

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend House Bill No. 476, Page 3, Section 324.009, Line 80,

2 by inserting after all of said line the following:

3 "324.087. SECTION 1. PURPOSE

4 The purpose of this Compact is to facilitate interstate
5 practice of Occupational Therapy with the goal of improving
6 public access to Occupational Therapy services. The
7 Practice of Occupational Therapy occurs in the State where
8 the patient/client is located at the time of the
9 patient/client encounter. The Compact preserves the
10 regulatory authority of States to protect public health and
11 safety through the current system of State licensure. This
12 Compact is designed to achieve the following objectives:

13 A. Increase public access to Occupational Therapy
14 services by providing for the mutual recognition of other
15 Member State licenses;

16 B. Enhance the States' ability to protect the public's
17 health and safety;

18 C. Encourage the cooperation of Member States in
19 regulating multi-State Occupational Therapy Practice;

20 D. Support spouses of relocating military members;

21 E. Enhance the exchange of licensure, investigative,
22 and disciplinary information between Member States;

23 F. Allow a Remote State to hold a provider of services
24 with a Compact Privilege in that State accountable to that
25 State's practice standards; and

26 G. Facilitate the use of Telehealth technology in
27 order to increase access to Occupational Therapy services.

28 SECTION 2. DEFINITIONS

29 As used in this Compact, and except as otherwise
30 provided, the following definitions shall apply:

31 A. "Active Duty Military" means full-time duty status
32 in the active uniformed service of the United States,
33 including members of the National Guard and Reserve on
34 active duty orders pursuant to 10 U.S.C. Chapter 1209 and
35 Section 1211.

36 B. "Adverse Action" means any administrative, civil,
37 equitable, or criminal action permitted by a State's laws
38 which is imposed by a Licensing Board or other authority
39 against an Occupational Therapist or Occupational Therapy
40 Assistant, including actions against an individual's license
41 or Compact Privilege such as censure, revocation,
42 suspension, probation, monitoring of the Licensee, or
43 restriction on the Licensee's practice.

44 C. "Alternative Program" means a non-disciplinary
45 monitoring process approved by an Occupational Therapy
46 Licensing Board.

47 D. "Compact Privilege" means the authorization, which
48 is equivalent to a license, granted by a Remote State to
49 allow a Licensee from another Member State to practice as an
50 Occupational Therapist or practice as an Occupational
51 Therapy Assistant in the Remote State under its laws and
52 rules. The Practice of Occupational Therapy occurs in the
53 Member State where the patient/client is located at the time
54 of the patient/client encounter.

55 E. "Continuing Competence/Education" means a
56 requirement, as a condition of license renewal, to provide
57 evidence of participation in, and/or completion of,

58 educational and professional activities relevant to practice
59 or area of work.

60 F. "Current Significant Investigative Information"
61 means Investigative Information that a Licensing Board,
62 after an inquiry or investigation that includes notification
63 and an opportunity for the Occupational Therapist or
64 Occupational Therapy Assistant to respond, if required by
65 State law, has reason to believe is not groundless and, if
66 proved true, would indicate more than a minor infraction.

67 G. "Data System" means a repository of information
68 about Licensees, including but not limited to license
69 status, Investigative Information, Compact Privileges, and
70 Adverse Actions.

71 H. "Encumbered License" means a license in which an
72 Adverse Action restricts the Practice of Occupational
73 Therapy by the Licensee or said Adverse Action has been
74 reported to the National Practitioners Data Bank (NPDB).

75 I. "Executive Committee" means a group of directors
76 elected or appointed to act on behalf of, and within the
77 powers granted to them by, the Commission.

78 J. "Home State" means the Member State that is the
79 Licensee's Primary State of Residence.

80 K. "Impaired Practitioner" means individuals whose
81 professional practice is adversely affected by substance
82 abuse, addiction, or other health-related conditions.

83 L. "Investigative Information" means information,
84 records, and/or documents received or generated by an
85 Occupational Therapy Licensing Board pursuant to an
86 investigation.

87 M. "Jurisprudence Requirement" means the assessment of
88 an individual's knowledge of the laws and rules governing
89 the Practice of Occupational Therapy in a State.

90 N. "Licensee" means an individual who currently holds
91 an authorization from the State to practice as an
92 Occupational Therapist or as an Occupational Therapy
93 Assistant.

94 O. "Member State" means a State that has enacted the
95 Compact.

96 P. "Occupational Therapist" means an individual who is
97 licensed by a State to practice 63 Occupational Therapy.

98 Q. "Occupational Therapy Assistant" means an
99 individual who is licensed by a State to assist in the
100 Practice of Occupational Therapy.

101 R. "Occupational Therapy," "Occupational Therapy
102 Practice," and the "Practice of Occupational Therapy" mean
103 the care and services provided by an Occupational Therapist
104 or an Occupational Therapy Assistant as set forth in the
105 Member State's statutes and regulations.

106 S. "Occupational Therapy Compact Commission" or
107 "Commission" means the national administrative body whose
108 membership consists of all States that have enacted the
109 Compact.

110 T. "Occupational Therapy Licensing Board" or
111 "Licensing Board" means the agency of a State that is
112 authorized to license and regulate Occupational Therapists
113 and Occupational Therapy Assistants.

114 U. "Primary State of Residence" means the state (also
115 known as the Home State) in which an Occupational Therapist
116 or Occupational Therapy Assistant who is not Active Duty
117 Military declares a primary residence for legal purposes as
118 verified by: driver's license, federal income tax return,
119 lease, deed, mortgage or voter registration or other
120 verifying documentation as further defined by Commission
121 Rules.

122 V. "Remote State" means a Member State other than the
123 Home State, where a Licensee is exercising or seeking to
124 exercise the Compact Privilege.

125 W. "Rule" means a regulation promulgated by the
126 Commission that has the force of law.

127 X. "State" means any state, commonwealth, district, or
128 territory of the United States of America that regulates the
129 Practice of Occupational Therapy.

130 Y. "Single-State License" means an Occupational
131 Therapist or Occupational Therapy Assistant license issued
132 by a Member State that authorizes practice only within the
133 issuing State and does not include a Compact Privilege in
134 any other Member State.

135 Z. "Telehealth" means the application of
136 telecommunication technology to deliver Occupational Therapy
137 services for assessment, intervention and/or consultation.

138 SECTION 3. STATE PARTICIPATION IN THE COMPACT

139 A. To participate in the Compact, a Member State shall:

140 1. License Occupational Therapists and Occupational
141 Therapy Assistants;

142 2. Participate fully in the Commission's Data System,
143 including but not limited to using the Commission's unique
144 identifier as defined in Rules of the Commission;

145 3. Have a mechanism in place for receiving and
146 investigating complaints about Licensees;

147 4. Notify the Commission, in compliance with the terms
148 of the Compact and Rules, of any Adverse Action or the
149 availability of Investigative Information regarding a
150 Licensee;

151 5. Implement or utilize procedures for considering the
152 criminal history records of applicants for an initial
153 Compact Privilege. These procedures shall include the
154 submission of fingerprints or other biometric-based

155 information by applicants for the purpose of obtaining an
156 applicant's criminal history record information from the
157 Federal Bureau of Investigation and the agency responsible
158 for retaining that State's criminal records;

159 a. A Member State shall, within a time frame
160 established by the Commission, require a criminal background
161 check for a Licensee seeking/applying for a Compact
162 Privilege whose Primary State of Residence is that Member
163 State, by receiving the results of the Federal Bureau of
164 Investigation criminal record search, and shall use the
165 results in making licensure decisions.

166 b. Communication between a Member State, the
167 Commission and among Member States regarding the
168 verification of eligibility for licensure through the
169 Compact shall not include any information received from the
170 Federal Bureau of Investigation relating to a federal
171 criminal records check performed by a Member State under
172 Public Law 92-544.

173 6. Comply with the Rules of the Commission;

174 7. Utilize only a recognized national examination as a
175 requirement for licensure pursuant to the Rules of the
176 Commission; and

177 8. Have Continuing Competence/Education requirements
178 as a condition for license renewal.

179 B. A Member State shall grant the Compact Privilege to
180 a Licensee holding a valid unencumbered license in another
181 Member State in accordance with the terms of the Compact and
182 Rules.

183 C. Member States may charge a fee for granting a
184 Compact Privilege.

185 D. A Member State shall provide for the State's
186 delegate to attend all Occupational Therapy Compact
187 Commission meetings.

188 E. Individuals not residing in a Member State shall
189 continue to be able to apply for a Member State's Single-
190 State License as provided under the laws of each Member
191 State. However, the Single-State License granted to these
192 individuals shall not be recognized as granting the Compact
193 Privilege in any other Member State.

194 F. Nothing in this Compact shall affect the
195 requirements established by a Member State for the issuance
196 of a Single-State License.

197 SECTION 4. COMPACT PRIVILEGE

198 A. To exercise the Compact Privilege under the terms
199 and provisions of the Compact, the Licensee shall:

- 200 1. Hold a license in the Home State;
- 201 2. Have a valid United States Social Security Number
202 or National Practitioner Identification number;
- 203 3. Have no encumbrance on any State license;
- 204 4. Be eligible for a Compact Privilege in any Member
205 State in accordance with Section 4D, F, G, and H;
- 206 5. Have paid all fines and completed all requirements
207 resulting from any Adverse Action against any license or
208 Compact Privilege, and two years have elapsed from the date
209 of such completion;
- 210 6. Notify the Commission that the Licensee is seeking
211 the Compact Privilege within a Remote State(s);
- 212 7. Pay any applicable fees, including any State fee,
213 for the Compact Privilege;
- 214 8. Complete a criminal background check in accordance
215 with Section 3A(5);
 - 216 a. The Licensee shall be responsible for the payment
217 of any fee associated with the completion of a criminal
218 background check.

219 9. Meet any Jurisprudence Requirements established by
220 the Remote State(s) in which the Licensee is seeking a
221 Compact Privilege; and

222 10. Report to the Commission Adverse Action taken by
223 any non-Member State within 30 days from the date the
224 Adverse Action is taken.

225 B. The Compact Privilege is valid until the expiration
226 date of the Home State license. The Licensee must comply
227 with the requirements of Section 4A to maintain the Compact
228 Privilege in the Remote State.

229 C. A Licensee providing Occupational Therapy in a
230 Remote State under the Compact Privilege shall function
231 within the laws and regulations of the Remote State.

232 D. Occupational Therapy Assistants practicing in a
233 Remote State shall be supervised by an Occupational
234 Therapist licensed or holding a Compact Privilege in that
235 Remote State.

236 E. A Licensee providing Occupational Therapy in a
237 Remote State is subject to that State's regulatory
238 authority. A Remote State may, in accordance with due
239 process and that State's laws, remove a Licensee's Compact
240 Privilege in the Remote State for a specific period of time,
241 impose fines, and/or take any other necessary actions to
242 protect the health and safety of its citizens. The Licensee
243 may be ineligible for a Compact Privilege in any State until
244 the specific time for removal has passed and all fines are
245 paid.

246 F. If a Home State license is encumbered, the Licensee
247 shall lose the Compact Privilege in any Remote State until
248 the following occur:

249 1. The Home State license is no longer encumbered; and

250 2. Two years have elapsed from the date on which the
251 Home State license is no longer encumbered in accordance
252 with Section 4(F)(1).

253 G. Once an Encumbered License in the Home State is
254 restored to good standing, the Licensee must meet the
255 requirements of Section 4A to obtain a Compact Privilege in
256 any Remote State.

257 H. If a Licensee's Compact Privilege in any Remote
258 State is removed, the individual may lose the Compact
259 Privilege in any other Remote State until the following
260 occur:

261 1. The specific period of time for which the Compact
262 Privilege was removed has ended;

263 2. All fines have been paid and all conditions have
264 been met;

265 3. Two years have elapsed from the date of completing
266 requirements for 4(H)(1) and (2); and

267 4. The Compact Privileges are reinstated by the
268 Commission, and the compact Data System is updated to
269 reflect reinstatement.

270 I. If a Licensee's Compact Privilege in any Remote
271 State is removed due to an erroneous charge, privileges
272 shall be restored through the compact Data System.

273 J. Once the requirements of Section 4H have been met,
274 the license must meet the requirements in Section 4A to
275 obtain a Compact Privilege in a Remote State.

276 SECTION 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE
277 OF COMPACT PRIVILEGE

278 A. An Occupational Therapist or Occupational Therapy
279 Assistant may hold a Home State license, which allows for
280 Compact Privileges in Member States, in only one Member
281 State at a time.

282 B. If an Occupational Therapist or Occupational
283 Therapy Assistant changes Primary State of Residence by
284 moving between two Member States:

285 1. The Occupational Therapist or Occupational Therapy
286 Assistant shall file an application for obtaining a new Home
287 State license by virtue of a Compact Privilege, pay all
288 applicable fees, and notify the current and new Home State
289 in accordance with applicable Rules adopted by the
290 Commission.

291 2. Upon receipt of an application for obtaining a new
292 Home State license by virtue of compact privilege, the new
293 Home State shall verify that the Occupational Therapist or
294 Occupational Therapy Assistant meets the pertinent criteria
295 outlined in Section 4 via the Data System, without need for
296 primary source verification except for:

297 a. an FBI fingerprint based criminal background check
298 if not previously performed or updated pursuant to
299 applicable Rules adopted by the Commission in accordance
300 with Public Law 92-544;

301 b. other criminal background check as required by the
302 new Home State; and

303 c. submission of any requisite Jurisprudence
304 Requirements of the new Home State.

305 3. The former Home State shall convert the former Home
306 State license into a Compact Privilege once the new Home
307 State has activated the new Home State license in accordance
308 with applicable Rules adopted by the Commission.

309 4. Notwithstanding any other provision of this
310 Compact, if the Occupational Therapist or Occupational
311 Therapy Assistant cannot meet the criteria in Section 4, the
312 new Home State shall apply its requirements for issuing a
313 new Single-State License.

314 5. The Occupational Therapist or the Occupational
315 Therapy Assistant shall pay all applicable fees to the new
316 Home State in order to be issued a new Home State license.

317 C. If an Occupational Therapist or Occupational
318 Therapy Assistant changes Primary State of Residence by
319 moving from a Member State to a non-Member State, or from a
320 non-Member State to a Member State, the State criteria shall
321 apply for issuance of a Single-State License in the new
322 State.

323 D. Nothing in this compact shall interfere with a
324 Licensee's ability to hold a Single-State License in
325 multiple States; however, for the purposes of this compact,
326 a Licensee shall have only one Home State license.

327 E. Nothing in this Compact shall affect the
328 requirements established by a Member State for the issuance
329 of a Single-State License.

330 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
331 SPOUSES

332 A. Active Duty Military personnel, or their spouses,
333 shall designate a Home State where the individual has a
334 current license in good standing. The individual may retain
335 the Home State designation during the period the service
336 member is on active duty. Subsequent to designating a Home
337 State, the individual shall only change their Home State
338 through application for licensure in the new State or
339 through the process described in Section 5.

340 SECTION 7. ADVERSE ACTIONS

341 A. A Home State shall have exclusive power to impose
342 Adverse Action against an Occupational Therapist's or
343 Occupational Therapy Assistant's license issued by the Home
344 State.

345 B. In addition to the other powers conferred by State
346 law, a Remote State shall have the authority, in accordance
347 with existing State due process law, to:

348 1. Take Adverse Action against an Occupational
349 Therapist's or Occupational Therapy Assistant's Compact
350 Privilege within that Member State.

351 2. Issue subpoenas for both hearings and
352 investigations that require the attendance and testimony of
353 witnesses as well as the production of evidence. Subpoenas
354 issued by a Licensing Board in a Member State for the
355 attendance and testimony of witnesses or the production of
356 evidence from another Member State shall be enforced in the
357 latter State by any court of competent jurisdiction,
358 according to the practice and procedure of that court
359 applicable to subpoenas issued in proceedings pending before
360 it. The issuing authority shall pay any witness fees,
361 travel expenses, mileage and other fees required by the
362 service statutes of the State in which the witnesses or
363 evidence are located.

364 C. For purposes of taking Adverse Action, the Home
365 State shall give the same priority and effect to reported
366 conduct received from a Member State as it would if the
367 conduct had occurred within the Home State. In so doing,
368 the Home State shall apply its own State laws to determine
369 appropriate action.

370 D. The Home State shall complete any pending
371 investigations of an Occupational Therapist or Occupational
372 Therapy Assistant who changes Primary State of Residence
373 during the course of the investigations. The Home State,
374 where the investigations were initiated, shall also have the
375 authority to take appropriate action(s) and shall promptly
376 report the conclusions of the investigations to the OT
377 Compact Commission Data System. The Occupational Therapy

378 Compact Commission Data System administrator shall promptly
379 notify the new Home State of any Adverse Actions.

380 E. A Member State, if otherwise permitted by State
381 law, may recover from the affected Occupational Therapist or
382 Occupational Therapy Assistant the costs of investigations
383 and disposition of cases resulting from any Adverse Action
384 taken against that Occupational Therapist or Occupational
385 Therapy Assistant.

386 F. A Member State may take Adverse Action based on the
387 factual findings of the Remote State, provided that the
388 Member State follows its own procedures for taking the
389 Adverse Action.

390 G. Joint Investigations

391 1. In addition to the authority granted to a Member
392 State by its respective State Occupational Therapy laws and
393 regulations or other applicable State law, any Member State
394 may participate with other Member States in joint
395 investigations of Licensees.

396 2. Member States shall share any investigative,
397 litigation, or compliance materials in furtherance of any
398 joint or individual investigation initiated under the
399 Compact.

400 H. If an Adverse Action is taken by the Home State
401 against an Occupational Therapist's or Occupational Therapy
402 Assistant's license, the Occupational Therapist's or
403 Occupational Therapy Assistant's Compact Privilege in all
404 other Member States shall be deactivated until all
405 encumbrances have been removed from the State license. All
406 Home State disciplinary orders that impose Adverse Action
407 against an Occupational Therapist's or Occupational Therapy
408 Assistant's license shall include a Statement that the
409 Occupational Therapist's or Occupational Therapy Assistant's

410 Compact Privilege is deactivated in all Member States during
411 the pendency of the order.

412 I. If a Member State takes Adverse Action, it shall
413 promptly notify the administrator of the Data System. The
414 administrator of the Data System shall promptly notify the
415 Home State of any Adverse Actions by Remote States.

416 J. Nothing in this Compact shall override a Member
417 State's decision that participation in an Alternative
418 Program may be used in lieu of Adverse Action.

419 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY
420 COMPACT COMMISSION.

421 A. The Compact Member States hereby create and
422 establish a joint public agency known as the Occupational
423 Therapy Compact Commission:

424 1. The Commission is an instrumentality of the Compact
425 States.

426 2. Venue is proper and judicial proceedings by or
427 against the Commission shall be brought solely and
428 exclusively in a court of competent jurisdiction where the
429 principal office of the Commission is located. The
430 Commission may waive venue and jurisdictional defenses to
431 the extent it adopts or consents to participate in
432 alternative dispute resolution proceedings.

433 3. Nothing in this Compact shall be construed to be a
434 waiver of sovereign immunity.

435 B. Membership, Voting, and Meetings

436 1. Each Member State shall have and be limited to one
437 (1) delegate selected by that Member State's Licensing Board.

438 2. The delegate shall be either:

439 a. A current member of the Licensing Board, who is an
440 Occupational Therapist, Occupational Therapy Assistant, or
441 public member; or

442 b. An administrator of the Licensing Board.

443 3. Any delegate may be removed or suspended from
444 office as provided by the law of the State from which the
445 delegate is appointed.

446 4. The Member State board shall fill any vacancy
447 occurring in the Commission within 90 days.

448 5. Each delegate shall be entitled to one (1) vote
449 with regard to the promulgation of Rules and creation of
450 bylaws and shall otherwise have an opportunity to
451 participate in the business and affairs of the Commission.
452 A delegate shall vote in person or by such other means as
453 provided in the bylaws. The bylaws may provide for
454 delegates' participation in meetings by telephone or other
455 means of communication.

456 6. The Commission shall meet at least once during each
457 calendar year. Additional meetings shall be held as set
458 forth in the bylaws.

459 7. The Commission shall establish by Rule a term of
460 office for delegates.

461 C. The Commission shall have the following powers and
462 duties:

463 1. Establish a Code of Ethics for the Commission;

464 2. Establish the fiscal year of the Commission;

465 3. Establish bylaws;

466 4. Maintain its financial records in accordance with
467 the bylaws;

468 5. Meet and take such actions as are consistent with
469 the provisions of this Compact and the bylaws;

470 6. Promulgate uniform Rules to facilitate and
471 coordinate implementation and administration of this
472 Compact. The Rules shall have the force and effect of law
473 and shall be binding in all Member States;

474 7. Bring and prosecute legal proceedings or actions in
475 the name of the Commission, provided that the standing of

476 any State Occupational Therapy Licensing Board to sue or be
477 sued under applicable law shall not be affected;

478 8. Purchase and maintain insurance and bonds;

479 9. Borrow, accept, or contract for services of
480 personnel, including, but not limited to, employees of a
481 Member State;

482 10. Hire employees, elect or appoint officers, fix
483 compensation, define duties, grant such individuals
484 appropriate authority to carry out the purposes of the
485 Compact, and establish the Commission's personnel policies
486 and programs relating to conflicts of interest,
487 qualifications of personnel, and other related personnel
488 matters;

489 11. Accept any and all appropriate donations and
490 grants of money, equipment, supplies, materials and
491 services, and receive, utilize and dispose of the same;
492 provided that at all times the Commission shall avoid any
493 appearance of impropriety and/or conflict of interest;

494 12. Lease, purchase, accept appropriate gifts or
495 donations of, or otherwise own, hold, improve or use, any
496 property, real, personal or mixed; provided that at all
497 times the Commission shall avoid any appearance of
498 impropriety;

499 13. Sell, convey, mortgage, pledge, lease, exchange,
500 abandon, or otherwise dispose of any property real,
501 personal, or mixed;

502 14. Establish a budget and make expenditures;

503 15. Borrow money;

504 16. Appoint committees, including standing committees
505 composed of members, State regulators, State legislators or
506 their representatives, and consumer representatives, and
507 such other interested persons as may be designated in this
508 Compact and the bylaws;

- 509 17. Provide and receive information from, and
510 cooperate with, law enforcement agencies;
- 511 18. Establish and elect an Executive Committee; and
512 19. Perform such other functions as may be necessary
513 or appropriate to achieve the purposes of this Compact
514 consistent with the State regulation of Occupational Therapy
515 licensure and practice.
- 516 D. The Executive Committee
517 The Executive Committee shall have the power to act on
518 behalf of the Commission according to the terms of this
519 Compact.
- 520 1. The Executive Committee shall be composed of nine
521 members:
- 522 a. Seven voting members who are elected by the
523 Commission from the current membership of the Commission;
524 b. One ex-officio, nonvoting member from a recognized
525 national Occupational Therapy professional association; and
526 c. One ex-officio, nonvoting member from a recognized
527 national Occupational Therapy certification organization.
- 528 2. The ex-officio members will be selected by their
529 respective organizations.
- 530 3. The Commission may remove any member of the
531 Executive Committee as provided in bylaws.
- 532 4. The Executive Committee shall meet at least
533 annually.
- 534 5. The Executive Committee shall have the following
535 Duties and responsibilities:
- 536 a. Recommend to the entire Commission changes to the
537 Rules or bylaws, changes to this Compact legislation, fees
538 paid by Compact Member States such as annual dues, and any
539 Commission Compact fee charged to Licensees for the Compact
540 Privilege;

- 541 b. Ensure Compact administration services are
542 appropriately provided, contractual or otherwise;
- 543 c. Prepare and recommend the budget;
- 544 d. Maintain financial records on behalf of the
545 Commission;
- 546 e. Monitor Compact compliance of Member States and
547 provide compliance reports to the Commission;
- 548 f. Establish additional committees as necessary; and
- 549 g. Perform other duties as provided in Rules or bylaws.
- 550 E. Meetings of the Commission
- 551 1. All meetings shall be open to the public, and
552 public notice of meetings shall be given in the same manner
553 as required under the Rulemaking provisions in Section 10.
- 554 2. The Commission or the Executive Committee or other
555 committees of the Commission may convene in a closed, non-
556 public meeting if the Commission or Executive Committee or
557 other committees of the Commission must discuss:
- 558 a. Non-compliance of a Member State with its
559 obligations under the Compact;
- 560 b. The employment, compensation, discipline or other
561 matters, practices or procedures related to specific
562 employees or other matters related to the Commission's
563 internal personnel practices and procedures;
- 564 c. Current, threatened, or reasonably anticipated
565 litigation;
- 566 d. Negotiation of contracts for the purchase, lease,
567 or sale of goods, services, or real estate;
- 568 e. Accusing any person of a crime or formally
569 censuring any person;
- 570 f. Disclosure of trade secrets or commercial or
571 financial information that is privileged or confidential;

572 g. Disclosure of information of a personal nature
573 where disclosure would constitute a clearly unwarranted
574 invasion of personal privacy;

575 h. Disclosure of investigative records compiled for
576 law enforcement purposes;

577 i. Disclosure of information related to any
578 investigative reports prepared by or on behalf of or for use
579 of the Commission or other committee charged with
580 responsibility of investigation or determination of
581 compliance issues pursuant to the Compact; or

582 j. Matters specifically exempted from disclosure by
583 federal or Member State statute.

584 3. If a meeting, or portion of a meeting, is closed
585 pursuant to this provision, the Commission's legal counsel
586 or designee shall certify that the meeting may be closed and
587 shall reference each relevant exempting provision.

588 4. The Commission shall keep minutes that fully and
589 clearly describe all matters discussed in a meeting and
590 shall provide a full and accurate summary of actions taken,
591 and the reasons therefore, including a description of the
592 views expressed. All documents considered in connection
593 with an action shall be identified in such minutes. All
594 minutes and documents of a closed meeting shall remain under
595 seal, subject to release by a majority vote of the
596 Commission or order of a court of competent jurisdiction.

597 F. Financing of the Commission

598 1. The Commission shall pay, or provide for the
599 payment of, the reasonable expenses of its establishment,
600 organization, and ongoing activities.

601 2. The Commission may accept any and all appropriate
602 revenue sources, donations, and grants of money, equipment,
603 supplies, materials, and services.

604 3. The Commission may levy on and collect an annual
605 assessment from each Member State or impose fees on other
606 parties to cover the cost of the operations and activities
607 of the Commission and its staff, which must be in a total
608 amount sufficient to cover its annual budget as approved by
609 the Commission each year for which revenue is not provided
610 by other sources. The aggregate annual assessment amount
611 shall be allocated based upon a formula to be determined by
612 the Commission, which shall promulgate a Rule binding upon
613 all Member States.

614 4. The Commission shall not incur obligations of any
615 kind prior to securing the funds adequate to meet the same;
616 nor shall the Commission pledge the credit of any of the
617 Member States, except by and with the authority of the
618 Member State.

619 5. The Commission shall keep accurate accounts of all
620 receipts and disbursements. The receipts and disbursements
621 of the Commission shall be subject to the audit and
622 accounting procedures established under its bylaws.
623 However, all receipts and disbursements of funds handled by
624 the Commission shall be audited yearly by a certified or
625 licensed public accountant, and the report of the audit
626 shall be included in and become part of the annual report of
627 the Commission.

628 G. Qualified Immunity, Defense, and Indemnification

629 1. The members, officers, executive director,
630 employees and representatives of the Commission shall be
631 immune from suit and liability, either personally or in
632 their official capacity, for any claim for damage to or loss
633 of property or personal injury or other civil liability
634 caused by or arising out of any actual or alleged act,
635 error, or omission that occurred, or that the person against
636 whom the claim is made had a reasonable basis for believing

637 occurred within the scope of Commission employment, duties
638 or responsibilities; provided that nothing in this paragraph
639 shall be construed to protect any such person from suit
640 and/or liability for any damage, loss, injury, or liability
641 caused by the intentional or willful or wanton misconduct of
642 that person.

643 2. The Commission shall defend any member, officer,
644 executive director, employee, or representative of the
645 Commission in any civil action seeking to impose liability
646 arising out of any actual or alleged act, error, or omission
647 that occurred within the scope of Commission employment,
648 duties, or responsibilities, or that the person against whom
649 the claim is made had a reasonable basis for believing
650 occurred within the scope of Commission employment, duties,
651 or responsibilities; provided that nothing herein shall be
652 construed to prohibit that person from retaining his or her
653 own counsel; and provided further, that the actual or
654 alleged act, error, or omission did not result from that
655 person's intentional or willful or wanton misconduct.

656 3. The Commission shall indemnify and hold harmless
657 any member, officer, executive director, employee, or
658 representative of the Commission for the amount of any
659 settlement or judgment obtained against that person arising
660 out of any actual or alleged act, error, or omission that
661 occurred within the scope of Commission employment, duties,
662 or responsibilities, or that such person had a reasonable
663 basis for believing occurred within the scope of Commission
664 employment, duties, or responsibilities, provided that the
665 actual or alleged act, error, or omission did not result
666 from the intentional or willful or wanton misconduct of that
667 person.

668 SECTION 9. DATA SYSTEM

669 A. The Commission shall provide for the development,
670 maintenance, and utilization of a coordinated database and
671 reporting system containing licensure, Adverse Action, and
672 Investigative Information on all licensed individuals in
673 Member States.

674 B. A Member State shall submit a uniform data set to
675 the Data System on all individuals to whom this Compact is
676 applicable (utilizing a unique identifier) as required by
677 the Rules of the Commission, including:

678 1. Identifying information;

679 2. Licensure data;

680 3. Adverse Actions against a license or Compact
681 Privilege;

682 4. Non-confidential information related to Alternative
683 Program participation;

684 5. Any denial of application for licensure, and the
685 reason(s) for such denial;

686 6. Other information that may facilitate the
687 administration of this Compact, as determined by the Rules
688 of the Commission; and

689 7. Current Significant Investigative Information.

690 C. Current Significant Investigative Information and
691 other Investigative Information pertaining to a Licensee in
692 any Member State will only be available to other Member
693 States.

694 D. The Commission shall promptly notify all Member
695 States of any Adverse Action taken against a Licensee or an
696 individual applying for a license. Adverse Action
697 information pertaining to a Licensee in any Member State
698 will be available to any other Member State.

699 E. Member States contributing information to the Data
700 System may designate information that may not be shared with

701 the public without the express permission of the
702 contributing State.

703 F. Any information submitted to the Data System that
704 is subsequently required to be expunged by the laws of the
705 Member State contributing the information shall be removed
706 from the Data System.

707 SECTION 10. RULEMAKING

708 A. The Commission shall exercise its Rulemaking powers
709 pursuant to the criteria set forth in this Section and the
710 Rules adopted thereunder. Rules and amendments shall become
711 binding as of the date specified in each Rule or amendment.

712 B. The Commission shall promulgate reasonable rules in
713 order to effectively and efficiently achieve the purposes of
714 the Compact. Notwithstanding the foregoing, in the event
715 the Commission exercises its rulemaking authority in a
716 manner that is beyond the scope of the purposes of the
717 Compact, or the powers granted hereunder, then such an
718 action by the Commission shall be invalid and have no force
719 and effect.

720 C. If a majority of the legislatures of the Member
721 States rejects a Rule, by enactment of a statute or
722 resolution in the same manner used to adopt the Compact
723 within 4 years of the date of adoption of the Rule, then
724 such Rule shall have no further force and effect in any
725 Member State.

726 D. Rules or amendments to the Rules shall be adopted
727 at a regular or special meeting of the Commission.

728 E. Prior to promulgation and adoption of a final Rule
729 or Rules by the Commission, and at least thirty (30) days in
730 advance of the meeting at which the Rule will be considered
731 and voted upon, the Commission shall file a Notice of
732 Proposed Rulemaking:

733 1. On the website of the Commission or other publicly
734 accessible platform; and

735 2. On the website of each Member State Occupational
736 Therapy Licensing Board or other publicly accessible
737 platform or the publication in which each State would
738 otherwise publish proposed Rules.

739 F. The Notice of Proposed Rulemaking shall include:

740 1. The proposed time, date, and location of the
741 meeting in which the Rule will be considered and voted upon;

742 2. The text of the proposed Rule or amendment and the
743 reason for the proposed Rule;

744 3. A request for comments on the proposed Rule from
745 any interested person; and

746 4. The manner in which interested persons may submit
747 notice to the Commission of their intention to attend the
748 public hearing and any written comments.

749 G. Prior to adoption of a proposed Rule, the
750 Commission shall allow persons to submit written data,
751 facts, opinions, and arguments, which shall be made
752 available to the public.

753 H. The Commission shall grant an opportunity for a
754 public hearing before it adopts a Rule or amendment if a
755 hearing is requested by:

756 1. At least twenty five (25) persons;

757 2. A State or federal governmental subdivision or
758 agency; or

759 3. An association or organization having at least
760 twenty five (25) members.

761 I. If a hearing is held on the proposed Rule or
762 amendment, the Commission shall publish the place, time, and
763 date of the scheduled public hearing. If the hearing is
764 held via electronic means, the Commission shall publish the
765 mechanism for access to the electronic hearing.

766 1. All persons wishing to be heard at the hearing
767 shall notify the executive director of the Commission or
768 other designated member in writing of their desire to appear
769 and testify at the hearing not less than five (5) business
770 days before the scheduled date of the hearing.

771 2. Hearings shall be conducted in a manner providing
772 each person who wishes to comment a fair and reasonable
773 opportunity to comment orally or in writing.

774 3. All hearings will be recorded. A copy of the
775 recording will be made available on request.

776 4. Nothing in this section shall be construed as
777 requiring a separate hearing on each Rule. Rules may be
778 grouped for the convenience of the Commission at hearings
779 required by this section.

780 J. Following the scheduled hearing date, or by the
781 close of business on the scheduled hearing date if the
782 hearing was not held, the Commission shall consider all
783 written and oral comments received.

784 K. If no written notice of intent to attend the public
785 hearing by interested parties is received, the Commission
786 may proceed with promulgation of the proposed Rule without a
787 public hearing.

788 L. The Commission shall, by majority vote of all
789 members, take final action on the proposed Rule and shall
790 determine the effective date of the Rule, if any, based on
791 the Rulemaking record and the full text of the Rule.

792 M. Upon determination that an emergency exists, the
793 Commission may consider and adopt an emergency Rule without
794 prior notice, opportunity for comment, or hearing, provided
795 that the usual Rulemaking procedures provided in the Compact
796 and in this section shall be retroactively applied to the
797 Rule as soon as reasonably possible, in no event later than
798 ninety (90) days after the effective date of the Rule. For

799 the purposes of this provision, an emergency Rule is one
800 that must be adopted immediately in order to:

801 1. Meet an imminent threat to public health, safety,
802 or welfare;

803 2. Prevent a loss of Commission or Member State funds;

804 3. Meet a deadline for the promulgation of an
805 administrative Rule that is established by federal law or
806 Rule; or

807 4. Protect public health and safety.

808 N. The Commission or an authorized committee of the
809 Commission may direct revisions to a previously adopted Rule
810 or amendment for purposes of correcting typographical
811 errors, errors in format, errors in consistency, or
812 grammatical errors. Public notice of any revisions shall be
813 posted on the website of the Commission. The revision shall
814 be subject to challenge by any person for a period of thirty
815 (30) days after posting. The revision may be challenged
816 only on grounds that the revision results in a material
817 change to a Rule. A challenge shall be made in writing and
818 delivered to the chair of the Commission prior to the end of
819 the notice period. If no challenge is made, the revision
820 will take effect without further action. If the revision is
821 challenged, the revision may not take effect without the
822 approval of the Commission.

823 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND
824 ENFORCEMENT

825 A. Oversight

826 1. The executive, legislative, and judicial branches
827 of State government in each Member State shall enforce this
828 Compact and take all actions necessary and appropriate to
829 effectuate the Compact's purposes and intent. The
830 provisions of this Compact and the Rules promulgated
831 hereunder shall have standing as statutory law.

832 2. All courts shall take judicial notice of the
833 Compact and the Rules in any judicial or administrative
834 proceeding in a Member State pertaining to the subject
835 matter of this Compact which may affect the powers,
836 responsibilities, or actions of the Commission.

837 3. The Commission shall be entitled to receive service
838 of process in any such proceeding, and shall have standing
839 to intervene in such a proceeding for all purposes. Failure
840 to provide service of process to the Commission shall render
841 a judgment or order void as to the Commission, this Compact,
842 or promulgated Rules.

843 B. Default, Technical Assistance, and Termination

844 1. If the Commission determines that a Member State
845 has defaulted in the performance of its obligations or
846 responsibilities under this Compact or the promulgated
847 Rules, the Commission shall:

848 a. Provide written notice to the defaulting State and
849 other Member States of the nature of the default, the
850 proposed means of curing the default and/or any other action
851 to be taken by the Commission; and

852 b. Provide remedial training and specific technical
853 assistance regarding the default.

854 2. If a State in default fails to cure the default,
855 the defaulting State may be terminated from the Compact upon
856 an affirmative vote of a majority of the Member States, and
857 all rights, privileges and benefits conferred by this
858 Compact may be terminated on the effective date of
859 termination. A cure of the default does not relieve the
860 offending State of obligations or liabilities incurred
861 during the period of default.

862 3. Termination of membership in the Compact shall be
863 imposed only after all other means of securing compliance
864 have been exhausted. Notice of intent to suspend or

865 terminate shall be given by the Commission to the governor,
866 the majority and minority leaders of the defaulting State's
867 legislature, and each of the Member States.

868 4. A State that has been terminated is responsible for
869 all assessments, obligations, and liabilities incurred
870 through the effective date of termination, including
871 obligations that extend beyond the effective date of
872 termination.

873 5. The Commission shall not bear any costs related to
874 a State that is found to be in default or that has been
875 terminated from the Compact, unless agreed upon in writing
876 between the Commission and the defaulting State.

877 6. The defaulting State may appeal the action of the
878 Commission by petitioning the U.S. District Court for the
879 District of Columbia or the federal district where the
880 Commission has its principal offices. The prevailing member
881 shall be awarded all costs of such litigation, including
882 reasonable attorney's fees.

883 C. Dispute Resolution

884 1. Upon request by a Member State, the Commission
885 shall attempt to resolve disputes related to the Compact
886 that arise among Member States and between member and non-
887 Member States.

888 2. The Commission shall promulgate a Rule providing
889 for both mediation and binding dispute resolution for
890 disputes as appropriate.

891 D. Enforcement

892 1. The Commission, in the reasonable exercise of its
893 discretion, shall enforce the provisions and Rules of this
894 Compact.

895 2. By majority vote, the Commission may initiate legal
896 action in the United States District Court for the District
897 of Columbia or the federal district where the Commission has

898 its principal offices against a Member State in default to
899 enforce compliance with the provisions of the Compact and
900 its promulgated Rules and bylaws. The relief sought may
901 include both injunctive relief and damages. In the event
902 judicial enforcement is necessary, the prevailing member
903 shall be awarded all costs of such litigation, including
904 reasonable attorney's fees.

905 3. The remedies herein shall not be the exclusive
906 remedies of the Commission. The Commission may pursue any
907 other remedies available under federal or State law.

908 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE
909 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED
910 RULES, WITHDRAWAL, AND AMENDMENT

911 A. The Compact shall come into effect on the date on
912 which the Compact statute is enacted into law in the tenth
913 Member State. The provisions, which become effective at
914 that time, shall be limited to the powers granted to the
915 Commission relating to assembly and the promulgation of
916 Rules. Thereafter, the Commission shall meet and exercise
917 Rulemaking powers necessary to the implementation and
918 administration of the Compact.

919 B. Any State that joins the Compact subsequent to the
920 Commission's initial adoption of the Rules shall be subject
921 to the Rules as they exist on the date on which the Compact
922 becomes law in that State. Any Rule that has been
923 previously adopted by the Commission shall have the full
924 force and effect of law on the day the Compact becomes law
925 in that State.

926 C. Any Member State may withdraw from this Compact by
927 enacting a statute repealing the same.

928 1. A Member State's withdrawal shall not take effect
929 until six (6) months after enactment of the repealing
930 statute.

931 2. Withdrawal shall not affect the continuing
932 requirement of the withdrawing State's Occupational Therapy
933 Licensing Board to comply with the investigative and Adverse
934 Action reporting requirements of this act prior to the
935 effective date of withdrawal.

936 D. Nothing contained in this Compact shall be
937 construed to invalidate or prevent any Occupational Therapy
938 licensure agreement or other cooperative arrangement between
939 a Member State and a non-Member State that does not conflict
940 with the provisions of this Compact.

941 E. This Compact may be amended by the Member States.
942 No amendment to this Compact shall become effective and
943 binding upon any Member State until it is enacted into the
944 laws of all Member States.

945 SECTION 13. CONSTRUCTION AND SEVERABILITY

946 This Compact shall be liberally construed so as to
947 effectuate the purposes thereof. The provisions of this
948 Compact shall be severable and if any phrase, clause,
949 sentence or provision of this Compact is declared to be
950 contrary to the constitution of any Member State or of the
951 United States or the applicability thereof to any
952 government, agency, person, or circumstance is held invalid,
953 the validity of the remainder of this Compact and the
954 applicability thereof to any government, agency, person, or
955 circumstance shall not be affected thereby. If this Compact
956 shall be held contrary to the constitution of any Member
957 State, the Compact shall remain in full force and effect as
958 to the remaining Member States and in full force and effect
959 as to the Member State affected as to all severable matters.

960 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

961 A. A Licensee providing Occupational Therapy in a
962 Remote State under the Compact Privilege shall function
963 within the laws and regulations of the Remote State.

964 B. Nothing herein prevents the enforcement of any
965 other law of a Member State that is not inconsistent with
966 the Compact.

967 C. Any laws in a Member State in conflict with the
968 Compact are superseded to the extent of the conflict.

969 D. Any lawful actions of the Commission, including all
970 Rules and bylaws promulgated by the Commission, are binding
971 upon the Member States.

972 E. All agreements between the Commission and the
973 Member States are binding in accordance with their terms.

974 F. In the event any provision of the Compact exceeds
975 the constitutional limits imposed on the legislature of any
976 Member State, the provision shall be ineffective to the
977 extent of the conflict with the constitutional provision in
978 question in that Member State.

979 324.200. 1. Sections 324.200 to 324.225 shall be
980 known and may be cited as the "Dietitian Practice Act".

981 2. As used in sections 324.200 to 324.225, the
982 following terms shall mean:

983 (1) "Accreditation Council for Education in Nutrition
984 and Dietetics" or "ACEND", the Academy of Nutrition and
985 Dietetics accrediting agency for education programs
986 preparing students for professions as registered dietitians;

987 (2) "Committee", the state committee of dietitians
988 established in section 324.203;

989 (3) "Dietetics practice", the application of
990 principles derived from integrating knowledge of food,
991 nutrition, biochemistry, physiology, management, and
992 behavioral and social science to achieve and maintain the
993 health of people by providing nutrition assessment and
994 nutrition care services. The primary function of dietetic
995 practice is the provision of nutrition care services that
996 shall include, but not be limited to:

- 997 (a) Assessing the nutrition needs of individuals and
998 groups and determining resources and constraints in the
999 practice setting;
- 1000 (b) Establishing priorities, goals, and objectives
1001 that meet nutrition needs and are consistent with available
1002 resources and constraints;
- 1003 (c) Providing nutrition counseling or education in
1004 health and disease;
- 1005 (d) Developing, implementing, and managing nutrition
1006 care systems;
- 1007 (e) Evaluating, making changes in, and maintaining
1008 appropriate standards of quality and safety in food and in
1009 nutrition services;
- 1010 (f) Engaged in medical nutritional therapy as defined
1011 in subdivision (8) of this section;
- 1012 (4) "Dietitian", one engaged in dietetic practice as
1013 defined in subdivision (3) of this section;
- 1014 (5) "Director", the director of the division of
1015 professional registration;
- 1016 (6) "Division", the division of professional
1017 registration;
- 1018 (7) "Licensed dietitian", a person who is licensed
1019 pursuant to the provisions of sections 324.200 to 324.225 to
1020 engage in the practice of dietetics or medical nutrition
1021 therapy;
- 1022 (8) "Medical nutrition therapy", [nutritional
1023 diagnostic, therapy, and counseling services which are
1024 furnished by a registered dietitian or registered dietitian
1025 nutritionist] the provision of nutrition care services for
1026 the treatment or management of a disease or medical
1027 condition;
- 1028 (9) "Registered dietitian" or "registered dietitian
1029 nutritionist", a person who:

1030 (a) Has completed a minimum of a baccalaureate degree
1031 granted by a United States regionally accredited college or
1032 university or foreign equivalent;

1033 (b) Completed the academic requirements of a didactic
1034 program in dietetics, as approved by ACEND;

1035 (c) Successfully completed the registration
1036 examination for dietitians; and

1037 (d) Accrued seventy-five hours of approved continuing
1038 professional units every five years; as determined by the
1039 Committee on Dietetic Registration.

1040 324.206. 1. As long as the person involved does not
1041 represent or hold himself or herself out as a dietitian as
1042 defined by subdivision (4) of subsection 2 of section
1043 324.200, nothing in sections 324.200 to 324.225 is intended
1044 to limit, preclude, or otherwise interfere with:

1045 (1) Self-care by a person or gratuitous care by a
1046 friend or family member;

1047 (2) Persons in the military services or working in
1048 federal facilities from performing any activities described
1049 in sections 324.200 to 324.225 during the course of their
1050 assigned duties in the military service or a federal
1051 facility;

1052 (3) A licensed health care provider performing any
1053 activities described in sections 324.200 to 324.225 that are
1054 within the scope of practice of the licensee;

1055 (4) A person pursuing an approved educational program
1056 leading to a degree or certificate in dietetics at an
1057 accredited or approved educational program as long as such
1058 person does not provide dietetic services outside the
1059 educational program. Such person shall be designated by a
1060 title that clearly indicates the person's status as a
1061 student;

1062 (5) Individuals who do not hold themselves out as
1063 dietitians marketing or distributing food products including
1064 dietary supplements as defined by the Food and Drug
1065 Administration or engaging in the explanation and education
1066 of customers regarding the use of such products;

1067 (6) Any person furnishing general nutrition
1068 information as to the use of food, food materials, or
1069 dietary supplements, nor prevent in any way the free
1070 dissemination of literature;

1071 (7) A person credentialed in the field of nutrition
1072 from providing advice, counseling, or evaluations in matters
1073 of food, diet, or nutrition to the extent such acts are
1074 within the scope of practice listed by the credentialing
1075 body and do not constitute medical nutrition therapy;

1076 provided, however, no such individual may call himself or
1077 herself a dietitian unless he or she is licensed under this
1078 chapter.

1079 2. A credentialed person not representing or holding
1080 himself or herself out as a dietitian, who performs any of
1081 the acts or services listed in subsection 1 of this section,
1082 shall provide, prior to performing such act or service for
1083 another, the following:

1084 (1) The person's name and title;

1085 (2) The person's business address and telephone number;

1086 (3) A statement that the person is not a dietitian
1087 licensed by the state of Missouri;

1088 (4) A statement that the information provided or
1089 advice given may be considered alternative care by licensed
1090 practitioners in the state of Missouri; and

1091 (5) The person's qualifications for providing such
1092 information or advice, including educational background,
1093 training, and experience.

1094 327.011. As used in this chapter, the following words
1095 and terms shall have the meanings indicated:

1096 (1) "Accredited degree program from a school of
1097 architecture", a degree from any school or other institution
1098 which teaches architecture and whose curricula for the
1099 degree in question have been, at the time in question,
1100 certified as accredited by the National Architectural
1101 Accrediting Board;

1102 (2) "Accredited school of engineering", any school or
1103 other institution which teaches engineering and whose
1104 curricula on the subjects in question are or have been, at
1105 the time in question certified as accredited by the
1106 engineering accreditation commission of the accreditation
1107 board for engineering and technology or its successor
1108 organization;

1109 (3) "Accredited school of landscape architecture", any
1110 school or other institution which teaches landscape
1111 architecture and whose curricula on the subjects in question
1112 are or have been at the times in question certified as
1113 accredited by the Landscape Architecture Accreditation Board
1114 of the American Society of Landscape Architects;

1115 (4) "Architect", any person authorized pursuant to the
1116 provisions of this chapter to practice architecture in
1117 Missouri, as the practice of architecture is defined in
1118 section 327.091;

1119 (5) "Board", the Missouri board for architects,
1120 professional engineers, professional land surveyors and
1121 professional landscape architects;

1122 (6) "Corporation", any general business corporation,
1123 professional corporation or limited liability company;

1124 (7) "Design coordination", the review and coordination
1125 of technical submissions prepared by others including, as
1126 appropriate and without limitation, architects, professional

1127 engineers, professional land surveyors, professional
1128 landscape architects, and other consultants;

1129 (8) "Design survey", a survey which includes all
1130 activities required to gather information to support the
1131 sound conception, planning, design, construction,
1132 maintenance, and operation of design projects, but excludes
1133 the surveying of real property for the establishment of land
1134 boundaries, rights-of-way, easements, and the dependent or
1135 independent surveys or resurveys of the public land survey
1136 system;

1137 (9) "Incidental practice", the performance of other
1138 professional services licensed under chapter 327 that are
1139 related to a licensee's professional service, but are
1140 secondary and substantially less in scope and magnitude when
1141 compared to the professional services usually and normally
1142 performed by the licensee practicing in their licensed
1143 profession. This incidental professional service shall be
1144 safely and competently performed by the licensee without
1145 jeopardizing the health, safety, and welfare of the public.
1146 The licensee shall be qualified by education, training, and
1147 experience as determined by the board and in sections
1148 327.091, 327.181, 327.272, and 327.600 and applicable board
1149 rules to perform such incidental professional service;

1150 (10) "Licensee", a person licensed to practice any
1151 profession regulated under this chapter or a corporation
1152 authorized to practice any such profession;

1153 (11) "Partnership", any partnership or limited
1154 liability partnership;

1155 (12) "Person", any [person] individual, corporation,
1156 firm, partnership, association or other entity authorized to
1157 do business;

1158 (13) "Professional engineer", any person authorized
1159 pursuant to the provisions of this chapter to practice as a

1160 professional engineer in Missouri, as the practice of
1161 engineering is defined in section 327.181;

1162 (14) "Professional land surveyor", any person
1163 authorized pursuant to the provisions of this chapter to
1164 practice as a professional land surveyor in Missouri as the
1165 practice of land surveying is defined in section 327.272;

1166 (15) "Professional landscape architect", any person
1167 authorized pursuant to the provisions of this chapter to
1168 practice as a professional landscape architect in Missouri
1169 as the practice of landscape architecture is defined in
1170 section 327.600;

1171 (16) "Responsible charge", the independent direct
1172 control of a licensee's work and personal supervision of
1173 such work pertaining to the practice of architecture,
1174 engineering, land surveying, or landscape architecture.

1175 327.091. 1. [Any person practices as an architect in
1176 Missouri who renders or offers to render or represents
1177 himself or herself as willing or able to render service or
1178 creative work which requires architectural education,
1179 training and experience, including services and work such as
1180 consultation, evaluation, planning, aesthetic and structural
1181 design, the preparation of drawings, specifications and
1182 related documents, and the coordination of services
1183 furnished by structural, civil, mechanical and electrical
1184 engineers and other consultants as they relate to
1185 architectural work in connection with the construction or
1186 erection of any private or public building, building
1187 structure, building project or integral part or parts of
1188 buildings or of any additions or alterations thereto; or who
1189 uses the title "architect" or the terms "architect" or
1190 "architecture" or "architectural" alone or together with any
1191 words other than "landscape" that indicate or imply that
1192 such person is or holds himself or herself out to be an

1193 architect] The practice of architecture is the rendering of
1194 or offering to render services in connection with the design
1195 and construction of public and private buildings, structures
1196 and shelters, site improvements, in whole or part and
1197 including any additions or alterations thereto, as well as
1198 to the spaces within and the site surrounding such buildings
1199 and structures, which have as their principal purpose human
1200 occupancy or habitation. The services referred to include
1201 consultation, design surveys, feasibility studies,
1202 evaluation, planning, aesthetic and structural design,
1203 preliminary design, drawings, specifications, technical
1204 submissions, and other instruments of service, the
1205 administration of construction contracts, construction
1206 observation and inspection, and the coordination of any
1207 elements of technical submissions prepared by others,
1208 including professional engineers, landscape architects, and
1209 other consultants that pertain to the practice of
1210 architecture. A person shall be considered to be practicing
1211 architecture when such person uses the title "architect" or
1212 the terms "architect" or "architecture" or "architectural"
1213 alone or together with any words other than "landscape" to
1214 indicate or imply that such person is or holds himself or
1215 herself out to be an architect. Only a person with the
1216 required architectural education, practical training,
1217 relevant work experience, and licensure may practice as an
1218 architect in Missouri.

1219 2. Architects shall be in responsible charge of all
1220 architectural design of buildings and structures that can
1221 affect the health, safety, and welfare of the public within
1222 their scope of practice.

1223 327.101. 1. No person shall practice architecture in
1224 Missouri as defined in section 327.091 unless and until
1225 there is issued to the person a license or a certificate of

1226 authority certifying that the person has been duly licensed
1227 as an architect or authorized to practice architecture, in
1228 Missouri, and unless such license has been renewed as
1229 hereinafter specified[; provided, however, that nothing in
1230 this chapter shall apply to the following persons].

1231 2. Notwithstanding the provisions of subsection 1 of
1232 this section, the following persons may engage in actions
1233 defined as the practice of architecture in section 327.091,
1234 provided that such persons shall not use the title
1235 "architect" or the terms "architect" or "architecture" or
1236 "architectural" alone or together with any words other than
1237 "landscape" that indicate or imply that such person is or
1238 holds himself or herself out to be an architect:

1239 (1) Any person who is an employee of a person holding
1240 a currently valid license as an architect or who is an
1241 employee of any person holding a currently valid certificate
1242 of authority pursuant to this chapter, and who performs
1243 architectural work under the direction and continuing
1244 supervision of and is checked by one holding a currently
1245 valid license as an architect pursuant to this chapter;

1246 (2) Any person who is a regular full-time employee who
1247 performs architectural work for the person's employer if and
1248 only if all such work and service so performed is in
1249 connection with a facility owned or wholly operated by the
1250 employer and which is occupied by the employer of the
1251 employee performing such work or service, and if and only if
1252 such work and service so performed do not endanger the
1253 public health or safety;

1254 (3) Any holder of a currently valid license or
1255 certificate of authority as a professional engineer who
1256 performs only such architecture as incidental practice and
1257 necessary to the completion of professional services

1258 lawfully being performed by such licensed professional
1259 engineer;

1260 (4) Any person who is a professional landscape
1261 architect, city planner or regional planner who performs
1262 work consisting only of consultations concerning and
1263 preparation of master plans for parks, land areas or
1264 communities, or the preparation of plans for and the
1265 supervision of the planting and grading or the construction
1266 of walks and paving for parks or land areas and such other
1267 minor structural features as fences, steps, walls, small
1268 decorative pools and other construction not involving
1269 structural design or stability and which is usually and
1270 customarily included within the area of work of a
1271 professional landscape architect or planner;

1272 (5) Any person who renders architectural services in
1273 connection with the construction, remodeling or repairing of
1274 any privately owned building described in paragraphs (a),
1275 (b), or (c) [, (d), and (e)] which follow, and who indicates
1276 on any drawings, specifications, estimates, reports or other
1277 documents furnished in connection with such services that
1278 the person is not a licensed architect:

1279 (a) A dwelling house; or

1280 (b) A multiple family dwelling house, flat or
1281 apartment containing not more than two families; or

1282 (c) [A commercial or industrial building or structure
1283 which provides for the employment, assembly, housing,
1284 sleeping or eating of not more than nine persons; or

1285 (d) Any one structure containing less than two
1286 thousand square feet, except as provided in (b) and (c)
1287 above, and which is not a part or a portion of a project
1288 which contains more than one structure; or

1289 (e) A building or structure used exclusively for farm
1290 purposes] Any one building or structure, except for those

1291 buildings or structures referenced in subdivision (8) of
1292 this subsection, which provides for the employment,
1293 assembly, housing, sleeping, or eating of not more than nine
1294 persons, contains less than two thousand square feet, and is
1295 not part of another building or structure;

1296 (6) Any person who renders architectural services in
1297 connection with the remodeling or repairing of any privately
1298 owned multiple family dwelling house, flat or apartment
1299 containing three or four families, provided that the
1300 alteration, renovation, or remodeling does not affect
1301 architectural or engineering safety features of the building
1302 and who indicates on any drawings, specifications,
1303 estimates, reports or other documents furnished in
1304 connection with such services that the person is not a
1305 licensed architect;

1306 (7) Any person or corporation who is offering, but not
1307 performing or rendering, architectural services if the
1308 person or corporation is licensed to practice architecture
1309 in the state or country of residence or principal place of
1310 business; or

1311 (8) Any person who renders architectural services in
1312 connection with the construction, remodeling, or repairing
1313 of any building or structure used exclusively for
1314 agriculture purposes.

1315 327.131. Any person may apply to the board for
1316 licensure as an architect who is over the age of twenty-one,
1317 has acquired an accredited degree from an accredited degree
1318 program from a school of architecture, holds a certified
1319 Intern Development Program (IDP) or Architectural Experience
1320 Program (AXP) record with the National Council of
1321 Architectural Registration Boards, and has taken and passed
1322 all divisions of the Architect Registration Examination.

1323 327.191. 1. No person shall practice as a
1324 professional engineer in Missouri, as defined in section
1325 327.181 unless and until there is issued to such person a
1326 professional license or a certificate of authority
1327 certifying that such person has been duly licensed as a
1328 professional engineer or authorized to practice engineering
1329 in Missouri, and unless such license or certificate has been
1330 renewed as provided in section 327.261[; provided that
1331 section 327.181 shall not be construed to prevent the
1332 practice of engineering by the following persons].

1333 2. Notwithstanding the provisions of subsection 1 of
1334 this section, the following persons may engage in actions
1335 defined as the practice of professional engineering in
1336 section 327.181, provided that such persons shall not use
1337 the title "professional engineer" or "consulting engineer"
1338 or the word "engineer" alone or preceded by any word
1339 indicating or implying that such person is or holds himself
1340 or herself out to be a professional engineer, or use any
1341 word or words, letters, figures, degrees, titles, or other
1342 description indicating or implying that such person is a
1343 professional engineer or is willing or able to practice
1344 engineering:

1345 (1) Any person who is an employee of a person holding
1346 a currently valid license as a professional engineer or who
1347 is an employee of a person holding a currently valid
1348 certificate of authority pursuant to this chapter, and who
1349 performs professional engineering work under the direction
1350 and continuing supervision of and is checked by one holding
1351 a currently valid license as a professional engineer
1352 pursuant to this chapter;

1353 (2) Any person who is a regular full-time employee of
1354 a person or any former employee under contract to a person,
1355 who performs professional engineering work for such employer

1356 if and only if all such work and service so performed is
1357 done solely in connection with a facility owned or wholly
1358 operated by the employer and occupied or maintained by the
1359 employer of the employee performing such work or service,
1360 and does not affect the health, safety, and welfare of the
1361 public;

1362 (3) Any person engaged in engineering who is a full-
1363 time, regular employee of a person engaged in manufacturing
1364 operations and which engineering so performed by such person
1365 relates to the manufacture, sale or installation of the
1366 products of such person, and does not affect the health,
1367 safety, and welfare of the public;

1368 (4) Any holder of a currently valid license or
1369 certificate of authority as an architect, professional land
1370 surveyor, or professional landscape architect who performs
1371 only such engineering as incidental practice and necessary
1372 to the completion of professional services lawfully being
1373 performed by such architect, professional land surveyor, or
1374 professional landscape architect;

1375 (5) Any person who renders engineering services in
1376 connection with the construction, remodeling, or repairing
1377 of any privately owned building described as follows, and
1378 who indicates on any drawings, specifications, estimates,
1379 reports, or other documents furnished in connection with
1380 such services that the person is not a licensed professional
1381 engineer:

1382 (a) A dwelling house;

1383 (b) A multiple family dwelling house, flat, or
1384 apartment containing no more than two families; or

1385 (c) Any one building or structure, except for those
1386 buildings or structures referenced in subdivision (8) of
1387 this subsection, which provides for the employment,
1388 assembly, housing, sleeping, or eating of not more than nine

1389 persons, contains less than two thousand square feet, and is
1390 not part of another building or structure;

1391 (6) Any person who renders engineering services in
1392 connection with the remodeling or repairing of any privately
1393 owned, multiple family dwelling house, flat, or apartment
1394 containing three or four families, provided that the
1395 alteration, renovation, or remodeling does not affect
1396 architectural or engineering safety features of the
1397 building, and who indicates on any drawings, specifications,
1398 estimates, reports, or other documents furnished in
1399 connection with such services that the person is not a
1400 licensed professional engineer;

1401 (7) Any person or corporation who is offering, but not
1402 performing or rendering, professional engineering services
1403 if the person or corporation is licensed to practice
1404 professional engineering in the state or country of
1405 residence or principal place of business;

1406 (8) Any person who renders engineering services in
1407 connection with the construction, remodeling, or repairing
1408 of any building or structure used exclusively for
1409 agricultural purposes.

1410 327.241. 1. After it has been determined that an
1411 applicant possesses the qualifications entitling the
1412 applicant to be examined, each applicant for examination and
1413 licensure as a professional engineer in Missouri shall
1414 appear before the board or its representatives for
1415 examination at the time and place specified.

1416 2. The examination or examinations shall be of such
1417 form, content and duration as shall be determined by the
1418 board to thoroughly test the qualifications of each
1419 applicant to practice as a professional engineer in Missouri.

1420 3. Any applicant to be eligible for a license must
1421 make a grade on each examination of at least seventy percent.

1422 4. The engineering examination shall consist of two
1423 parts; the first part may be taken by any person after such
1424 person has satisfied the educational requirements of section
1425 327.221, or who is in his or her final year of study in an
1426 accredited school of engineering; and upon passing part one
1427 of the examination and providing proof that such person has
1428 satisfied the educational requirements of section 327.221
1429 and upon payment of the required fee, such person shall be
1430 an engineer-intern, subject to the other provisions of this
1431 chapter.

1432 5. Any engineer-intern, as defined in subsection 4 of
1433 this section[, who has acquired at least four years of
1434 satisfactory engineering experience,] may take part two of
1435 the engineering examination and upon passing it and having
1436 acquired at least four years of satisfactory engineering
1437 experience shall be entitled to receive a license, subject,
1438 however, to the other provisions of this chapter.

1439 6. Notwithstanding the provisions of subsections 4 and
1440 5 of this section, the board may, in its discretion, provide
1441 by rule that any person who has graduated from and holds an
1442 engineering degree from an accredited school of engineering
1443 may thereupon be eligible to take both parts of the
1444 engineering examination and that upon passing said
1445 examination and acquiring four years of satisfactory
1446 engineering experience, after graduating and receiving a
1447 degree as aforesaid, shall be entitled to receive a license
1448 to practice as a professional engineer, subject, however, to
1449 the other provisions of this chapter.

1450 7. Any person who has graduated from and has received
1451 a degree in engineering from an accredited school of
1452 engineering may [then acquire four years of satisfactory
1453 engineering experience and thereafter] take both parts of
1454 the examination and upon passing and having acquired four

1455 years of satisfactory engineering experience shall be
1456 entitled to receive a license to practice as a professional
1457 engineer, subject, however, to the other provisions of this
1458 chapter.

1459 [8. Any person entitled to be licensed as a
1460 professional engineer as provided in subsection 5, 6, or 7
1461 of this section must be so licensed within four years after
1462 the date on which he or she was so entitled, and if one is
1463 not licensed within the time he or she is so entitled, the
1464 engineering division of the board may require him to take
1465 and satisfactorily pass such further examination as provided
1466 by rule before issuing to him a license.]

1467 327.612. Any person who [has attained the age of
1468 twenty-one years, and] has a degree in landscape
1469 architecture from an accredited school of landscape
1470 architecture [and], or possesses an education which in the
1471 opinion of the board equals or exceeds the education
1472 received by a graduate of an accredited school, has acquired
1473 at least three years satisfactory landscape architectural
1474 experience after acquiring such a degree, and who has taken
1475 and passed all sections of the landscape architectural
1476 registration examination administered by the Council of
1477 Landscape Architectural Registration Boards may apply to the
1478 board for licensure as a professional landscape architect.";
1479 and

1480 Further amend the title and enacting clause accordingly.