bill No. 329, Page 1, Section A, Line 3,

2 by inserting after all of said line the following:

3 "208.010. 1. In determining the eligibility of a claimant
4 for public assistance pursuant to this law, it shall be the duty
5 of the family support division [of family services] to consider
6 and take into account all facts and circumstances surrounding the
7 claimant, including his or her living conditions, earning
8 capacity, income and resources, from whatever source received,
9 and if from all the facts and circumstances the claimant is not
10 found to be in need, assistance shall be denied. In determining
11 the need of a claimant, the costs of providing medical treatment
12 which may be furnished pursuant to sections 208.151 to 208.158
13 [and 208.162] shall be disregarded. The amount of benefits, when
14 added to all other income, resources, support, and maintenance
15 shall provide such persons with reasonable subsistence compatible
16 with decency and health in accordance with the standards
17 developed by the family support division [of family services];
18 provided, when a husband and wife are living together, the
19 combined income and resources of both shall be considered in
20 determining the eligibility of either or both. "Living together"
21 for the purpose of this chapter is defined as including a husband
22 and wife separated for the purpose of obtaining medical care or

1 nursing home care, except that the income of a husband or wife
2 separated for such purpose shall be considered in determining the
3 eligibility of his or her spouse, only to the extent that such
4 income exceeds the amount necessary to meet the needs (as defined
5 by rule or regulation of the division) of such husband or wife
6 living separately. In determining the need of a claimant in
7 federally aided programs there shall be disregarded such amounts
8 per month of earned income in making such determination as shall
9 be required for federal participation by the provisions of the
10 federal Social Security Act (42 U.S.C.A. 301 et seq.), or any
11 amendments thereto. When federal law or regulations require the
12 exemption of other income or resources, the family support
13 division [of family services] may provide by rule or regulation
14 the amount of income or resources to be disregarded.

15 2. Benefits shall not be payable to any claimant who:

16 (1) Has or whose spouse with whom he or she is living has,
17 prior to July 1, 1989, given away or sold a resource within the
18 time and in the manner specified in this subdivision. In
19 determining the resources of an individual, unless prohibited by
20 federal statutes or regulations, there shall be included (but
21 subject to the exclusions pursuant to subdivisions (4) and (5) of
22 this subsection, and subsection 5 of this section) any resource
23 or interest therein owned by such individual or spouse within the
24 twenty-four months preceding the initial investigation, or at any
25 time during which benefits are being drawn, if such individual or
26 spouse gave away or sold such resource or interest within such
27 period of time at less than fair market value of such resource or
28 interest for the purpose of establishing eligibility for
29 benefits, including but not limited to benefits based on

1 December, 1973, eligibility requirements, as follows:

2 (a) Any transaction described in this subdivision shall be
3 presumed to have been for the purpose of establishing eligibility
4 for benefits or assistance pursuant to this chapter unless such
5 individual furnishes convincing evidence to establish that the
6 transaction was exclusively for some other purpose;

7 (b) The resource shall be considered in determining
8 eligibility from the date of the transfer for the number of
9 months the uncompensated value of the disposed of resource is
10 divisible by the average monthly grant paid or average Medicaid
11 payment in the state at the time of the investigation to an
12 individual or on his or her behalf under the program for which
13 benefits are claimed, provided that:

14 a. When the uncompensated value is twelve thousand dollars
15 or less, the resource shall not be used in determining
16 eligibility for more than twenty-four months; or

17 b. When the uncompensated value exceeds twelve thousand
18 dollars, the resource shall not be used in determining
19 eligibility for more than sixty months;

20 (2) The provisions of subdivision (1) of this subsection
21 shall not apply to a transfer, other than a transfer to
22 claimant's spouse, made prior to March 26, 1981, when the
23 claimant furnishes convincing evidence that the uncompensated
24 value of the disposed of resource or any part thereof is no
25 longer possessed or owned by the person to whom the resource was
26 transferred;

27 (3) Has received, or whose spouse with whom he or she is
28 living has received, benefits to which he or she was not entitled
29 through misrepresentation or nondisclosure of material facts or

1 failure to report any change in status or correct information
2 with respect to property or income as required by section
3 208.210. A claimant ineligible pursuant to this subsection shall
4 be ineligible for such period of time from the date of discovery
5 as the family support division [of family services] may deem
6 proper; or in the case of overpayment of benefits, future
7 benefits may be decreased, suspended or entirely withdrawn for
8 such period of time as the division may deem proper;

9 (4) Owns or possesses resources in the sum of one thousand
10 dollars or more; provided, however, that if such person is
11 married and living with spouse, he or she, or they, individually
12 or jointly, may own resources not to exceed two thousand dollars;
13 and provided further, that in the case of a temporary assistance
14 for needy families claimant, the provision of this subsection
15 shall not apply;

16 (5) Prior to October 1, 1989, owns or possesses property of
17 any kind or character, excluding amounts placed in an irrevocable
18 prearranged funeral or burial contract under chapter 436, or has
19 an interest in property, of which he or she is the record or
20 beneficial owner, the value of such property, as determined by
21 the family support division [of family services], less
22 encumbrances of record, exceeds twenty-nine thousand dollars, or
23 if married and actually living together with husband or wife, if
24 the value of his or her property, or the value of his or her
25 interest in property, together with that of such husband and
26 wife, exceeds such amount;

27 (6) In the case of temporary assistance for needy families,
28 if the parent, stepparent, and child or children in the home owns
29 or possesses property of any kind or character, or has an

1 interest in property for which he or she is a record or
2 beneficial owner, the value of such property, as determined by
3 the family support division [of family services] and as allowed
4 by federal law or regulation, less encumbrances of record,
5 exceeds one thousand dollars, excluding the home occupied by the
6 claimant, amounts placed in an irrevocable prearranged funeral or
7 burial contract under chapter 436, one automobile which shall not
8 exceed a value set forth by federal law or regulation and for a
9 period not to exceed six months, such other real property which
10 the family is making a good-faith effort to sell, if the family
11 agrees in writing with the family support division [of family
12 services] to sell such property and from the net proceeds of the
13 sale repay the amount of assistance received during such period.
14 If the property has not been sold within six months, or if
15 eligibility terminates for any other reason, the entire amount of
16 assistance paid during such period shall be a debt due the state;

17 (7) Is an inmate of a public institution, except as a
18 patient in a public medical institution.

19 3. In determining eligibility and the amount of benefits to
20 be granted pursuant to federally aided programs, the income and
21 resources of a relative or other person living in the home shall
22 be taken into account to the extent the income, resources,
23 support and maintenance are allowed by federal law or regulation
24 to be considered.

25 4. In determining eligibility and the amount of benefits to
26 be granted pursuant to federally aided programs, the value of
27 burial lots or any amounts placed in an irrevocable prearranged
28 funeral or burial contract under chapter 436 shall not be taken
29 into account or considered an asset of the burial lot owner or

1 the beneficiary of an irrevocable prearranged funeral or funeral
2 contract. For purposes of this section, "burial lots" means any
3 burial space as defined in section 214.270 and any memorial,
4 monument, marker, tombstone or letter marking a burial space. If
5 the beneficiary, as defined in chapter 436, of an irrevocable
6 prearranged funeral or burial contract receives any public
7 assistance benefits pursuant to this chapter and if the purchaser
8 of such contract or his or her successors in interest transfer,
9 amend, or take any other such actions regarding the contract so
10 that any person will be entitled to a refund, such refund shall
11 be paid to the state of Missouri with any amount in excess of the
12 public assistance benefits provided under this chapter to be
13 refunded by the state of Missouri to the purchaser or his or her
14 successors. In determining eligibility and the amount of
15 benefits to be granted under federally aided programs, the value
16 of any life insurance policy where a seller or provider is made
17 the beneficiary or where the life insurance policy is assigned to
18 a seller or provider, either being in consideration for an
19 irrevocable prearranged funeral contract under chapter 436, shall
20 not be taken into account or considered an asset of the
21 beneficiary of the irrevocable prearranged funeral contract. In
22 addition, the value of any funds, up to nine thousand nine
23 hundred ninety-nine dollars, placed into an irrevocable personal
24 funeral trust account, where the trustee of the irrevocable
25 personal funeral trust account is a state or federally chartered
26 financial institution authorized to exercise trust powers in the
27 state of Missouri, shall not be taken into account or considered
28 an asset of the person whose funds are so deposited if such funds
29 are restricted to be used only for the burial, funeral,

1 preparation of the body, or other final disposition of the person
2 whose funds were deposited into said personal funeral trust
3 account. No person or entity shall charge more than ten percent
4 of the total amount deposited into a personal funeral trust in
5 order to create or set up said personal funeral trust, and any
6 fees charged for the maintenance of such a personal funeral trust
7 shall not exceed three percent of the trust assets annually.
8 Trustees may commingle funds from two or more such personal
9 funeral trust accounts so long as accurate books and records are
10 kept as to the value, deposits, and disbursements of each
11 individual depositor's funds and trustees are to use the prudent
12 investor standard as to the investment of any funds placed into a
13 personal funeral trust. If the person whose funds are deposited
14 into the personal funeral trust account receives any public
15 assistance benefits pursuant to this chapter and any funds in the
16 personal funeral trust account are, for any reason, not spent on
17 the burial, funeral, preparation of the body, or other final
18 disposition of the person whose funds were deposited into the
19 trust account, such funds shall be paid to the state of Missouri
20 with any amount in excess of the public assistance benefits
21 provided under this chapter to be refunded by the state of
22 Missouri to the person who received public assistance benefits or
23 his or her successors. No contract with any cemetery, funeral
24 establishment, or any provider or seller shall be required in
25 regards to funds placed into a personal funeral trust account as
26 set out in this subsection.

27 5. In determining the total property owned pursuant to
28 subdivision (5) of subsection 2 of this section, or resources, of
29 any person claiming or for whom public assistance is claimed,

1 there shall be disregarded any life insurance policy, or
2 prearranged funeral or burial contract, or any two or more
3 policies or contracts, or any combination of policies and
4 contracts, which provides for the payment of one thousand five
5 hundred dollars or less upon the death of any of the following:

6 (1) A claimant or person for whom benefits are claimed; or

7 (2) The spouse of a claimant or person for whom benefits
8 are claimed with whom he or she is living. If the value of such
9 policies exceeds one thousand five hundred dollars, then the
10 total value of such policies may be considered in determining
11 resources; except that, in the case of temporary assistance for
12 needy families, there shall be disregarded any prearranged
13 funeral or burial contract, or any two or more contracts, which
14 provides for the payment of one thousand five hundred dollars or
15 less per family member.

16 6. Beginning September 30, 1989, when determining the
17 eligibility of institutionalized spouses, as defined in 42 U.S.C.
18 Section 1396r-5, for medical assistance benefits as provided for
19 in section 208.151 and 42 U.S.C. Sections 1396a, et seq., the
20 family support division [of family services] shall comply with
21 the provisions of the federal statutes and regulations. As
22 necessary, the division shall by rule or regulation implement the
23 federal law and regulations which shall include but not be
24 limited to the establishment of income and resource standards and
25 limitations. The division shall require:

26 (1) That at the beginning of a period of continuous
27 institutionalization that is expected to last for thirty days or
28 more, the institutionalized spouse, or the community spouse, may
29 request an assessment by the family support division [of family

1 services] of total countable resources owned by either or both
2 spouses;

3 (2) That the assessed resources of the institutionalized
4 spouse and the community spouse may be allocated so that each
5 receives an equal share;

6 (3) That upon an initial eligibility determination, if the
7 community spouse's share does not equal at least twelve thousand
8 dollars, the institutionalized spouse may transfer to the
9 community spouse a resource allowance to increase the community
10 spouse's share to twelve thousand dollars;

11 (4) That in the determination of initial eligibility of the
12 institutionalized spouse, no resources attributed to the
13 community spouse shall be used in determining the eligibility of
14 the institutionalized spouse, except to the extent that the
15 resources attributed to the community spouse do exceed the
16 community spouse's resource allowance as defined in 42 U.S.C.
17 Section 1396r-5;

18 (5) That beginning in January, 1990, the amount specified
19 in subdivision (3) of this subsection shall be increased by the
20 percentage increase in the Consumer Price Index for All Urban
21 Consumers between September, 1988, and the September before the
22 calendar year involved; and

23 (6) That beginning the month after initial eligibility for
24 the institutionalized spouse is determined, the resources of the
25 community spouse shall not be considered available to the
26 institutionalized spouse during that continuous period of
27 institutionalization.

28 7. Beginning July 1, 1989, institutionalized individuals
29 shall be ineligible for the periods required and for the reasons

1 specified in 42 U.S.C. Section 1396p.

2 8. The hearings required by 42 U.S.C. Section 1396r-5 shall
3 be conducted pursuant to the provisions of section 208.080.

4 9. Beginning October 1, 1989, when determining eligibility
5 for assistance pursuant to this chapter there shall be
6 disregarded unless otherwise provided by federal or state
7 statutes the home of the applicant or recipient when the home is
8 providing shelter to the applicant or recipient, or his or her
9 spouse or dependent child. The family support division [of
10 family services] shall establish by rule or regulation in
11 conformance with applicable federal statutes and regulations a
12 definition of the home and when the home shall be considered a
13 resource that shall be considered in determining eligibility.

14 10. Reimbursement for services provided by an enrolled
15 Medicaid provider to a recipient who is duly entitled to Title
16 XIX Medicaid and Title XVIII Medicare Part B, Supplementary
17 Medical Insurance (SMI) shall include payment in full of
18 deductible and coinsurance amounts as determined due pursuant to
19 the applicable provisions of federal regulations pertaining to
20 Title XVIII Medicare Part B, except for hospital outpatient
21 services or the applicable Title XIX cost sharing.

22 11. A "community spouse" is defined as being the
23 noninstitutionalized spouse.

24 12. An institutionalized spouse applying for Medicaid and
25 having a spouse living in the community shall be required, to the
26 maximum extent permitted by law, to divert income to such
27 community spouse to raise the community spouse's income to the
28 level of the minimum monthly needs allowance, as described in 42
29 U.S.C. Section 1396r-5. Such diversion of income shall occur

1 before the community spouse is allowed to retain assets in excess
2 of the community spouse protected amount described in 42 U.S.C.
3 Section 1396r-5."; and

4 Further amend the title and enacting clause accordingly.