

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/HCS/House Bill Nos. 2116, 2097, 1690 & 2221, Page 1, Section Title, Lines 3-4,

2 by striking "the visitation rights of patients" and  
 3 inserting in lieu thereof the following: "health care  
 4 facilities"; and

5 Further amend said bill, page 8, section 191.2290, line  
 6 114, by inserting after all of said line the following:

7 "197.305. As used in sections 197.300 to [197.366]  
 8 197.367, the following terms mean:

9 (1) "Affected persons", the person proposing the  
 10 development of a new institutional health service, the  
 11 public to be served, and health care facilities within the  
 12 service area in which the proposed new health care service  
 13 is to be developed;

14 (2) "Agency", the certificate of need program of the  
 15 Missouri department of health and senior services;

16 (3) "Capital expenditure", an expenditure by or on  
 17 behalf of a health care facility which, under generally  
 18 accepted accounting principles, is not properly chargeable  
 19 as an expense of operation and maintenance;

20 (4) "Certificate of need", a written certificate  
 21 issued by the committee setting forth the committee's  
 22 affirmative finding that a proposed project sufficiently  
 23 satisfies the criteria prescribed for such projects by  
 24 sections 197.300 to [197.366] 197.367;

25           (5) "Committee", the Missouri health facilities review  
26 committee;

27           (6) "Department", the Missouri department of health  
28 and senior services;

29           [(5)] (7) "Develop", to undertake those activities  
30 which on their completion will result in the offering of a  
31 new institutional health service or the incurring of a  
32 financial obligation in relation to the offering of such a  
33 service;

34           [(6)] (8) "Expenditure minimum" shall mean:

35           (a) For beds in existing or proposed health care  
36 facilities licensed pursuant to chapter 198 and long-term  
37 care beds in a hospital as described in subdivision (3) of  
38 subsection 1 of section 198.012, six hundred thousand  
39 dollars in the case of capital expenditures[, or four  
40 hundred thousand dollars in the case of major medical  
41 equipment,]; provided, [however,] that prior to January 1,  
42 2003, the expenditure minimum for beds in such a facility  
43 and long-term care beds in a hospital described in section  
44 198.012 shall be zero, subject to the provisions of  
45 subsection 7 of section 197.318;

46           (b) For beds [or equipment] in a long-term care  
47 hospital meeting the requirements described in 42 CFR[,  
48 Section] 412.23(e), the expenditure minimum shall be zero;  
49 and

50           (c) For health care facilities, new institutional  
51 health services or beds not described in paragraph (a) or  
52 (b) of this subdivision one million dollars in the case of  
53 capital expenditures[, excluding major medical equipment,  
54 and one million dollars in the case of medical equipment];

55           (9) "Health care facilities":

56           (a) Facilities licensed under chapter 198;

57 (b) Long-term care beds in a hospital, as described in  
58 subdivision (3) of subsection 1 of section 198.012; and

59 (c) Long-term care hospitals or beds in a long-term  
60 care hospital meeting the requirements described in 42 CFR  
61 412.23(e);

62 [(7)] (10) "Health service area", a geographic region  
63 appropriate for the effective planning and development of  
64 health services, determined on the basis of factors  
65 including population and the availability of resources,  
66 consisting of a population of not less than five hundred  
67 thousand or more than three million;

68 [(8) "Major medical equipment", medical equipment used  
69 for the provision of medical and other health services;

70 [(9)] (11) "New institutional health service":

71 (a) The development of a new health care facility  
72 costing in excess of the applicable expenditure minimum;

73 (b) The acquisition, including acquisition by lease,  
74 of any health care facility[, or major medical equipment]  
75 costing in excess of the expenditure minimum;

76 (c) Any capital expenditure by or on behalf of a  
77 health care facility in excess of the expenditure minimum;

78 (d) Predevelopment activities [as defined in  
79 subdivision (12) hereof] costing in excess of one hundred  
80 fifty thousand dollars;

81 (e) Any change in licensed bed capacity of a health  
82 care facility licensed under chapter 198 which increases the  
83 total number of beds by more than ten or more than ten  
84 percent of total bed capacity, whichever is less, over a two-  
85 year period, provided that any such health care facility  
86 seeking a nonapplicability review for an increase in total  
87 beds or total bed capacity in an amount less than described  
88 in this paragraph shall be eligible for such review only if  
89 the facility has had no patient care class I deficiencies

90 within the last eighteen months and has maintained at least  
91 an eighty-five percent average occupancy rate for the  
92 previous six quarters;

93 (f) Health services, excluding home health services,  
94 which are offered in a health care facility and which were  
95 not offered on a regular basis in such health care facility  
96 within the twelve-month period prior to the time such  
97 services would be offered;

98 (g) A reallocation by an existing health care facility  
99 of licensed beds among major types of service or  
100 reallocation of licensed beds from one physical facility or  
101 site to another by more than ten beds or more than ten  
102 percent of total licensed bed capacity, whichever is less,  
103 over a two-year period;

104 [(10)] (12) "Nonsubstantive projects", projects which  
105 do not involve the addition, replacement, modernization or  
106 conversion of beds or the provision of a new health service  
107 but which include a capital expenditure which exceeds the  
108 expenditure minimum and are due to an act of God or a normal  
109 consequence of maintaining health care services, facility or  
110 equipment;

111 [(11)] (13) "Person", any individual, trust, estate,  
112 partnership, corporation, including associations and joint  
113 stock companies, state or political subdivision or  
114 instrumentality thereof, including a municipal corporation;

115 [(12)] (14) "Predevelopment activities", expenditures  
116 for architectural designs, plans, working drawings and  
117 specifications, and any arrangement or commitment made for  
118 financing; but excluding submission of an application for a  
119 certificate of need.

120 197.315. 1. Any person who proposes to develop or  
121 offer a new institutional health service within the state

122 [must] shall obtain a certificate of need from the committee  
123 prior to the time such services are offered.

124 2. Only those new institutional health services which  
125 are found by the committee to be needed shall be granted a  
126 certificate of need. Only those new institutional health  
127 services which are granted certificates of need shall be  
128 offered or developed within the state. No expenditures for  
129 new institutional health services in excess of the  
130 applicable expenditure minimum shall be made by any person  
131 unless a certificate of need has been granted.

132 3. After October 1, 1980, no state agency charged by  
133 statute to license or certify health care facilities shall  
134 issue a license to or certify any such facility, or distinct  
135 part of such facility, that is developed without obtaining a  
136 certificate of need.

137 4. If any person proposes to develop any new  
138 institutional health care service without a certificate of  
139 need as required by sections 197.300 to [197.366] 197.367,  
140 the committee shall notify the attorney general, and he  
141 shall apply for an injunction or other appropriate legal  
142 action in any court of this state against that person.

143 5. After October 1, 1980, no agency of state  
144 government may appropriate or grant funds to or make payment  
145 of any funds to any person or health care facility which has  
146 not first obtained every certificate of need required  
147 pursuant to sections 197.300 to [197.366] 197.367.

148 6. A certificate of need shall be issued only for the  
149 premises and persons named in the application and is not  
150 transferable except by consent of the committee.

151 7. Project cost increases, due to changes in the  
152 project application as approved or due to project change  
153 orders, exceeding the initial estimate by more than ten

154 percent shall not be incurred without consent of the  
155 committee.

156 8. Periodic reports to the committee shall be required  
157 of any applicant who has been granted a certificate of need  
158 until the project has been completed. The committee may  
159 order the forfeiture of the certificate of need upon failure  
160 of the applicant to file any such report.

161 9. A certificate of need shall be subject to  
162 forfeiture for failure to incur a capital expenditure on any  
163 approved project within six months after the date of the  
164 order. The applicant may request an extension from the  
165 committee of not more than six additional months based upon  
166 substantial expenditure made.

167 10. Each application for a certificate of need must be  
168 accompanied by an application fee. The time of filing  
169 commences with the receipt of the application and the  
170 application fee. The application fee is one thousand  
171 dollars, or one-tenth of one percent of the total cost of  
172 the proposed project, whichever is greater. All application  
173 fees shall be deposited in the state treasury. Because of  
174 the loss of federal funds, the general assembly will  
175 appropriate funds to the Missouri health facilities review  
176 committee.

177 11. In determining whether a certificate of need  
178 should be granted, no consideration shall be given to the  
179 facilities [or equipment] of any other health care facility  
180 located more than a fifteen-mile radius from the applying  
181 facility.

182 12. When a [nursing] long-term care facility shifts  
183 from a skilled to an intermediate level of nursing care, it  
184 may return to the higher level of care if it meets the  
185 licensure requirements, without obtaining a certificate of  
186 need.

187           13. In no event shall a certificate of need be denied  
188 because the applicant refuses to provide abortion services  
189 or information.

190           14. A certificate of need shall not be required for  
191 the transfer of ownership of an existing and operational  
192 health facility in its entirety.

193           15. A certificate of need may be granted to a facility  
194 for an expansion, an addition of services, or a new  
195 institutional service[, or for a new hospital facility  
196 which] that provides for something less than that which was  
197 sought in the application.

198           16. The provisions of this section shall not apply to  
199 facilities operated by the state, and appropriation of funds  
200 to such facilities by the general assembly shall be deemed  
201 in compliance with this section, and such facilities shall  
202 be deemed to have received an appropriate certificate of  
203 need without payment of any fee or charge. The provisions  
204 of this subsection shall not apply to hospitals offering  
205 long-term care services operated by the state and licensed  
206 under this chapter, except for department of mental health  
207 state-operated psychiatric hospitals.

208           17. Notwithstanding other provisions of this section,  
209 a certificate of need may be issued after July 1, 1983, for  
210 an intermediate care facility operated exclusively for the  
211 intellectually disabled.

212           [18. To assure the safe, appropriate, and cost-  
213 effective transfer of new medical technology throughout the  
214 state, a certificate of need shall not be required for the  
215 purchase and operation of:

216           (1) Research equipment that is to be used in a  
217 clinical trial that has received written approval from a  
218 duly constituted institutional review board of an accredited  
219 school of medicine or osteopathy located in Missouri to

220 establish its safety and efficacy and does not increase the  
221 bed complement of the institution in which the equipment is  
222 to be located. After the clinical trial has been completed,  
223 a certificate of need must be obtained for continued use in  
224 such facility; or

225 (2) Equipment that is to be used by an academic health  
226 center operated by the state in furtherance of its research  
227 or teaching missions.]

228 197.320. The committee shall have the power to  
229 promulgate reasonable rules, regulations, criteria and  
230 standards in conformity with this section and chapter 536 to  
231 meet the objectives of sections 197.300 to [197.366] 197.367  
232 including the power to establish criteria and standards to  
233 review new types of [equipment or service] services. Any  
234 rule or portion of a rule, as that term is defined in  
235 section 536.010, that is created under the authority  
236 delegated in sections 197.300 to [197.366] 197.367 shall  
237 become effective only if it complies with and is subject to  
238 all of the provisions of chapter 536 and, if applicable,  
239 section 536.028. All rulemaking authority delegated prior to  
240 August 28, 1999, is of no force and effect and repealed.  
241 Nothing in this section shall be interpreted to repeal or  
242 affect the validity of any rule filed or adopted prior to  
243 August 28, 1999, if it fully complied with all applicable  
244 provisions of law. This section and chapter 536 are  
245 nonseverable and if any of the powers vested with the  
246 general assembly pursuant to chapter 536 to review, to delay  
247 the effective date or to disapprove and annul a rule are  
248 subsequently held unconstitutional, then the grant of  
249 rulemaking authority and any rule proposed or adopted after  
250 August 28, 1999, shall be invalid and void.

251 354.095. 1. A corporation subject to the provisions  
252 of sections 354.010 to 354.380 may, in the discretion of its

253 board of directors, limit or define the classes of persons  
254 who shall be eligible to become members or beneficiaries,  
255 limit and define the benefits which it will furnish, and may  
256 define such benefits as it undertakes to furnish into  
257 classes or kinds. It may make available to its members or  
258 beneficiaries such health services, or reimbursement  
259 therefor, as the board of directors of any such corporation  
260 may approve; if maternity benefits are provided to any  
261 members of any plan, then maternity benefits shall be  
262 provided to any member of such plan without discrimination  
263 as to whether the member is married or unmarried, and if  
264 maternity benefits are provided to a beneficiary of any  
265 plan, then maternity benefits shall be provided to such  
266 beneficiary of such plan without discrimination as to  
267 whether the beneficiary is married or unmarried.

268 2. [If an ambulatory surgical facility as defined by  
269 subdivision (2) of section 197.200, has received a  
270 certificate of need as provided in chapter 197,] A health  
271 services corporation shall provide benefits to [the  
272 facility] an ambulatory surgical center, as defined by  
273 section 197.200, on the same basis as it does to all other  
274 health care facilities, whether contracting members or  
275 noncontracting members. A health services corporation shall  
276 use the same standards that are applied to any other health  
277 care facility within the same health services area in  
278 defining the benefits that the corporation will furnish to  
279 the ambulatory surgical facility, the classes to which such  
280 benefits will be furnished, and the amount of  
281 reimbursement."; and

282 Further amend said bill, page 12, section 630.202, line  
283 113, by inserting after all of said line the following:

284 "[197.366. The term "health care  
285 facilities" in sections 197.300 to 197.366 shall  
286 mean:

- 287           (1) Facilities licensed under chapter 198;
- 288           (2) Long-term care beds in a hospital as  
289 described in subdivision (3) of subsection 1 of  
290 section 198.012;
- 291           (3) Long-term care hospitals or beds in a  
292 long-term care hospital meeting the requirements  
293 described in 42 CFR, section 412.23(e); and
- 294           (4) Construction of a new hospital as  
295 defined in chapter 197.]" and
- 296 Further amend the title and enacting clause accordingly.