

Journal of the Senate

FIRST REGULAR SESSION

SIXTY-SECOND DAY—MONDAY, MAY 6, 2019

The Senate met pursuant to adjournment.

Senator Hough in the Chair.

Reverend Carl Gauck offered the following prayer:

“...For the Lord your God is with you wherever you go.” (Joshua 1:9)

Gracious God as we begin this new week we are thankful for our safe travel and ask that You help us always be mindful that You have given us this day to use that we might be helpful to others. Continue to show us our responsibilities of the things that are set before us and may we do that which is truly important and must be done. 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 for Thursday, May 2, 2019 was read and approved.

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

Present—Senators

Arthur	Bernskoetter	Brown	Burlison	Cierpiot	Crawford	Cunningham
Curls	Eigel	Emery	Hegeman	Holsman	Hoskins	Hough
Koenig	Libla	Luetkemeyer	May	Nasheed	O’Laughlin	Onder
Riddle	Rizzo	Romine	Rowden	Sater	Schatz	Schupp
Sifton	Wallingford	Walsh	White	Wieland	Williams—34	

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

RESOLUTIONS

Senator Sifton offered Senate Resolution No. 862, regarding Jill R. Wojewuczki, St. Louis, which was adopted.

Senator Hegeman offered Senate Resolution No. 863, regarding Donna Craig, Ridgeway, which was adopted.

Senator Hegeman offered Senate Resolution No. 864, regarding Luella Walter, Maryville, which was adopted.

Senator Hegeman offered Senate Resolution No. 865, regarding William Pollard, Cameron, which was adopted.

Senator Hegeman offered Senate Resolution No. 866, regarding Guy Earl and Julie Evoritt, Princeton, which was adopted.

Senator Arthur offered Senate Resolution No. 867, regarding Lou Paris, Kansas City, which was adopted.

Senator Schupp offered Senate Resolution No. 868, regarding Robert Green, which was adopted.

Senator Schupp offered Senate Resolution No. 869, regarding Abby Susman, which was adopted.

Senator Schupp offered Senate Resolution No. 870, regarding Charlotte McClure, which was adopted.

Senator Bernskoetter offered Senate Resolution No. 871, regarding Margaret Wilson, Tuscumbia, which was adopted.

Senator Bernskoetter offered Senate Resolution No. 872, regarding Dr. Donald Broman, Linn, which was adopted.

Senator Riddle offered Senate Resolution No. 873, regarding the Fiftieth Wedding Anniversary of Earl F. and Lois Ann Adams, Fulton, which was adopted.

Senator Brown offered Senate Resolution No. 874, regarding Sharon Meusch, which was adopted.

Senator Romine offered Senate Resolution No. 875, regarding Cynthia M. Nickelson, Ste. Genevieve, which was adopted.

Senator Romine offered Senate Resolution No. 876, regarding Kathy Crocker, Ironton, which was adopted.

Senator Romine offered Senate Resolution No. 877, regarding Yvonne Rene Perry, De Soto, which was adopted.

Senator White offered Senate Resolution No. 878, regarding Darian Doser, which was adopted.

Senator Riddle offered Senate Resolution No. 879, regarding Lisa Wiler, New Bloomfield, which was adopted.

Senator Riddle offered Senate Resolution No. 880, regarding Wendle Lea Akers, New Bloomfield, which was adopted.

Senator Sater offered Senate Resolution No. 881, regarding Robert E. Lea, which was adopted.

Senator Sater offered Senate Resolution No. 882, regarding Leota Pratt, Branson, which was adopted.

Senator White offered Senate Resolution No. 883, regarding Allen Dale Davenport, Carterville, which was adopted.

Senator Bernskoetter offered Senate Resolution No. 884, regarding Saydi Vandel, Versailles, which was adopted.

Senator Emery offered Senate Resolution No. 885, regarding Julio Gracida-Basurto, Belton, which was adopted.

Senator Hoskins offered Senate Resolution No. 886, regarding Eagle Scout Powell A. C. Medlock, Odessa, which was adopted.

Senator Hoskins offered Senate Resolution No. 887, regarding Ethan Bowers, Lawson, which was adopted.

Senator Walsh offered Senate Resolution No. 888, regarding Soroptimist International of Greater St. Louis, which was adopted.

Senator Koenig offered Senate Resolution No. 889, regarding Victoria Ariel Hooker, Waynesville, which was adopted.

HOUSE BILLS ON SECOND READING

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

HCS for HB 576—Education.

HB 868—Judiciary and Civil and Criminal Jurisprudence.

HB 1002—Transportation, Infrastructure and Public Safety.

HB 489—Government Reform.

HB 1049—Insurance and Banking.

HCS for HB 17—Appropriations.

HCS for HB 18—Appropriations.

HCS for HB 19—Appropriations.

HJR 54—Progress and Development.

HB 585—Professional Registration.

HB 632—Insurance and Banking.

REFERRALS

President Pro Tem Schatz referred **HB 337**; **HB 600**; **HB 943**; **HCS for HB 400**; **HB 705**, with **SCS**; **HB 240**, with **SCS**; and **HB 966** to the Committee on Fiscal Oversight.

REPORTS OF STANDING COMMITTEES

Senator Cunningham, Chairman of the Committee on Fiscal Oversight, submitted the following report:

Mr. President: Your Committee on Fiscal Oversight, to which was referred **SS No. 4** for **SB 224**, begs leave to report that it has considered the same and recommends that the bill do pass.

SENATE BILLS FOR THIRD READING

SS No. 4 for SB 224, introduced by Senator Luetkemeyer, entitled:

SENATE SUBSTITUTE NO. 4 FOR
SENATE BILL NO. 224

An Act to amend supreme court rules, 25.02, 25.03, 56.01, 57.01, 57.03, 57.04, 58.01, 59.01, and 61.01, relating to discovery.

Was taken up.

On motion of Senator Luetkemeyer, **SS No. 4 for SB 224** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bernskoetter	Brown	Burlison	Cierpiot	Crawford	Cunningham	Eigel
Emery	Hegeman	Hoskins	Hough	Koenig	Luetkemeyer	Nasheed
O’Laughlin	Onder	Riddle	Romine	Rowden	Sater	Schatz
Wallingford	White	Wieland—24				

NAYS—Senators

Arthur	Curls	Holsman	May	Rizzo	Schupp	Sifton
Walsh	Williams—9					

Absent—Senator Libla—1

Absent with leave—Senators—None

Vacancies—None

The President declared the bill passed.

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

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

Senator Rowden moved that motion lay on the table, 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 House refuses to recede from its position on **HA 1, HA 2, HA 3, HA 4, HA 5, HA 6, HA 7, and HA 8** to **SB 368**, 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 has taken up and adopted **SS** for **HCS** for **HB 694** and has taken up and passed **SS** for **HCS** for **HB 694**.

Emergency clause adopted.

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 196**, entitled:

An Act to repeal sections 253.080 and 253.403, RSMo, and to enact in lieu thereof three new sections relating to the division of state parks.

With House Amendment Nos. 1 and 2.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Bill No. 196, Page 3, Section 253.177, Line 10, by inserting after the word, “**maintaining**,” the word, “**developing**,”; 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 Bill No. 196, Page 1, Section 253.080, Lines 6-7, by deleting said lines and inserting in lieu thereof the following:

“appropriated funds **unless the director has entered into an agreement with a donor to provide non-state funds as support funding for the project.**”; and

Further amend said bill and section, Page 3, Line 58, by inserting after the word “**permit**” the following:

“**shall be subject to terms and conditions established by the director and**”; 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 **SCS** for **SB 83**.

With House Amendment No. 1, House Amendment No. 1 to House Amendment No. 2, House Amendment No. 2 to House Amendment No. 2, and House Amendment No. 2 as amended.

HOUSE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 83, Page 1, In the Title, Line 3, by deleting the phrase “child relocation” and inserting in lieu thereof the phrase “court proceedings”; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 2

Amend House Amendment No. 2 to Senate Committee Substitute for Senate Bill No. 83, Page 1, Line 4, by inserting before the number “**528.700.**” the following:

“452.402. 1. The court may grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also

have the right to file a motion to modify the original decree of dissolution to seek visitation rights when visitation has been denied to them; or

(2) One parent of the child is deceased and the surviving parent denies reasonable visitation to a parent of the deceased parent of the child; or

(3) The child has resided in the grandparent's home for at least six months within the twenty-four month period immediately preceding the filing of the petition; [and] **or**

(4) A grandparent is unreasonably denied visitation with the child for a period exceeding [ninety] **thirty** days. However, if the natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation pursuant to this subdivision.

2. The court shall determine if the visitation by the grandparent would be in the child's best interest or if it would endanger the child's physical health or impair the child's emotional development. Visitation may only be ordered when the court finds such visitation to be in the best interests of the child. However, when the parents of the child are legally married to each other and are living together with the child, it shall be a rebuttable presumption that such parents know what is in the best interest of the child. The court may order reasonable conditions or restrictions on grandparent visitation.

3. If the court finds it to be in the best interests of the child, the court may appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice law in Missouri. The guardian ad litem may, for the purpose of determining the question of grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

4. A home study, as described by section 452.390, may be ordered by the court to assist in determining the best interests of the child.

5. The court may, in its discretion, consult with the child regarding the child's wishes in determining the best interest of the child.

6. The right of a grandparent to maintain visitation rights pursuant to this section may terminate upon the adoption of the child.

7. The court may award reasonable attorneys fees and expenses to the prevailing party.”; and

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

HOUSE AMENDMENT NO. 2 TO
HOUSE AMENDMENT NO. 2

Amend House Amendment No. 2 to Senate Committee Substitute for Senate Bill No. 83, Page 1, Line 4, by inserting before the number “**528.700.**” the following:

“476.001. An efficient, well operating and productive judiciary is essential to the preservation of the people's liberty and prosperity. In order to achieve this goal, the general assembly and the supreme court must constantly be aware of the operations, needs, strengths and weaknesses of the judicial system. It is the purpose of sections 476.001, 476.055, 476.330 to 476.380, 476.412, 476.681, and 477.405 to provide the general assembly and the supreme court with the mechanisms to obtain on a continuing basis a comprehensive analysis of judicial resources and an efficient and organized method of identifying the problems and needs as they occur. It is the further purpose of sections 476.001, 476.055, 476.330 to

476.380, 476.412, 476.681, 477.405, 478.073, **and** 478.320], and subdivision (12) of subsection 1 of section 600.042] to provide a system for the efficient allocation of available personnel, facilities and resources to achieve a uniform and effective operation of the judicial system.”; and

Further amend said amendment, Page 6, Line 1, by deleting the words “**provisions.**”; and” and inserting in lieu thereof the following:

“provisions.

600.042. 1. The director shall:

(1) Direct and supervise the work of the deputy directors and other state public defender office personnel appointed pursuant to this chapter; and he or she and the deputy director or directors may participate in the trial and appeal of criminal actions at the request of the defender;

(2) Submit to the commission, between August fifteenth and September fifteenth of each year, a report which shall include all pertinent data on the operation of the state public defender system, the costs, projected needs, and recommendations for statutory changes. Prior to October fifteenth of each year, the commission shall submit such report along with such recommendations, comments, conclusions, or other pertinent information it chooses to make to the chief justice, the governor, and the general assembly. Such reports shall be a public record, shall be maintained in the office of the state public defender, and shall be otherwise distributed as the commission shall direct;

(3) With the approval of the commission, establish such divisions, facilities and offices and select such professional, technical and other personnel, including investigators, as he deems reasonably necessary for the efficient operation and discharge of the duties of the state public defender system under this chapter;

(4) Administer and coordinate the operations of defender services and be responsible for the overall supervision of all personnel, offices, divisions and facilities of the state public defender system, except that the director shall have no authority to direct or control the legal defense provided by a defender to any person served by the state public defender system;

(5) Develop programs and administer activities to achieve the purposes of this chapter;

(6) Keep and maintain proper financial records with respect to the provision of all public defender services for use in the calculating of direct and indirect costs of any or all aspects of the operation of the state public defender system;

(7) Supervise the training of all public defenders and other personnel and establish such training courses as shall be appropriate;

(8) With approval of the commission, promulgate necessary rules, regulations and instructions consistent with this chapter defining the organization of the state public defender system and the responsibilities of division directors, district defenders, deputy district defenders, assistant public defenders and other personnel;

(9) With the approval of the commission, apply for and accept on behalf of the public defender system any funds which may be offered or which may become available from government grants, private gifts, donations or bequests or from any other source. Such moneys shall be deposited in the state general revenue fund;

(10) Contract for legal services with private attorneys on a case-by-case basis and with assigned counsel

as the commission deems necessary considering the needs of the area, for fees approved and established by the commission;

(11) With the approval and on behalf of the commission, contract with private attorneys for the collection and enforcement of liens and other judgments owed to the state for services rendered by the state public defender system[;

(12) Prepare a plan to establish district offices, the boundaries of which shall coincide with existing judicial circuits. Any district office may contain more than one judicial circuit within its boundaries, but in no event shall any district office boundary include any geographic region of a judicial circuit without including the entire judicial circuit. The director shall submit the plan to the chair of the house judiciary committee and the chair of the senate judiciary committee, with fiscal estimates, by December 31, 2014. The plan shall be implemented by December 31, 2021].

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

3. The director and defenders shall, within guidelines as established by the commission and as set forth in subsection 4 of this section, accept requests for legal services from eligible persons entitled to counsel under this chapter or otherwise so entitled under the constitution or laws of the United States or of the state of Missouri and provide such persons with legal services when, in the discretion of the director or the defenders, such provision of legal services is appropriate.

4. The director and defenders shall provide legal services to an eligible person:

(1) Who is detained or charged with a felony, including appeals from a conviction in such a case;

(2) Who is detained or charged with a misdemeanor which will probably result in confinement in the county jail upon conviction, including appeals from a conviction in such a case, unless the prosecuting or circuit attorney has waived a jail sentence;

(3) Who is charged with a violation of probation when it has been determined by a judge that the appointment of counsel is necessary to protect the person's due process rights under section 559.036;

(4) Who has been taken into custody pursuant to section 632.489, including appeals from a determination that the person is a sexually violent predator and petitions for release, notwithstanding any provisions of law to the contrary;

(5) For whom the federal constitution or the state constitution requires the appointment of counsel; and

(6) Who is charged in a case in which he or she faces a loss or deprivation of liberty, and in which the federal or the state constitution or any law of this state requires the appointment of counsel; however, the director and the defenders shall not be required to provide legal services to persons charged with violations of county or municipal ordinances, or misdemeanor offenses except as provided in this section.

5. The director may:

(1) Delegate the legal representation of an eligible person to any member of the state bar of Missouri;

(2) Designate persons as representatives of the director for the purpose of making indigency determinations and assigning counsel.”; and”;

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

HOUSE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 83, Page 5, Section 452.377, Line 127, by inserting after all of said section and line the following:

“528.700. 1. The provisions of sections 528.700 to 528.750 shall be known and may be cited as the “Save the Family Farm Act”.

2. For purposes of sections 528.700 to 528.750, the following terms and phrases shall mean:

(1) “Ascendant”, an individual who precedes another individual in lineage, in the direct line of ascent from the other individual;

(2) “Collateral”, an individual who is related to another individual under the law of intestate succession of this state but who is not the other individual’s ascendant or descendant;

(3) “Descendant”, an individual who follows another individual in lineage, in the direct line of descent from the other individual;

(4) “Determination of value”, a court order determining the fair market value of heirs’ property under section 528.720 or 528.740 or adopting the valuation of the property agreed to by all cotenants;

(5) “Heirs’ property”, real property held in tenancy in common that satisfies all of the following requirements as of the filing of a partition action:

(a) There is no agreement in a record binding all the cotenants that governs the partition of the property;

(b) One or more of the cotenants acquired title from a relative, whether living or deceased; and

(c) Any of the following applies:

a. Twenty percent or more of the interests are held by cotenants who are relatives;

b. Twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or

c. Twenty percent or more of the cotenants are relatives;

(6) “Partition by sale”, a court-ordered sale of the entire heirs’ property, whether by auction, sealed bids, or open-market sale conducted under section 528.740;

(7) “Partition in kind”, the division of heirs’ property into physically distinct and separately titled parcels;

(8) “Record”, information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(9) “Relative”, an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this state other than the provisions of sections 528.700 to 528.750.

528.705. 1. Sections 528.700 to 528.750 shall apply to partition actions filed on or after August 28, 2019.

2. In an action to partition real property under this chapter, the court shall determine whether the property is heirs’ property. If the court determines that the property is heirs’ property, the

property shall be partitioned under sections 528.700 to 528.750 unless all of the cotenants otherwise agree in a record.

3. Sections 528.700 to 528.750 shall supplement sections 528.010 to 528.640 and Missouri supreme court rule 96.

528.710. 1. Sections 528.700 to 528.750 shall not limit or affect the method by which service of a complaint in a partition action may be made.

2. If the plaintiff in a partition action seeks an order of notice by publication and the court determines that the property may be heirs' property, the plaintiff, no later than ten days after the court's determination, shall post and maintain, while the action is pending, a conspicuous sign on the property that is the subject of the action. The sign shall state that the action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

528.715. If the court appoints commissioners under supreme court rule 96, each commissioner, in addition to the requirements and disqualifications applicable to commissioners in supreme court rule 96, shall be disinterested and impartial and not a party to or a participant in the action.

528.720. 1. Except as otherwise provided in subsections 2 and 3 of this section, if the court determines that the property that is the subject of a partition action is heirs' property, the court shall determine the fair market value of the property by ordering a certified appraisal under subsection 4 of this section.

2. If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.

3. If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall determine the fair market value of the property and send notice to the parties of the value.

4. If the court orders a certified appraisal, the court shall appoint a disinterested real estate appraiser licensed in this state to determine the fair market value of the property assuming sole ownership of the fee simple estate. On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court.

5. If an appraisal is conducted under subsection 4 of this section, no later than ten days after the appraisal is filed, the court shall send notice to each party with a known address, stating:

(1) The appraised fair market value of the property;

(2) That the appraisal is available at the clerk's office; and

(3) That a party may file with the court an objection to the appraisal no later than thirty days after the notice is sent stating the grounds for the objection.

6. If an appraisal is filed with the court under subsection 4 of this section, the court shall conduct a hearing to determine the fair market value of the property no sooner than thirty days after a copy of the notice of the appraisal is sent to each party under subsection 5 of this section regardless of whether an objection to the appraisal is filed under subdivision (3) of subsection 5 of this section. In

addition to the court-ordered appraisal, the court may consider any other evidence of value offered by a party.

7. After a hearing under subsection 6 of this section but before considering the merits of the partition action, the court shall determine the fair market value of the property and send notice to the parties of the value.

528.725. 1. If any cotenant has requested partition by sale after the determination of value under section 528.720, the court shall send notice to the parties that any cotenant, except a cotenant that requested partition by sale, may buy all the interests of the cotenants that requested partition by sale.

2. No later than forty-five days after the notice is sent under subsection 1 of this section, any cotenant, except a cotenant that requested partition by sale, may give notice to the court that it elects to buy all the interests of the cotenants that requested partition by sale.

3. The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section 528.720 multiplied by the cotenant's fractional ownership of the entire parcel.

4. After expiration of the period in subsection 2 of this section, the following rules shall apply:

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of that fact;

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy and send notice to all the parties of that fact and of the price to be paid by each electing cotenant;

(3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties of that fact and resolve the partition action under subsection 1 or 2 of section 528.730.

5. If the court sends notice to the parties under subdivision (1) or (2) of subsection 4 of this section, the court shall set a date, no sooner than sixty days after the date the notice was sent, by which electing cotenants shall pay their apportioned price into the court. After this date, the following rules shall apply:

(1) If all electing cotenants timely pay their apportioned price into court, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to them;

(2) If no electing cotenant timely pays its apportioned price, the court shall resolve the partition action under subsection 1 or 2 of section 528.730 as if the interests of the cotenants that requested partition by sale were not purchased; or

(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the court, on motion, shall give notice to the electing cotenants that paid their apportioned price of the interest remaining and the price for all that interest.

6. No later than twenty days after the court gives notice under subdivision (3) of subsection 5 of

this section, any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price into the court. After the twenty-day period, the following rules shall apply:

(1) If only one cotenant pays the entire price for the remaining interest, the court shall issue an order reallocating the remaining interest to that cotenant. The court shall promptly issue an order reallocating the interests of all of the cotenants and disburse the amounts held by the court to the persons entitled to such amounts;

(2) If no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under subsection 1 or 2 of section 528.730 as if the interests of the cotenants that requested partition by sale were not purchased; or

(3) If more than one cotenant pays the entire price for the remaining interest, the court shall reapportion the remaining interest among those paying cotenants based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest. The court shall promptly issue an order reallocating all of the cotenants' interests, disburse the amounts held by the court to the persons entitled to such amounts, and promptly refund any excess payment held by the court.

7. No later than forty-five days after the court sends notice to the parties under subsection 1 of this section, any cotenant entitled to buy an interest under this section may request the court to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

8. If the court receives a timely request under subsection 7 of this section, the court, after hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable, subject to the following limitations:

(1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections 1 to 6 of this section have been paid into court and those interests have been reallocated among the cotenants as provided in subsections 1 to 6 of this section; and

(2) The purchase price for the interest of a nonappearing cotenant is based on the court's determination of value under section 528.720.

528.730. 1. If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants under section 528.725, or, if after conclusion of the buyout under section 528.725, a cotenant that has requested partition in kind remains, the court shall order partition in kind unless the court, after consideration of the factors listed in section 528.735, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

2. If the court does not order partition in kind under subsection 1 of this section, the court shall order partition by sale under section 528.740 or, if no cotenant requested partition by sale, the court shall dismiss the action.

3. If the court orders partition in kind under subsection 1 of this section, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken

together with the value of the in-kind distributions to the cotenants, will make the partition in kind just and proportionate in value to the fractional interests held.

4. If the court orders partition in kind, the court shall allocate to the cotenants that are unknown, unlocatable, or the subject of a default judgment, if their interests were not bought out under section 528.725, a part of the property representing the combined interests of these cotenants as determined by the court, and that part of the property shall remain undivided.

528.735. 1. In determining, under subsection 1 of section 528.730, whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

(1) Whether the heirs' property practicably can be divided among the cotenants;

(2) Whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which a court-ordered sale likely would occur;

(3) Evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant or each other;

(4) A cotenant's sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

(5) The lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;

(6) The degree to which the cotenants have contributed their pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance, or upkeep of the property; and

(7) Any other relevant factor.

2. The court shall not consider any one factor in subsection 1 of this section to be dispositive without weighing the totality of all relevant factors and circumstances.

528.740. 1. If the court orders a sale of heirs' property, the sale shall be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

2. If the court orders an open-market sale and the parties, no later than ten days after the entry of the order, agree on a real estate broker licensed in this state to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this state to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than the determination of value and on the terms and conditions established by the court. If the court finds that an auction company is more advantageous to the cotenants as a group, it has the discretion to appoint an auction company to conduct the sale required under this subsection.

3. If the broker appointed under subsection 2 of this section obtains within a reasonable time an

offer to purchase the property for at least the determination of value:

(1) The broker shall comply with the reporting requirements in section 528.745; and

(2) The sale may be completed in accordance with state law other than sections 528.700 to 528.750.

4. If the broker appointed under subsection 2 of this section does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, the court, after hearing, may:

(1) Approve the highest outstanding offer, if any;

(2) Redetermine the value of the property and order that the property continue to be offered for an additional time; or

(3) Order that the property be sold by sealed bids or at an auction.

5. If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale. If the court orders a sale, the sale shall be conducted under supreme court rule 96.

6. If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

528.745. 1. Unless required to do so within a shorter time by supreme court rule 96, a broker appointed under subsection 2 of section 528.740 to offer heirs' property for open-market sale shall file a report with the court no later than seven days after receiving an offer to purchase the property for at least the value determined under section 528.720 or 528.740.

2. The report required under subsection 1 of this section shall contain the following information:

(1) A description of the property to be sold to each buyer;

(2) The name of each buyer;

(3) The proposed purchase price;

(4) The terms and conditions of the proposed sale, including the terms of any owner financing;

(5) The amounts to be paid to lienholders;

(6) A statement of contractual or other arrangements or conditions of the broker's commission; and

(7) Other material facts relevant to the sale.

528.750. In applying and construing sections 528.700 to 528.750, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact such substantially similar provisions.”; 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 **SB 17**.

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

HOUSE AMENDMENT NO. 1

Amend Senate Bill No. 17, Page 1, In the Title, Line 3, by deleting all of said line and inserting in lieu thereof the words, “to public employee retirement systems.”; and

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

HOUSE AMENDMENT NO. 2

Amend Senate Bill No. 17, Page 3, Section B, Lines 3 and 5, by inserting before the term, “section A” on each line the following:

“section 169.560 of”; and

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

HOUSE AMENDMENT NO. 3

Amend Senate Bill No. 17, Page 1, Section A, Line 2, by inserting after all of said line the following:

“70.600. The following words and phrases as used in sections 70.600 to 70.755, unless a different meaning is plainly required by the context, shall mean:

(1) “Accumulated contributions”, the total of all amounts deducted from the compensations of a member and standing to the member’s credit in his or her individual account in the members deposit fund, together with investment credits thereon;

(2) “Actuarial equivalent”, a benefit of equal reserve value;

(3) “Allowance”, the total of the annuity and the pension. All allowances shall be paid not later than the tenth day of each calendar month;

(4) “Annuity”, a monthly amount derived from the accumulated contributions of a member and payable by the system throughout the life of a person or for a temporary period;

(5) “Beneficiary”, any person who is receiving or designated to receive a system benefit, except a retiree;

(6) “Benefit program”, a schedule of benefits or benefit formulas from which the amounts of system benefits can be determined;

(7) “Board of trustees” or “board”, the board of trustees of the system;

(8) “Compensation”, the remuneration paid an employee by a political subdivision or by an elected fee official of the political subdivision for personal services rendered by the employee for the political subdivision or for the elected fee official in the employee’s public capacity; provided, that for an elected fee official, “compensation” means that portion of his or her fees which is net after deduction of (a) compensation paid by such elected fee official to his or her office employees, if any, and (b) the ordinary and necessary expenses paid by such elected fee official and attributable to the operation of his or her office. In cases where an employee’s compensation is not all paid in money, the political subdivision shall fix the reasonable value of the employee’s compensation not paid in money. In determining compensation no consideration shall be given to:

(a) Any nonrecurring single sum payment paid by an employer;

(b) Employer contributions to any employee benefit plan or trust;

(c) Any other unusual or nonrecurring remuneration; or

(d) Compensation in excess of the limitations set forth in Internal Revenue Code Section 401(a)(17). The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For purposes of this paragraph, an “eligible employee” is an individual who was a member of the system before the first plan year beginning after December 31, 1995;

(9) “Credited service”, the total of a member’s prior service and membership service, to the extent such service is standing to the member’s credit as provided in sections 70.600 to 70.755;

(10) “Employee”, any person regularly employed by a political subdivision who receives compensation from the political subdivision for personal services rendered the political subdivision, including any elected official of the political subdivision whose position requires his or her regular personal services and who is compensated wholly or in part on a fee basis, and including the employees of such elected fee officials who may be compensated by such elected fee officials. The term “employee” may include any elected county official. The term “employee” shall not include any person:

(a) Who is not an elected official of the political subdivision and who is included as an active member in any other plan similar in purpose to this system by reason of his or her employment with his or her political subdivision, except the federal Social Security Old Age, Survivors, and Disability Insurance Program, as amended; or

(b) Who acts for the political subdivision under contract; or

(c) Who is paid wholly on a fee basis, except elected officials and their employees; or

(d) Who holds the position of mayor, presiding judge, president or chairman of the political subdivision or is a member of the governing body of the political subdivision; except that, such an official of a political subdivision having ten or more other employees may become a member if the official is covered under the federal Social Security Old Age, Survivors, and Disability Insurance Program, as amended, by reason of such official’s employment with his or her political subdivision, by filing written application for membership with the board after the date the official qualifies for such position or within thirty days after the date his or her political subdivision becomes an employer, whichever date is later;

(11) “Employer”, any political subdivision which has elected to have all its eligible employees covered by the system;

(12) “Final average salary”, the monthly average of the compensations paid an employee during the period of sixty or, if an election has been made in accordance with section 70.656, thirty-six consecutive months of credited service producing the highest monthly average, which period is contained within the period of one hundred twenty consecutive months of credited service immediately preceding his or her termination of membership. Should a member have less than sixty or, if an election has been made in accordance with section 70.656, thirty-six months of credited service, “final average salary” means the monthly average of compensation paid the member during his or her total months of credited service;

(13) “Fireman”, any regular or permanent employee of the fire department of a political subdivision, including a probationary fireman. The term “fireman” shall not include:

(a) Any volunteer fireman; or

(b) Any civilian employee of a fire department; or

(c) Any person temporarily employed as a fireman for an emergency;

(14) “Member”, any employee included in the membership of the system;

(15) “Membership service”, employment as an employee with the political subdivision from and after the date such political subdivision becomes an employer, which employment is creditable as service hereunder;

(16) “Minimum service retirement age”, age sixty for a member who is neither **public safety personnel as defined in section 70.631**, a policeman, nor a fireman; “minimum service retirement age”, age fifty-five for a member who is **public safety personnel as defined in section 70.631**, a policeman, or a fireman;

(17) “Pension”, a monthly amount derived from contributions of an employer and payable by the system throughout the life of a person or for a temporary period;

(18) “Policeman”, any regular or permanent employee of the police department of a political subdivision, including a probationary policeman. The term “policeman” shall not include:

(a) Any civilian employee of a police department; or

(b) Any person temporarily employed as a policeman for an emergency;

(19) “Political subdivision”, any governmental subdivision of this state created pursuant to the laws of this state, and having the power to tax, except public school districts; a board of utilities or a board of public works which is required by charter or ordinance to establish the compensation of employees of the utility separate from the compensation of other employees of the city may be considered a political subdivision for purposes of sections 70.600 to 70.755; a joint municipal utility commission may be considered a political subdivision for purposes of sections 70.600 to 70.755;

(20) “Prior service”, employment as an employee with the political subdivision prior to the date such political subdivision becomes an employer, which employment is creditable as service hereunder;

(21) “Regular interest” or “investment credits”, such reasonable rate or rates per annum, compounded annually, as the board shall adopt annually;

(22) “Reserve”, the present value of all payments to be made on account of any system benefit based upon such tables of experience and regular interest as the board shall adopt from time to time;

(23) “Retirant”, a former member receiving a system allowance by reason of having been a member;

(24) “Retirement system” or “system”, the Missouri local government employees’ retirement system.

70.631. 1. Each political subdivision may, by majority vote of its governing body, elect to cover emergency telecommunicators, jailors, and emergency medical service personnel as public safety personnel members of the system. The clerk or secretary of the political subdivision shall certify an election concerning the coverage of emergency telecommunicators, jailors, and emergency medical service personnel as public safety personnel members of the system to the board within ten days after such vote. The date in which the political subdivision’s election becomes effective shall be the first day of the calendar month specified by such governing body, the first day of the calendar month next following receipt by the board of the certification of the election, or the effective date of the political subdivision’s becoming an employer, whichever is the latest date. Such election shall not be changed after the effective date. If the election is made, the coverage provisions shall be applicable to all past

and future employment with the employer by present and future employees. If a political subdivision makes no election under this section, no emergency telecommunicator, jailor, or emergency medical service personnel of the political subdivision shall be considered public safety personnel for purposes determining a minimum service retirement age as defined in section 70.600.

2. If an employer elects to cover emergency telecommunicators, jailors, and emergency medical service personnel as public safety personnel members of the system, the employer's contributions shall be correspondingly changed effective the same date as the effective date of the political subdivision's election.

3. The limitation on increases in an employer's contributions provided by subsection 6 of section 70.730 shall not apply to any contribution increase resulting from an employer making an election under the provisions of this section.”; and

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

HOUSE AMENDMENT NO. 4

Amend Senate Bill No. 17, Page 3, Section 169.560, Line 66, by inserting after all of said line the following:

“215.030. 1. The commission is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its purpose, including but not limited to the following:

(1) To make, purchase, or participate in the purchase of uninsured, partially insured, or fully insured loans, including mortgages insured or otherwise guaranteed by the federal government, or mortgages insured or otherwise guaranteed by other insurers of mortgages to approved mortgagors to finance the building, rehabilitation, or purchase of residential housing designed and planned to be available for rental or sale to low-income or moderate-income persons or families, as well as to finance the building, rehabilitation, or purchase of residential housing in distressed communities as defined in section 135.530 planned to be available for rental or sale to persons or families of any income level, or which will be occupied and owned by low-income or moderate-income persons, persons of any income level in distressed communities, or families upon such terms as designated in sections 215.010, 215.030, 215.060, 215.070, 215.090, and 215.160; or to purchase or participate in the purchase of any other securities which are secured, directly or indirectly, by any such loan;

(2) Insure any loan, the funds of which are to be used for the purposes of sections 215.010 to 215.250 and the borrower of which agrees to the restrictions placed on such projects by the commission;

(3) To make or participate in the making of uninsured or federally insured construction loans to approve mortgagors of residential housing for occupancy by persons and families of low to moderate income or occupancy by persons and families of any income level in distressed communities as defined in section 135.530. Such loans shall be made only upon determination by the commission that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions. No commitment for a loan, except a “commitment in principle”, shall be made unless all plans for development have been completed and submitted to the commission;

(4) To make temporary loans, with or without interest, but with such security for repayment as the commission deems reasonably necessary and practicable, to defray development costs to approved mortgagors of residential housing for occupancy by persons and families of low and moderate income;

(5) Adopt bylaws for the regulation of its affairs and the conduct of its business and define, from time to time, the terms “low-income” and “moderate-income” so as to best carry out the purposes of sections 215.010 to 215.250 for the people intended hereby to be assisted. The definition may vary from one part of the state to another depending on economic factors in each section;

(6) To accept appropriations, gifts, grants, bequests, and devises and to utilize or dispose of the same to carry out its purpose;

(7) To make and execute contracts, releases, compromises, and other instruments necessary or convenient for the exercise of its powers, or to carry out its purpose;

(8) To collect reasonable fees and charges in connection with making and servicing its loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and in connection with providing technical, consultative, and project assistant services. Such fees and charges shall be limited to the amounts required to pay the costs of the commission, including operating and administrative expenses, and reasonable allowances for losses which may be incurred;

(9) To invest any funds not required for immediate disbursement in obligations of the state of Missouri or of the United States government or any instrumentality thereof, the principal and interest of which are guaranteed by the state of Missouri, or the United States government or any instrumentality thereof, or bank certificates of deposit, or, in the case of funds pledged to note or bond issues of the commission, in such investments as the commission may determine; provided that, on the date of issuance such note or bond issues are rated by Standard & Poor’s Corporation not lower than “AA” in the case of long-term obligations or “SP-1+” in the case of short-term obligations, or rated by Moody’s Investors Service, Inc., not lower than “Aa” in the case of long-term obligations or Moody’s Investment Grade I in the case of short-term obligations, or the equivalent ratings by such rating agencies in the event the ratings described in this section are changed;

(10) To sue and be sued;

(11) To have a seal and alter the same at will;

(12) To make, and from time to time, amend and repeal bylaws, rules, and regulations not inconsistent with the provisions of sections 215.010 to 215.250;

(13) To acquire, hold, and dispose of personal property for its purposes;

(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association, or organization;

(15) To acquire real property, or an interest therein, in its own name, to sell, transfer, and convey any such property to a buyer, to lease such property to a tenant to manage and operate such property, to enter into management contracts with respect to such property, and to mortgage such property;

(16) To sell, at public or private sale, any mortgage, negotiable instrument or obligation securing a construction, land development, mortgage, or temporary loan;

(17) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(18) To consent, whenever it deems it necessary or desirable in the fulfillment of its purpose, to the modification of the rate of interest, time of payment, or any installment of principal or interest, or any other

terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the commission is a party;

(19) To make and publish rules and regulations respecting its lending, insurance of loans, federally insured construction lending, and temporary lending to defray development costs and any such other rules and regulations as are necessary to effectuate its purpose;

(20) To borrow money to carry out and effectuate its purpose and to issue its negotiable bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its purpose, and to secure such bonds or notes by the pledge of revenues, mortgages, or notes of others;

(21) To issue renewal notes, to issue bonds to pay notes, and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured;

(22) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption, or payment of the notes or bonds to be refunded;

(23) To provide technical services to assist in the planning, processing, design, construction, or rehabilitation of residential housing for occupancy by persons and families of low and moderate income, persons and families in distressed communities as defined in section 135.530 of any income level, or land development for residential housing for occupancy by persons and families of low and moderate income or persons and families in distressed communities of any income level;

(24) To provide consultative project assistance services for residential housing for occupancy by persons and families of low and moderate income or persons and families of any income level in distressed communities as defined in section 135.530 and for land development for residential housing for occupancy by persons and families of low and moderate income, or for persons and families of any income level in distressed communities and for the residents thereof with respect to management, training and social services;

(25) To promote research and development in scientific methods of constructing low cost residential housing of high durability; and

(26) To make, purchase, or participate in the purchase of uninsured, partially insured, or fully insured loans and home improvement loans to sponsors to finance the weatherization of single and multifamily dwellings, and shall issue its negotiable bonds or notes for such purpose.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536 including but not limited to, section 536.028 if applicable, after January 1, 1999. All rulemaking authority delegated prior to January 1, 1999, is of no force and effect and repealed as of January 1, 1999, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to January 1, 1999. If the provisions of section 536.028 apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028 to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to January 1, 1999.

3. All employees of the commission shall be eligible for membership in the Missouri state employees' retirement system, subject to all provisions in chapters 104 and 105 applicable to the system.

260.035. 1. The authority is hereby granted and may exercise all powers necessary or appropriate to carry out and effectuate its purposes pursuant to the provisions of sections 260.005 to 260.125, including, but not limited to, the following:

(1) To adopt bylaws and rules after having held public hearings thereon for the regulation of its affairs and the conduct of its business;

(2) To adopt an official seal;

(3) To maintain a principal office and such other offices within the state as it may designate;

(4) To sue and be sued;

(5) To make and execute leases, contracts, releases, compromises, and other instruments necessary or convenient for the exercise of its powers or to carry out its purposes;

(6) To acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease, finance, and sell equipment, structures, systems, and projects and to lease the same to any private person, firm, or corporation, or to any public body, political subdivision, or municipal corporation. Any such lease may provide for the construction of the project by the lessee;

(7) To issue bonds and notes as hereinafter provided and to make, purchase, or participate in the purchase of loans or municipal obligations and to guarantee loans to finance the acquisition, construction, reconstruction, enlargement, improvement, furnishing, equipping, maintaining, repairing, operating, or leasing of a project;

(8) To invest any funds not required for immediate disbursement in obligations of the state of Missouri or of the United States or any agency or instrumentality thereof, or in bank certificates of deposit; provided, however, the foregoing limitations on investments shall not apply to proceeds acquired from the sale of bonds or notes which are held by a corporate trustee pursuant to section 260.060;

(9) To acquire by gift or purchase, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder;

(10) To employ managers and other employees and retain or contract with architects, engineers, accountants, financial consultants, attorneys, and such other persons, firms, or corporations who are necessary in its judgment to carry out its duties, and to fix the compensation thereof;

(11) To receive and accept appropriations, bequests, gifts, and grants and to utilize or dispose of the same to carry out its purposes pursuant to the provisions of sections 260.005 to 260.125;

(12) To engage in research and development with respect to pollution control facilities and solid waste or sewage disposal facilities, [and] water facilities, resource recovery facilities, and the development of energy resources;

(13) To collect rentals, fees, and other charges in connection with its services or for the use of any project hereunder;

(14) To sell at private sale any of its property or projects to any private person, firm, or corporation, or to any public body, political subdivision, or municipal corporation, on such terms as it deems advisable,

including the right to receive for such sale the note or notes of any such person to whom the sale is made. Any such sale shall provide for payments adequate to pay the principal of and interest and premiums, if any, on the bonds or notes issued to finance such project or portion thereof. Any such sale may provide for the construction of the project by the purchaser of the project;

(15) To make, purchase, or participate in the purchase of loans to finance the development and marketing of:

(a) Means of energy production utilizing energy sources other than fossil or nuclear fuel, including, but not limited to, wind, water, solar, biomass, solid waste, and other renewable energy resource technologies;

(b) Fossil fuels and recycled fossil fuels which are indigenous energy resources produced in the state of Missouri, including coal, heavy oil, and tar sands; and

(c) Synthetic fuels produced in the state of Missouri;

(16) To insure any loan, the funds of which are to be used for the development and marketing of energy resources as authorized by sections 260.005 to 260.125;

(17) To make temporary loans, with or without interest, but with such security for repayment as the authority deems reasonably necessary and practicable, to defray development costs of energy resource development projects;

(18) To collect reasonable fees and charges in connection with making and servicing its loans, notes, bonds and obligations, commitments, and other evidences of indebtedness made, issued or entered into to develop energy resources, and in connection with providing technical, consultative, and project assistance services in the area of energy development. Such fees and charges shall be limited to the amounts required to pay the costs of the authority, including operating and administrative expenses, and reasonable allowance for losses which may be incurred;

(19) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association, or organization to carry out the provisions of sections 260.005 to 260.125;

(20) To sell, at public or private sale, any mortgage and any real or personal property subject to that mortgage, negotiable instrument, or obligation securing any loan;

(21) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(22) To consent to the modification of the rate of interest, time of payment for any installment of principal or interest, or any other terms, of any loan, loan commitment, temporary loan, contract, or agreement made directly by the authority;

(23) To make and publish rules and regulations concerning its lending, insurance of loans, and temporary lending to defray development costs, along with such other rules and regulations as are necessary to effectuate its purposes. No rule or portion of a rule promulgated under the authority of sections 260.005 to 260.125 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024;

(24) To borrow money to carry out and effectuate its purpose in the area of energy resource development and to issue its negotiable bonds or notes as evidence of any such borrowing in such principal

amounts and upon such terms as shall be determined by the authority, and to secure such bonds or notes by the pledge of revenues, mortgages, or notes of others as authorized by sections 260.005 to 260.125.

2. The authority shall develop a hazardous waste facility if the study required in section 260.037 demonstrates that a facility is economically feasible. The facility, which shall not include a hazardous waste landfill, may be operated by any eligible party as specified in this section. The authority shall begin development of the facility by July 1, 1985.

3. All employees of the authority shall be eligible for membership in the Missouri state employees' retirement system, subject to all provisions in chapters 104 and 105 applicable to the system.”; and

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

HOUSE AMENDMENT NO. 5

Amend Senate Bill No. 17, Page 1, Section A, Line 2, by inserting after all of said line the following:

“169.141. 1. Any person receiving a retirement allowance under sections 169.010 to 169.140, and who elected a reduced retirement allowance under subsection 3 of section 169.070 with his or her spouse as the nominated beneficiary, may nominate a successor beneficiary under either of the following circumstances:

(1) If the nominated beneficiary precedes the retired person in death, the retired person may, upon remarriage, nominate the new spouse under the same option elected in the application for retirement;

(2) If the marriage of the retired person and the nominated beneficiary is dissolved, and if the dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, the retired person may, upon remarriage, nominate the new spouse under the same option elected in the application for retirement.

2. Any nomination of a successor beneficiary under subdivision (1) or (2) of subsection 1 of this section must be made in accordance with procedures established by the board of trustees, and must be filed within ninety days of May 6, 1993, or within one year of the remarriage, whichever later occurs. Upon receipt of a successor nomination filed in accordance with those procedures, the board shall adjust the retirement allowance to reflect actuarial considerations of that nomination as well as previous beneficiary and successor beneficiary nominations.

3. Any person receiving a retirement allowance under sections 169.010 to 169.140 who elected a reduced retirement allowance under subsection 3 of section 169.070 with his or her spouse as the nominated beneficiary may have the retirement allowance increased to the amount the retired member would be receiving had the retired member elected option 1 if:

(1) The marriage of the retired person and the nominated spouse is dissolved on or after September 1, 2017[;

(2) The], **and the** dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance; [and] **or**

(2) The marriage of the retired person and the nominated spouse was dissolved before September 1, 2017, and:

(a) The dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, and the parties obtain an amended or modified dissolution decree after September 1, 2017, providing for the immediate removal of the nominated spouse, or the nominated

spouse consents in writing to his or her immediate removal as nominated beneficiary and disclaims all rights to future benefits to the satisfaction of the board of trustees; or

(b) The dissolution decree does not provide for sole retention by the retired person of all rights in the retirement allowance and the parties obtain an amended or modified dissolution decree after September 1, 2017, which provides for sole retention by the retired person of all rights in the retirement allowance; and

(3) The person receives a retirement allowance under subsection 3 of section 169.070.

Any such increase in the retirement allowance shall be effective upon the receipt of an application for such increase and a certified copy of the decree of dissolution **and separation agreement, if applicable**, that meets the requirements of this section.”; and

Further amend said bill, Page 3, Section 169.560, Line 66, by inserting after all of said section and line the following:

“169.715. 1. Any person receiving a retirement allowance under sections 169.600 to 169.712, and who elected a reduced retirement allowance under subsection 4 of section 169.670 with his or her spouse as the nominated beneficiary, may nominate a successor beneficiary under either of the following circumstances:

(1) If the nominated beneficiary precedes the retired person in death, the retired person may, upon remarriage, nominate the new spouse under the same option elected in the application for retirement;

(2) If the marriage of the retired person and the nominated beneficiary is dissolved, and if the dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, the retired person may, upon remarriage, nominate the new spouse under the same option elected in the application for retirement.

2. Any nomination of a successor beneficiary under subdivision (1) or (2) of subsection 1 of this section must be made in accordance with procedures established by the board of trustees, and must be filed within ninety days of May 6, 1993, or within one year of the remarriage, whichever later occurs. Upon receipt of a successor nomination filed in accordance with those procedures, the board shall adjust the retirement allowance to reflect actuarial considerations of that nomination as well as previous beneficiary and successor beneficiary nominations.

3. Any person receiving a retirement allowance under sections 169.600 to 169.715 who elected a reduced retirement allowance under subsection 4 of section 169.670 with his or her spouse as the nominated beneficiary may have the retirement allowance increased to the amount the retired member would be receiving had the retired member elected option 1 if:

(1) The marriage of the retired person and the nominated spouse is dissolved on or after September 1, 2017[;

(2) The], **and the** dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance; [and] **or**

(2) The marriage of the retired person and the nominated spouse was dissolved before September 1, 2017, and:

(a) The dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, and the parties obtain an amended or modified dissolution decree after September 1, 2017, providing for the immediate removal of the nominated spouse, or the nominated spouse consents in writing to his or her immediate removal as nominated beneficiary and disclaims

all rights to future benefits to the satisfaction of the board of trustees; or

(b) The dissolution decree does not provide for sole retention by the retired person of all rights in the retirement allowance and the parties obtain an amended or modified dissolution decree after September 1, 2017, which provides for sole retention by the retired person of all rights in the retirement allowance; and

(3) The person receives a retirement allowance under subsection 4 of section 169.670.

Any such increase in the retirement allowance shall be effective upon the receipt of an application for such increase and a certified copy of the decree of dissolution **and separation agreement, if applicable**, that meets the requirements of this section.”; and

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

Emergency clause defeated.

In which the concurrence of the Senate is respectfully requested.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SS for SCS for SB 230**.

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

HOUSE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 230, Page 1, In the Title, Line 3, by deleting the phrase “guardianship and conservatorship” and inserting in lieu thereof the word “judicial”; and

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

HOUSE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 230, Page 6, Section 475.115, Line 18, by inserting after all of said section and line the following:

“508.010. 1. As used in this section, “principal place of residence” shall mean the county which is the main place where an individual resides in the state of Missouri. [There shall be a rebuttable presumption that the county of voter registration at the time of injury is the principal place of residence.] There shall be only one principal place of residence.

(1) For an individual person, there shall be a rebuttable presumption that the county of voter registration at the time of injury is the principal place of residence.

(2) Notwithstanding subdivision (1) of this subsection, for an individual whose conduct at issue was alleged in at least one count to be in the course and scope of his or her employment with a corporation, the individual’s principal place of residence for venue purposes shall be deemed to be the applicable corporation’s principal place of residence.

(3) For a corporation that, either directly or through its subsidiaries, wholly owns or operates a railroad, the place where the corporation has its registered agent is its principal place of residence

for the purposes of venue, provided that the registered agent is in a city not within a county, a charter county, or a first class county.

2. In all actions in which there is no count alleging a tort, venue shall be determined as follows:

(1) When the defendant is a resident of the state, either in the county within which the defendant resides, or in the county within which the plaintiff resides, and the defendant may be found;

(2) When there are several defendants, and they reside in different counties, the suit may be brought in any such county;

(3) When there are several defendants, some residents and others nonresidents of the state, suit may be brought in any county in this state in which any defendant resides;

(4) When all the defendants are nonresidents of the state, suit may be brought in any county in this state, **provided there is personal jurisdiction over each defendant, independent of each other defendant.**

3. The term “tort” shall include claims based upon improper health care, under the provisions of chapter 538.

4. Notwithstanding any other provision of law, in all actions in which there is any count alleging a tort and in which the plaintiff was first injured in the state of Missouri, venue shall be in the county where the plaintiff was first injured by the [wrongful] acts or [negligent] conduct alleged in the action.

5. Notwithstanding any other provision of law, in all actions in which there is any count alleging a tort and in which the plaintiff was first injured outside the state of Missouri, venue **as to that individual plaintiff** shall be determined as follows:

(1) If the defendant is a corporation, then venue shall be in any county where a defendant corporation’s registered agent is located or, if the plaintiff’s principal place of residence was in the state of Missouri on the date the plaintiff was first injured, then venue may be in the county of the plaintiff’s principal place of residence on the date the plaintiff was first injured;

(2) If the defendant is an individual, then venue shall be in [any] **the** county [of] **where** the [individual defendant’s] **defendant has his or her** principal place of residence in the state of Missouri, **which for venue purposes shall be deemed to be that of his or her employer corporation if any count alleges conduct in the course and scope of his or her employment with that corporation,** or, if the plaintiff’s principal place of residence was in the state of Missouri on the date the plaintiff was first injured, then venue **as to that individual plaintiff** may be in the county containing the plaintiff’s principal place of residence on the date the plaintiff was first injured;

(3) Notwithstanding subdivisions (1) and (2) of this subsection, if the plaintiff was first injured in a foreign country in connection with any railroad operations therein and any defendant is a:

(a) Corporation that, either directly or through its subsidiaries, wholly owns or operates the foreign railroad; or

(b) Wholly owned subsidiary of a corporation that, either directly or through its subsidiaries, wholly owns or operates the foreign railroad;

then venue shall exclusively be in the county where any such defendant corporation’s registered agent is located, regardless of venue as to any other defendant or, if the plaintiff’s principal place of residence was in the state of Missouri on the date the plaintiff was first injured, then venue may be in the county of the

plaintiff 's principal place of residence on the date the plaintiff was first injured.

6. Any action, in which any county shall be a plaintiff, may be commenced and prosecuted to final judgment in the county in which the defendant or defendants reside, or in the county suing and where the defendants, or one of them, may be found.

7. In all actions, process shall be issued by the court in which the action is filed and process may be served in any county within the state.

8. In any action for defamation or for invasion of privacy, the plaintiff shall be considered first injured in the county in which the defamation or invasion was first published.

9. In all actions, venue shall be determined as of the date the plaintiff was first injured.

10. All motions to dismiss or to transfer based upon a claim of improper venue shall be deemed granted if not denied within ninety days of filing of the motion unless such time period is waived in writing by all parties.

11. In a wrongful death action, the plaintiff shall be considered first injured where the decedent was first injured by the wrongful acts or negligent conduct alleged in the action. In any spouse's claim for loss of consortium, the plaintiff claiming consortium shall be considered first injured where the other spouse was first injured by the wrongful acts or negligent conduct alleged in the action.

12. The provisions of this section shall apply irrespective of whether the defendant is a for-profit or a not-for-profit entity.

13. In any civil action, if all parties agree in writing to a change of venue, the court shall transfer venue to the county within the state unanimously chosen by the parties. If any parties are added to the cause of action after the date of said transfer who do not consent to said transfer then the cause of action shall be transferred to such county in which venue is appropriate under this section, based upon the amended pleadings.

14. A plaintiff is considered first injured where the trauma or exposure occurred rather than where symptoms are first manifested.

15. If the county where the plaintiff's claim is filed is not a proper venue, that plaintiff shall be transferred to a county where proper venue can be established. If no such county exists in the state of Missouri, the claim shall be dismissed without prejudice.

16. Denial of a motion to transfer venue pursuant to sections 507.040, 507.050, or 508.010, if denied in error, requires reversal, and no finding of prejudice under Missouri supreme court rule 84.13(b) is required for reversal.

17. For the purposes of this section, a domestic insurance company shall be deemed to reside in, and be a resident of, the county where its registered office is maintained. A foreign insurance company shall be deemed to reside in, and be a resident of, the county where its registered office is maintained. If a foreign insurance company does not maintain a registered office in any county in Missouri, the foreign insurance company shall be deemed to reside in, and be a resident of, Cole County.”; and

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

HOUSE AMENDMENT NO. 1 TO
HOUSE AMENDMENT NO. 3

Amend House Amendment No. 3 to Senate Substitute for Senate Committee Substitute for Senate Bill No. 230, Page 2, Line 34, by inserting after said line the following:

“Further amend said bill, Page 6, Section 475.115, Line 18, by inserting after said section and line the following:

“544.455. 1. Any person charged with a bailable offense, at his or her appearance before [an associate circuit judge or] a judge, may be ordered released pending trial, appeal, or other stage of the proceedings against him on his personal recognizance, unless the [associate circuit judge or] judge determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the [associate circuit judge or] judge may either in lieu of or in addition to the above methods of release, impose any or any combination of the following conditions of release which will reasonably assure the appearance of the person for trial:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restriction on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof **by a defendant or a third party; however, the court shall accept in lieu of a cash only bond a guaranty from any surety who is in compliance with general laws regulating such profession. Cash only bonds involving child support enforcement, insufficient funds, and enforcing posttrial collections of court costs, fines, and restitution shall be excluded from the provisions of this subdivision;**

(4) Require the person to report regularly to some officer of the court, [or] peace officer, [in such manner as the associate circuit judge or judge directs] **or a private pretrial court services company;**

(5) Require the execution of a bond in a given sum and the deposit in the registry of the court of ten percent, or such lesser percent as the judge directs, of the sum in cash or negotiable bonds of the United States or of the state of Missouri or any political subdivision thereof. **The court shall accept, in lieu of a percentage bond under this subdivision, a guaranty from any surety properly licensed under the laws of Missouri in an amount equal to the percentage the court required from the defendant or third party and confirm sufficient assets of a private individual acting as the guaranty of the full amount of bond if a percentage of the full amount of the bond in lieu thereof was accepted by the court. Upon judgment of a bail bond forfeiture, moneys shall be disbursed in the same manner as a judgment that is paid by a professional surety;**

(6) Place the person on house arrest with electronic monitoring; except that all costs associated with the electronic monitoring shall be charged to the person on house arrest. If the judge finds the person unable to afford the costs associated with electronic monitoring, the judge may order that the person be placed on house arrest with electronic monitoring if the county commission agrees to pay from the general revenue of the county the costs of such monitoring. If the person on house arrest is unable to afford the costs associated with electronic monitoring and the county commission does not agree to pay the costs of such electronic monitoring, the judge shall not order that the person be placed on house arrest with electronic monitoring;

(7) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.

2. In determining which conditions of release will reasonably assure appearance, the associate circuit judge or judge shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings.

3. [An associate circuit judge or] A judge authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such person of the penalties applicable to violations of the conditions of his release and shall advise him that a warrant for his arrest will be issued immediately upon any such violation.

4. A person for whom conditions of release are imposed and who after twenty-four hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the condition reviewed by the associate circuit judge or judge who imposed them. The motion shall be determined promptly.

5. [An associate circuit judge or] A judge ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release; except that, if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection 4 of this section shall apply.

6. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

7. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

8. Persons charged with violations of municipal ordinances may be released by a municipal judge or other judge who hears and determines municipal ordinance violation cases of the municipality involved under the same conditions and in the same manner as provided in this section for release by an associate circuit judge.

9. A circuit court may adopt a local rule authorizing the pretrial release on electronic monitoring pursuant to subdivision (6) of subsection 1 of this section in lieu of incarceration of individuals charged with offenses specifically identified therein.

10. A person serving as a municipal, associate circuit, or circuit judge, or a family member of such person within the first degree of affinity or consanguinity, shall be prohibited from owning a private pretrial court services company unless two years have elapsed since the date the person has served as an associate circuit or a circuit judge.”; and”; and

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

HOUSE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 230, Page 1, Section A, Line 3, by inserting after said section and line the following:

“21.875. 1. There is hereby established an interim joint committee of the general assembly to be known as the “Interim Joint Committee on Juvenile Court Jurisdiction and Implementation” to be composed of two members of the senate and two members of the house of representatives. Of the four

members to be appointed to the joint committee, the two senate members shall be appointed by the president pro tempore and the minority leader of the senate and the two house members shall be appointed by the speaker and the minority floor leader of the house of representatives. Additional joint committee members shall include:

(1) A chief juvenile officer from a single county judicial circuit appointed by the Missouri Juvenile Justice Association;

(2) A chief juvenile officer from a multicounty judicial circuit appointed by the Missouri Juvenile Justice Association;

(3) A superintendent of a Missouri juvenile detention center appointed by the Missouri Juvenile Justice Association;

(4) The Missouri office of state courts administrator, or his or her designee;

(5) The director of the division of youth services within the department of social services;

(6) The commissioner of education, or his or her designee, within the department of elementary and secondary education;

(7) The president, or his or her designee, of the Missouri Police Chiefs' Association;

(8) The executive director, or his or her designee, of the Missouri Sheriffs' Association;

(9) The director, or his or her designee, of the Missouri state public defender;

(10) The executive director, or his or her designee, of the Missouri school board association;

(11) A juvenile or family court judge appointed by the Missouri supreme court;

(12) The executive director, or his or her designee, of the Metropolitan Congregations United;

(13) The executive director, or his or her designee, of the Missouri Association of Counties;

(14) The executive director, or his or her designee, of the Missouri Juvenile Justice Association;

(15) A member of the Juvenile Justice Advisory Group, appointed by the director of the department of public safety; and

(16) The director of the department of public safety, or his or her designee.

2. The joint committee shall review current juvenile court jurisdiction as it pertains to status and delinquency offenses and develop a plan for full implementation of raising the age of juvenile court jurisdiction to seventeen years of age. The implementation plan shall include:

(1) An analysis of the impact raising the age of juvenile court jurisdiction will have on state and county budgets as well as identify resource issues and cost mitigation strategies;

(2) An appropriate fiscal note that is based on the analysis under subdivision (1) of this subsection;

(3) An allocation of funds deposited into the juvenile justice preservation fund established under section 211.435, as well as recommendations on how the funds may be used;

(4) An analysis of projected cases relating to subdivision (2) of subsection 1 of section 211.031, and an examination of best practices and alternatives for status offenders seventeen years of age;

(5) An examination of alternative strategies, such as civil citations or other diversion processes; and

(6) Addressing additional statutory implications of raising the age of juvenile court jurisdiction to include the following:

- (a) Compulsory school attendance;**
- (b) Age of commitment to the division of youth services;**
- (c) Certification;**
- (d) Dual jurisdiction; and**
- (e) Refining definitions.**

3. The joint committee shall meet within thirty days after its creation and select a chair and vice chair, one of whom shall be the chair of the senate committee on judiciary and one of whom shall be the chair of the house committee on judiciary. A majority of the joint committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the joint committee's duties.

4. The joint committee shall meet at least quarterly and at locations other than Jefferson City if the joint committee deems it necessary.

5. The joint committee shall be staffed by legislative personnel as is deemed necessary to assist the joint committee in the performance of its duties.

6. The members of the joint committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the joint committee to compile a full report of its activities for submission to the general assembly by January 15, 2020. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.”; and

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

HOUSE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 230, Page 2, Section 209.625, Line 27, by inserting after all of said section and line the following;

“211.211. 1. A child is entitled to be represented by counsel in all proceedings under subdivision (2) or (3) of subsection 1 of section 211.031 and by a guardian ad litem in all proceedings under subdivision (1) of subsection 1 of section 211.031.

2. The court shall appoint counsel for a child prior to the filing of a petition if a request is made therefor to the court and the court finds that the child is the subject of a juvenile court proceeding and that the child making the request is indigent.

3. **(1) When a petition has been filed under subdivision (2) or (3) of subsection 1 of section 211.031, the court shall appoint counsel for the child except if private counsel has entered his or her appearance on behalf of the child or if counsel has been waived in accordance with law; except that, counsel shall not be waived for any proceeding specified under subsection 10 of this section.**

(2) If a child waives his or her right to counsel, such waiver shall be made in open court and be recorded and in writing and shall be made knowingly, intelligently, and voluntarily. In determining

whether a child has knowingly, intelligently, and voluntarily waived his or her right to counsel, the court shall look to the totality of the circumstances including, but not limited to, the child's age, intelligence, background, and experience generally and in the court system specifically; the child's emotional stability; and the complexity of the proceedings.

4. When a petition has been filed and the child's custodian appears before the court without counsel, the court shall appoint counsel for the custodian if it finds:

- (1) That the custodian is indigent; and
- (2) That the custodian desires the appointment of counsel; and
- (3) That a full and fair hearing requires appointment of counsel for the custodian.

5. Counsel shall be allowed a reasonable time in which to prepare to represent his client.

6. Counsel shall serve for all stages of the proceedings, including appeal, unless relieved by the court for good cause shown. If no appeal is taken, services of counsel are terminated following the entry of an order of disposition.

7. The child and his custodian may be represented by the same counsel except where a conflict of interest exists. Where it appears to the court that a conflict exists, it shall order that the child and his custodian be represented by separate counsel, and it shall appoint counsel if required by subsection 3 or 4 of this section.

8. When a petition has been filed, a child may waive his **or her** right to counsel only with the approval of the court **and if such waiver is not prohibited under subsection 10 of this section. If a child waives his or her right to counsel for any proceeding except proceedings under subsection 10 of this section, the waiver shall only apply to that proceeding. In any subsequent proceeding, the child shall be informed of his or her right to counsel.**

9. Waiver of counsel by a child may be withdrawn at any stage of the proceeding, in which event the court shall appoint counsel for the child if required by subsection 3 of this section.

10. A child's right to be represented by counsel shall not be waived in any of the following proceedings:

- (1) At a detention hearing under Missouri supreme court rule 127.08;**
- (2) At a certification hearing under section 211.071 or a dismissal hearing under Missouri supreme court rule 129.04;**
- (3) At an adjudication hearing under Missouri supreme court rule 128.02 for any misdemeanor or felony offense, including the acceptance of an admission;**
- (4) At a dispositional hearing under Missouri supreme court rule 128.03; or**
- (5) At a hearing on a motion to modify or revoke supervision under subdivision (2) or (3) of subsection 1 of section 211.031.”; and**

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

HOUSE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 230, Page 6, Section

475.115, Line 18, by inserting after all of said section and line the following:

“476.001. An efficient, well operating and productive judiciary is essential to the preservation of the people’s liberty and prosperity. In order to achieve this goal, the general assembly and the supreme court must constantly be aware of the operations, needs, strengths and weaknesses of the judicial system. It is the purpose of sections 476.001, 476.055, 476.330 to 476.380, 476.412, 476.681, and 477.405 to provide the general assembly and the supreme court with the mechanisms to obtain on a continuing basis a comprehensive analysis of judicial resources and an efficient and organized method of identifying the problems and needs as they occur. It is the further purpose of sections 476.001, 476.055, 476.330 to 476.380, 476.412, 476.681, 477.405, 478.073, **and 478.320**], and subdivision (12) of subsection 1 of section 600.042] to provide a system for the efficient allocation of available personnel, facilities and resources to achieve a uniform and effective operation of the judicial system.

600.042. 1. The director shall:

(1) Direct and supervise the work of the deputy directors and other state public defender office personnel appointed pursuant to this chapter; and he or she and the deputy director or directors may participate in the trial and appeal of criminal actions at the request of the defender;

(2) Submit to the commission, between August fifteenth and September fifteenth of each year, a report which shall include all pertinent data on the operation of the state public defender system, the costs, projected needs, and recommendations for statutory changes. Prior to October fifteenth of each year, the commission shall submit such report along with such recommendations, comments, conclusions, or other pertinent information it chooses to make to the chief justice, the governor, and the general assembly. Such reports shall be a public record, shall be maintained in the office of the state public defender, and shall be otherwise distributed as the commission shall direct;

(3) With the approval of the commission, establish such divisions, facilities and offices and select such professional, technical and other personnel, including investigators, as he deems reasonably necessary for the efficient operation and discharge of the duties of the state public defender system under this chapter;

(4) Administer and coordinate the operations of defender services and be responsible for the overall supervision of all personnel, offices, divisions and facilities of the state public defender system, except that the director shall have no authority to direct or control the legal defense provided by a defender to any person served by the state public defender system;

(5) Develop programs and administer activities to achieve the purposes of this chapter;

(6) Keep and maintain proper financial records with respect to the provision of all public defender services for use in the calculating of direct and indirect costs of any or all aspects of the operation of the state public defender system;

(7) Supervise the training of all public defenders and other personnel and establish such training courses as shall be appropriate;

(8) With approval of the commission, promulgate necessary rules, regulations and instructions consistent with this chapter defining the organization of the state public defender system and the responsibilities of division directors, district defenders, deputy district defenders, assistant public defenders and other personnel;

(9) With the approval of the commission, apply for and accept on behalf of the public defender system

any funds which may be offered or which may become available from government grants, private gifts, donations or bequests or from any other source. Such moneys shall be deposited in the state general revenue fund;

(10) Contract for legal services with private attorneys on a case-by-case basis and with assigned counsel as the commission deems necessary considering the needs of the area, for fees approved and established by the commission;

(11) With the approval and on behalf of the commission, contract with private attorneys for the collection and enforcement of liens and other judgments owed to the state for services rendered by the state public defender system];

(12) Prepare a plan to establish district offices, the boundaries of which shall coincide with existing judicial circuits. Any district office may contain more than one judicial circuit within its boundaries, but in no event shall any district office boundary include any geographic region of a judicial circuit without including the entire judicial circuit. The director shall submit the plan to the chair of the house judiciary committee and the chair of the senate judiciary committee, with fiscal estimates, by December 31, 2014. The plan shall be implemented by December 31, 2021].

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

3. The director and defenders shall, within guidelines as established by the commission and as set forth in subsection 4 of this section, accept requests for legal services from eligible persons entitled to counsel under this chapter or otherwise so entitled under the constitution or laws of the United States or of the state of Missouri and provide such persons with legal services when, in the discretion of the director or the defenders, such provision of legal services is appropriate.

4. The director and defenders shall provide legal services to an eligible person:

(1) Who is detained or charged with a felony, including appeals from a conviction in such a case;

(2) Who is detained or charged with a misdemeanor which will probably result in confinement in the county jail upon conviction, including appeals from a conviction in such a case, unless the prosecuting or circuit attorney has waived a jail sentence;

(3) Who is charged with a violation of probation when it has been determined by a judge that the appointment of counsel is necessary to protect the person's due process rights under section 559.036;

(4) Who has been taken into custody pursuant to section 632.489, including appeals from a determination that the person is a sexually violent predator and petitions for release, notwithstanding any provisions of law to the contrary;

(5) For whom the federal constitution or the state constitution requires the appointment of counsel; and

(6) Who is charged in a case in which he or she faces a loss or deprivation of liberty, and in which the federal or the state constitution or any law of this state requires the appointment of counsel; however, the director and the defenders shall not be required to provide legal services to persons charged with violations of county or municipal ordinances, or misdemeanor offenses except as provided in this section.

5. The director may:

(1) Delegate the legal representation of an eligible person to any member of the state bar of Missouri;

(2) Designate persons as representatives of the director for the purpose of making indigency determinations and assigning counsel.”; and

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

HOUSE AMENDMENT NO. 6

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 230, Page 1, Section A, Line 3, by inserting after said section and line the following:

“135.562. 1. If any taxpayer with a federal adjusted gross income of thirty thousand dollars or less incurs costs for the purpose of making all or any portion of such taxpayer’s principal dwelling accessible to an individual with a disability who permanently resides with the taxpayer, such taxpayer shall receive a tax credit against such taxpayer’s Missouri income tax liability in an amount equal to the lesser of one hundred percent of such costs or two thousand five hundred dollars per taxpayer, per tax year.

2. Any taxpayer with a federal adjusted gross income greater than thirty thousand dollars but less than sixty thousand dollars who incurs costs for the purpose of making all or any portion of such taxpayer’s principal dwelling accessible to an individual with a disability who permanently resides with the taxpayer shall receive a tax credit against such taxpayer’s Missouri income tax liability in an amount equal to the lesser of fifty percent of such costs or two thousand five hundred dollars per taxpayer per tax year. No taxpayer shall be eligible to receive tax credits under this section in any tax year immediately following a tax year in which such taxpayer received tax credits under the provisions of this section.

3. Tax credits issued [pursuant to] **under** this section may be refundable in an amount not to exceed two thousand five hundred dollars per tax year.

4. Eligible costs for which the credit may be claimed include:

- (1) Constructing entrance or exit ramps;
- (2) Widening exterior or interior doorways;
- (3) Widening hallways;
- (4) Installing handrails or grab bars;
- (5) Moving electrical outlets and switches;
- (6) Installing stairway lifts;
- (7) Installing or modifying fire alarms, smoke detectors, and other alerting systems;
- (8) Modifying hardware of doors; or
- (9) Modifying bathrooms.

5. The tax credits allowed, including the maximum amount that may be claimed, [pursuant to] **under** this section shall be reduced by an amount sufficient to offset any amount of such costs a taxpayer has already deducted from such taxpayer’s federal adjusted gross income or to the extent such taxpayer has applied any other state or federal income tax credit to such costs.

6. A taxpayer shall claim a credit allowed by this section in the same [taxable] **tax** year as the credit is issued, and at the time such taxpayer files his or her Missouri income tax return; provided that such return is timely filed.

7. The department may, in consultation with the department of social services, promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The provisions of this section shall apply to all tax years beginning on or after January 1, 2008.

9. The provisions of this section shall expire December 31, [2019] **2025**, unless reauthorized by the general assembly. This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to redeem tax credits authorized on or before the date the program authorized under this section expires or a taxpayer's ability to redeem such tax credits.

10. In no event shall the aggregate amount of all tax credits allowed [pursuant to] **under** this section exceed one hundred thousand dollars in any given fiscal year. The tax credits issued pursuant to this section shall be on a first-come, first-served filing basis.”; 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 SCS for SB 167**, entitled:

An Act to repeal section 107.170, RSMo, and to enact in lieu thereof one new section relating to contracts for construction services.

With House Amendment Nos. 1 and 3.

HOUSE AMENDMENT NO. 1

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 167, Page 1, In the Title, Line 3, by inserting before the word, “contracts” the words, “permitting and”; and

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

HOUSE AMENDMENT NO. 3

Amend House Committee Substitute for Senate Committee Substitute for Senate Bill No. 167, Page 3, Section 107.170, Line 63, by inserting after said line the following:

“7. The providing of a bond under this section shall preclude the filing of a mechanic’s lien under chapter 429 by any subcontractor or supplier. Any mechanic’s lien filed in violation hereof shall be void and unenforceable and shall be summarily discharged by a judge of the county in which the mechanic’s lien is filed.”; 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: The Speaker of the House of Representatives has appointed the following committee to act with a like committee from the Senate on **SB 368**. Representatives: Shawan, Ruth, Patterson, Butz, Razer.

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 **HB 744**, entitled:

An Act to amend chapter 161, RSMo, by adding thereto one new section relating to the 21st century Missouri education task force.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

On motion of Senator Rowden, the Senate adjourned until 2:00 p.m., Tuesday, May 7, 2019.

SENATE CALENDAR

SIXTY-THIRD DAY—TUESDAY, MAY 7, 2019

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 744

THIRD READING OF SENATE BILLS

SCS for SB 465-Burlison (In Fiscal Oversight)

SB 255-Bernskoetter (In Fiscal Oversight)

SENATE BILLS FOR PERFECTION

- | | |
|----------------------------|-------------------------------|
| 1. SB 430-Libla | 8. SB 82-Cunningham, with SCS |
| 2. SB 186-Hegeman | 9. SB 161-Cunningham |
| 3. SB 302-Wallingford | 10. SB 144-Burlison, with SCS |
| 4. SB 347-Burlison | 11. SJR 20-Koenig, with SCS |
| 5. SB 439-Brown | 12. SB 208-Wallingford |
| 6. SB 303-Riddle, with SCS | 13. SB 189-Crawford, with SCS |
| 7. SB 376-Riddle | 14. SB 385-Bernskoetter |

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| 15. SB 409-Wieland, et al | 24. SB 342-Curls and Nasheed |
| 16. SB 437-Hoskins | 25. SB 424-Luetkemeyer |
| 17. SB 286-Hough | 26. SB 367-Burlison |
| 18. SB 325-Crawford, with SCS | 27. SB 22-Nasheed, with SCS |
| 19. SBs 8 & 74-Emery, with SCS | 28. SJR 25-Libla, with SCS |
| 20. SB 386-O'Laughlin, with SCS | 29. SB 140-Koenig, with SCS |
| 21. SB 272-Emery, with SCS | 30. SJR 21-May |
| 22. SB 265-Luetkemeyer, with SCS | 31. SB 308-Onder |
| 23. SB 135-Sifton, with SCS | |

HOUSE BILLS ON THIRD READING

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| 1. HCS#2 for HB 499 (Schatz) | 31. HB 587-Rone (Crawford) |
| 2. HCS for HB 192, with SCS (Emery) | 32. HCS for HB 346 (Wallingford) |
| 3. HB 485-Dogan, with SCS (Emery)
(In Fiscal Oversight) | 33. HB 1061-Patterson (Hoskins) |
| 4. HCS for HB 564, with SCS (Koenig) | 34. HB 470-Grier, with SCS (O'Laughlin) |
| 5. HCS for HB 678, with SCS (Williams) | 35. HB 186-Trent, with SCS (Burlison)
(In Fiscal Oversight) |
| 6. HCS for HB 399, with SCS (Hoskins) | 36. HCS for HB 466, with SCS (Riddle)
(In Fiscal Oversight) |
| 7. HB 126-Schroer, with SCS (Koenig) | 37. HCS for HB 229, with SCS (Wallingford) |
| 8. HB 138-Kidd (Wallingford) | 38. HB 646-Rowland (Sater) (In Fiscal Oversight) |
| 9. HB 332-Lynch, with SCS (Wallingford) | 39. HCS for HBs 161 & 401, with SCS
(Cunningham) |
| 10. HCS for HBs 243 & 544, with SCS (Arthur) | 40. HB 321-Solon (Luetkemeyer) |
| 11. HCS for HB 220, with SCS (O'Laughlin) | 41. HCS for HB 67, with SCS (Luetkemeyer)
(In Fiscal Oversight) |
| 12. HB 821-Solon (Luetkemeyer) | 42. HB 240-Schroer, with SCS (Luetkemeyer)
(In Fiscal Oversight) |
| 13. HB 565-Morse, with SCS (Wallingford) | 43. HB 337-Swan (Wallingford)
(In Fiscal Oversight) |
| 14. HCS for HB 447, with SCS (Riddle) | 44. HB 267-Baker (Emery) |
| 15. HB 113-Smith, with SCS (Emery) | 45. HB 757-Bondon (Wieland) |
| 16. HCS for HB 604, with SCS (Hoskins) | 46. HB 942-Wiemann (Brown) |
| 17. HB 214-Trent (Hough) | 47. HB 815-Black (137) (Hough) |
| 18. HCS for HB 1088 (Hoskins) | 48. HB 705-Helms, with SCS (Riddle)
(In Fiscal Oversight) |
| 19. HB 355-Plocher, with SCS (Wallingford) | 49. HCS for HB 301, with SCS (Burlison) |
| 20. HCS for HB 160, with SCS (White) | 50. HB 600-Bondon (Cunningham)
(In Fiscal Oversight) |
| 21. HB 584-Knight, with SCS (Wallingford) | 51. HB 943-McGill (Hoskins)
(In Fiscal Oversight) |
| 22. HB 599-Bondon, with SCS (Cunningham) | 52. HB 372-Trent (Wallingford) |
| 23. HB 1029-Bondon (Brown) | |
| 24. HB 257-Stephens (Sater) | |
| 25. HB 563-Wiemann (Wallingford) | |
| 26. HCS for HB 266, with SCS (Hoskins) | |
| 27. HCS for HB 959, with SCS (Cierpiot) | |
| 28. HCS for HB 333, with SCS (Crawford) | |
| 29. HB 461-Pfautsch (Brown) | |
| 30. HCS for HB 824 (Hoskins) | |

53. HCS for HB 438 (Brown)
54. HCS for HB 1127 (Riddle)
55. HCS for HB 400 (White)
(In Fiscal Oversight)

56. HB 966-Gregory (Onder)
(In Fiscal Oversight)

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 4-Sater	SB 155-Luetkemeyer
SB 5-Sater, et al, with SCS	SB 160-Koenig, with SCS, SS for SCS & SA 2 (pending)
SB 10-Cunningham, with SCS & SA 1 (pending)	SB 168-Wallingford, with SCS
SB 14-Wallingford	SB 201-Romine
SB 16-Romine, with SCS, SS for SCS, SA 3 & point of order (pending)	SB 205-Arthur, with SCS
SB 19-Libla, with SA 1 (pending)	SB 211-Wallingford
SB 31-Wieland	SB 222-Hough
SB 39-Onder	SB 225-Curls
SB 44-Hoskins, with SCS & SS#3 for SCS (pending)	SB 234-White
SBs 46 & 50-Koenig, with SCS, SS for SCS & SA 6 (pending)	SB 252-Wieland, with SCS
SB 49-Rowden, with SCS	SB 259-Romine, with SS & SA 3 (pending)
SB 52-Eigel, with SCS	SB 276-Rowden, with SCS
SB 56-Cierpiot, with SCS, SS for SCS & SA 1 (pending)	SB 278-Wallingford, with SCS
SB 57-Cierpiot	SBs 279, 139 & 345-Onder and Emery, with SCS
SB 62-Burlison, with SCS	SB 292-Eigel, with SCS & SS#2 for SCS (pending)
SB 65-White, with SS (pending)	SB 293-Hough, with SCS
SB 69-Hough	SB 296-Cierpiot, with SCS
SB 76-Sater, with SCS (pending)	SB 298-White, with SCS
SB 78-Sater	SB 300-Eigel
SB 97-Hegeman, with SCS	SB 312-Eigel
SB 100-Riddle, with SS (pending)	SB 316-Burlison
SB 118-Cierpiot, with SCS	SB 318-Burlison
SB 132-Emery, with SCS	SB 328-Burlison, with SCS
SB 141-Koenig	SB 332-Brown
SB 150-Koenig, with SCS	SB 336-Schupp
SBs 153 & 117-Sifton, with SCS	SB 343-Eigel, with SCS
SB 154-Luetkemeyer, with SS & SA 2 (pending)	SB 344-Eigel, with SCS
	SB 349-O'Laughlin, with SCS
	SB 350-O'Laughlin
	SB 354-Cierpiot, with SCS
	SB 412-Holsman

SB 426-Williams
 SB 431-Schatz, with SCS
 SJR 1-Sater and Onder, with SS#2 & SA 1
 (pending)

SJR 13-Holsman, with SCS, SS for SCS &
 SA 1 (pending)
 SJR 18-Cunningham

HOUSE BILLS ON THIRD READING

HCS for HB 169, with SCS (Romine)
 HB 188-Rehder (Luetkemeyer)
 HB 219-Wood (Sater)
 HCS for HB 225, with SCS, SS for SCS &
 SA 1 (pending) (Romine)
 HCS for HB 255, with SS & SA 5 (pending)
 (Cierpiot)

HCS for HB 469 (Wallingford)
 SCS for HCS for HB 547 (Bernskoetter)
 (In Fiscal Oversight)
 HCS for HB 677, with SA 1 (pending)
 (Cierpiot)
 HB 831-Sharpe, with SS (pending) (Brown)

SENATE BILLS WITH HOUSE AMENDMENTS

SB 17-Romine, with HA 1, HA 2, HA 3,
 HA 4 & HA 5
 SCS for SB 83-Cunningham, with HA 1,
 & HA 2, as amended
 SCS for SB 167-Crawford, with HCS,
 as amended

SB 196-Bernskoetter, with HCS, as amended
 SS for SCS for SB 230-Crawford, with HA 1,
 HA 2, HA 3, as amended, HA 4, HA 5 & HA 6

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SB 53-Crawford, with HCS, as amended
 SB 133-Cunningham, with HCS
 SB 368-Hough, with HA 1, HA 2, HA 3,
 HA 4, HA 5, HA 6, HA 7 & HA 8
 HCS for HB 2, with SCS (Hegeman)
 HCS for HB 3, with SCS (Hegeman)
 HCS for HB 4, with SCS (Hegeman)
 HCS for HB 5, with SCS (Hegeman)

HCS for HB 6, with SCS (Hegeman)
 HCS for HB 7, with SS for SCS (Hegeman)
 HCS for HB 8, with SCS (Hegeman)
 HCS for HB 9, with SCS (Hegeman)
 HCS for HB 10, with SS for SCS (Hegeman)
 HCS for HB 11, with SCS (Hegeman)
 HCS for HB 12, with SCS (Hegeman)
 HCS for HB 13, with SCS (Hegeman)

Requests to Recede or Grant Conference

SB 182-Cierpiot, et al, with HCS, as amended
(Senate requests House recede or grant
conference)

HCS for HB 397, with SS for SCS, as amended
(Riddle)
(House requests Senate recede or grant
conference)

RESOLUTIONS

SR 20-Holsman

SR 731-Hoskins

Reported from Committee

SCR 8-Holsman
SCR 15-Burlison
SCR 19-Eigel
SCR 21-May
SCR 22-Holsman

SCR 23-Luetkemeyer
SCR 24-Hegeman and Luetkemeyer
SCR 26-Bernskoetter
HCS for HCR 16 (Hoskins)
HCR 18-Spencer (Eigel)

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