

JOURNAL OF THE HOUSE

Second Regular Session, 94th GENERAL ASSEMBLY

SEVENTY-THIRD DAY, THURSDAY, MAY 15, 2008

The House met pursuant to adjournment.

Speaker Jetton in the Chair.

Prayer by Msgr. Donald W. Lammers.

(On the morning after working very late, this verse from Psalm 28 is a good prayer.)

"Yahweh is my strength, my shield,
my heart puts its trust in him,
I have been helped, my flesh has bloomed again,
I thank him with all my heart."
(Psalm 28:7)

O Lord, be our strength as we approach the end of this 2008 Session.
Many topics remain before us; important decisions must be made.
By Your grace may we discern what advances best the common good;
What is necessary for those most in need;
What justice demands;
What truth requires.
We thank You, Lord God, for Your presence and strength this day.
To You be glory and honor forever. Amen.

The Pledge of Allegiance to the flag was recited.

The Speaker appointed the following to act as Honorary Pages for the Day, to serve without compensation: Kaleena Logan, Dusty McCubbins, Marshal Meyer, Connor Balke, Jacob Hickman, John Schwartz, Dylana Fox, Miranda Goetz, Tanner Oelrichs, J.T. Wilshusen, Alexis Dieckmann, Harper Schroeder, Dalton Metzner, Drew Harms, Cameron Snell, Zachary Fox, Brandon Cooper and Meghan Pitts.

The Journal of the seventy-second day was approved as corrected by the following vote:

AYES: 124

Aull	Baker 25	Baker 123	Bivins	Brandom
Bringer	Brown 30	Bruns	Burnett	Casey
Chappelle-Nadal	Cox	Cunningham 145	Cunningham 86	Curls
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dougherty	Dusenberg	El-Amin	Emery
Ervin	Faith	Fallert	Fares	Fisher
Flook	Frame	Franz	Funderburk	Grisamore
Guest	Harris 110	Hobbs	Hodges	Hoskins

1713 *Journal of the House*

Hughes	Icet	Jones 89	Jones 117	Kasten
Kelly	Kingery	Komo	Kratky	Kraus
Lembke	Liese	Lipke	Loehner	Marsh
McClanahan	McGhee	Meiners	Moore	Munzlinger
Muschany	Nance	Nasheed	Nieves	Nolte
Norr	Onder	Oxford	Page	Parkinson
Parson	Pearce	Portwood	Pratt	Quinn 7
Quinn 9	Richard	Robb	Robinson	Roorda
Ruestman	Ruzicka	Salva	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer
Schlottach	Schneider	Schoeller	Schoemehl	Self
Shively	Silvey	Skaggs	Smith 14	Smith 150
Stevenson	St. Onge	Storch	Stream	Sutherland
Swinger	Thomson	Threlkeld	Tilley	Todd
Viebrock	Villa	Wallace	Walsh	Wells
Weter	Wilson 119	Wilson 130	Wood	Wright 159
Yaeger	Yates	Zweifel	Mr Speaker	

NOES: 014

Daus	Donnelly	George	Grill	Holsman
Kuessner	Lampe	LeVota	Lowe 44	Talboy
Vogt	Whorton	Witte	Zimmerman	

PRESENT: 001

Darrough

ABSENT WITH LEAVE: 022

Avery	Bland	Brown 50	Cooper 120	Cooper 155
Corcoran	Harris 23	Haywood	Hubbard	Hunter
Johnson	Low 39	May	Meadows	Pollock
Rucker	Spreng	Walton	Wasson	Wildberger
Wright-Jones	Young			

VACANCIES: 002

COMMITTEE REPORTS

Committee on Fiscal Review, Chairman Guest reporting:

Mr. Speaker: Your Committee on Fiscal Review, to which was referred **HCS#2 SS SCS SB 718** (Fiscal Note), begs leave to report it has examined the same and recommends that it **Do Pass**.

Mr. Speaker: Your Committee on Fiscal Review, to which was referred **HCS SS SCS SB 778** (Fiscal Note), begs leave to report it has examined the same and recommends that it **Do Pass**.

Special Committee on Immigration, Chairman Nolte reporting:

Mr. Speaker: Your Special Committee on Immigration, to which was returned **HCS SS SCS SBs 858, 750, 751, 927, 1186, 1255, 1268 & 1269**, begs leave to report it has examined the same and recommends that the **House Committee Substitute No. 2 Do Pass**, and pursuant to Rule 25(21)(f) be referred to the Committee on Rules.

THIRD READING OF SENATE BILLS

HCS#2 SB 976, relating to judicial personnel and procedures, was taken up by Representative Stevenson.

Representative Stevenson offered **House Amendment No. 1**.

House Amendment No. 1

AMEND House Committee Substitute No. 2 for Senate Bill 976, Page 56, Section 217.831, Line 20, by inserting after all of said line, the following:

"233.155. 1. Whenever the inhabitants of any special road district already formed under sections 233.010 to 233.165 shall desire to extend the boundaries of such district to take in territory not included in the original district, and shall present a petition to the county commission of the county in which such district is located, or if the proposed district is to include portions of more than one county, then to the county commissions of each of such counties, signed by not less than thirty-five voters in the old district and not less than fifty percent of the voters in the territory proposed to be taken into said district, asking the county commission or commissions of such county or counties to submit the proposition of the proposed extension of such road district to a vote of the people of such proposed district for their adoption or rejection, the county commission of such county, or if the proposed district shall include parts of more than one county, the county commissions of all such counties, shall each make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district.

2. The question shall be submitted in substantially the following form:

Shall the special road district be extended?

3. If the territory of more than one county be included in said special road district, the county commission of each county in said district shall, as soon as the returns are in from said election, cause a certificate to be made out stating the number of votes cast for and against said proposition in said county, and cause such certificate to be filed with the county clerk of the county commission of every other county which shall form a part of said special road district. If it shall appear from the returns of said county and from said certificate that a majority of the votes cast upon the proposition in the whole proposed district be in favor of the extension of said road district, the county commission or county commissions in said proposed district shall declare the result of the vote thereon in said proposed district by an order of record, and shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election.

4. If any territory added to any such original district be in any county outside of the county of such original district, each county outside of such original district may appoint one road commissioner to act with the commissioners appointed in the county of the original district. Such commissioners so appointed outside of the county of the original district shall serve for a term of three years from the date of such appointment, and until their successors shall be appointed and qualified. Such commissioners shall be voters of such added territory in such county of their appointment. Except as herein provided, such commissioners shall be governed by sections 233.010 to 233.165. No change shall be made in the number of commissioners appointed by the county of the original district or in the manner of their appointment. **In any special road district located in two counties with an additional fourth commissioner appointed by the county outside of the original district as provided in this subsection, a fifth commissioner may**

be appointed by the same county that appointed the fourth commissioner. Except as herein provided, a fifth commissioner shall be governed by sections 233.010 to 233.165, shall serve for a term of three years from the date of the appointment and until the fifth commissioner's successor shall be appointed and qualified, and shall be a voter of the county of appointment.

5. If a majority of the votes of the proposed district, as extended, be cast in favor of such extension, then the territory of such district, as extended, shall be governed by sections 233.010 to 233.165. But if such extension proposition shall not receive a majority of the votes of said district, as extended, then said special road district shall remain as it was before said petition was filed. Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than seventeen miles square."; and

Further amend said bill, Page 56, Section 267.165, Lines 1-9, by deleting all of said lines from the bill; and

Further amend said bill, Pages 110-111, Section 452.305, Lines 1-23, by deleting all of said lines from the bill; and

Further amend said bill, Pages 111-114, Section 452.310, Lines 1-106, by deleting all of said lines from the bill; and

Further amend said bill, Page 176, Section 478.387, Line 3, by deleting the word "six" and inserting in lieu thereof the word "four"; and

Further amend said bill, Page 176, Section 478.387, Lines 4-6, by deleting all of said lines and inserting in lieu thereof the following:

"Such reduction shall be the first four vacancies until the number of circuit judges is reduced by four."; and

Further amend said bill, Page 176, Section 478.437, Line 5, by deleting the word "two" and inserting in lieu thereof the word "one"; and

Further amend said bill, Page 176, Section 478.437, Line 5, by deleting the word "judges" and inserting in lieu thereof the word "judge"; and

Further amend said bill, Page 176, Section 478.437, Line 6, by inserting after all of said line, the following:

"Such additional associate circuit court judge shall sit in the county of Lincoln."; and

Further amend said bill, Page 178, Section 478.750, Lines 5-6, by deleting all of said lines and inserting in lieu thereof, the following:

"one circuit judge. Such reduction shall be in division 2 and shall take effect upon the vacancy or completion of the current term of such circuit judge occurring on or after the effective date of this section."; and

Further amend said bill, Page 178, Section 478.755, Line 3, by inserting after all of said line, the following:

"Such additional associate circuit court judge shall sit in the county of Lawrence."; and

Further amend said bill, Page 178, Section 478.760, Line 3, by inserting after all of said line, the following:

"Such additional associate circuit court judge shall sit in the county of Newton."; and

Further amend said bill, Page 187, Section 514.040, Line 30, by inserting after all of said line, the following:

"516.190. 1. Whenever a cause of action has been fully barred by the laws of the state, territory or country in which it originated, said bar shall be a complete defense to any action thereon, brought in any of the courts of this state.

2. Notwithstanding any other provisions of law, and except for any judgment, order, or decree awarding child support or maintenance which mandates the making of payments over a period of time, whenever a judgment has been fully barred by the laws of the state, territory, or country in which it originated, such bar shall be a complete defense to any action to enforce or revive a judgment registered thereon in this state pursuant to section 511.760, RSMo, or any other statute, or to any action to enforce or revive any judgment obtained pursuant to an action to enforce that original judgment, and no execution, order, or process shall issue thereon, nor shall any suit be brought, had, or maintained thereon for any purpose whatsoever. Such bar shall be a complete defense to the enforcement of any lien resulting from any such judgment and shall cause said lien to expire and not be subject to revival."; and

Further amend said bill, Page 196, Section 575.070, Line 13, by inserting after all of said line, the following:

"578.026. 1. A person performing a lawful seizure of any dog that is the subject of a violation of section 578.025, whether under the authority of a warrant or not, shall:

(1) Be given a disposition hearing within thirty days of the filing of the request for the purpose of granting immediate disposition of the dogs impounded;

(2) Place impounded dogs in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the dog shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose;

(3) Humanely kill any dog impounded if it is determined by a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose;

(4) Not be liable for any necessary damage to property if the dog has been lawfully seized.

2. The owner or custodian or any person claiming an interest in any dog that has been impounded because of being the subject of a violation of section 578.025 may prevent disposition of the dog by posting bond or security in an amount sufficient to provide for the dog's care and keeping for at least thirty days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this subsection, the authority having custody of the animal may humanely dispose of the dog at the end of the time for which expenses are covered by the bond or security, unless there is a court order prohibiting such disposition. Such order shall provide for a bond or other security in the amount necessary to protect the authority having custody of the dog from any cost of the care, keeping or disposal of the dog. The authority taking custody of a dog shall give notice of the provisions of this section by posting a copy of this section at the place where the dog was taken into custody or by delivering it to a person residing on the property.

3. The owner or custodian of any dog humanely killed pursuant to this section shall not be entitled to recover any damages related to, nor the actual value of, the dog if the dog was found by a licensed veterinarian to be diseased or disabled, or if the owner or custodian failed to post bond or security for the care, keeping and disposition of the dog after being notified of impoundment."; and

Further amend said bill, Page 206, Section 640.013, Line 9, by inserting after all of said line, the following:

"643.151. 1. It is unlawful for any person to cause or permit any air pollution by emission of any air contaminant from any air contaminant source located in Missouri, in violation of sections 643.010 to 643.190, or any rule promulgated by the commission.

2. No person who knows or should know of the existence of such rules may cause or permit any air pollution by emission of any air contaminant source located outside Missouri, and which emissions enter Missouri in excess of the emission control regulations applicable to the portion of Missouri where the air contaminant enters the state.

3. In the event the commission determines that any provision of sections 643.010 to 643.190, or the rules promulgated hereunder, permits issued, or any final order or determination made by the commission or the director is being violated, the commission may cause to have instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violation or for the assessment of a penalty not to exceed ten thousand dollars for each violation per day for each day, or part thereof, the violation continues to occur, or both, as the court may deem proper. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed under section 643.085. The commission may request the attorney general or other counsel to bring such action in the name of the people of the state of Missouri. Process may be served in any manner provided by chapter 506, RSMo, including but not limited to sections 506.510 and 506.520, RSMo. Suit may be brought in any county where the defendant's principal place of business is located or where the air contaminant source is located or where the air contaminants enter the state of Missouri. Any offer of settlement to resolve a civil penalty under this section shall be

in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department under authority of this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

4. Any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director determines to be in persistent violation of the provisions of this section or any odor rule promulgated by the department shall forfeit any permits issued by the department under sections 640.700 to 640.755, RSMo, this chapter, or chapter 644, RSMo, until such time that the concentrated animal feeding operation or recycling company that converts animal parts into petroleum successfully reapplies for a new permit. For the purposes of this subsection, the term "persistent violation" shall mean any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that has been found by the commission or the director to have violated the provisions of this section at least six times during any twelve-month period or at least twelve times during any thirty-six month period.

5. During any thirty-six month period, any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or director has found to have violated the provisions of this section on more than one occasion shall be subject to a surcharge in addition to the civil penalties assessed under subsection 3 of this section. The surcharge shall be an amount equal to the sum of the penalty assessed under subsection 3 of this section for the current citation plus all the fines assessed against the violator during the thirty-six month period prior to the date the citation was issued.

6. The proceeds of any surcharge assessed under subsection 5 of this section shall be deposited into the "Air Pollution Enforcement Fund", which is hereby established and shall be administered by the department. One half of all moneys in the fund shall be utilized exclusively to enforce the provisions of this section and one half of all moneys in the fund shall be transferred at least annually to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo.

7. Notwithstanding the provisions of section 33.080, RSMo, moneys in the air pollution enforcement fund shall not revert to general revenue. The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to general revenue.

8. Any member of the commission or employee thereof who is convicted of willful disclosure or conspiracy to disclose confidential information to any person other than one entitled to the information under sections 643.010 to 643.190 is guilty of a class A misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars.

[5.] **9. No liability shall be imposed upon persons violating the provisions of sections 643.010 to 643.190 or any rule hereunder due to any violation caused by an act of God, war, strike, riot or other catastrophe.**

644.076. 1. It is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission. In the event the commission or the director determines that any provision of sections 644.006 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits issued by, or any final abatement order, other order, or determination made by the commission or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other provision which this state is required to enforce pursuant to any federal water pollution control act, is being, was, or is in imminent danger of being violated, the commission or director may cause to have instituted a civil action in any court of competent jurisdiction for the injunctive relief to prevent any such violation or further violation or for the assessment of a penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 644.079. The commission, the chair of a watershed district's board of trustees created under section 249.1150, RSMo, or the director may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit may be brought in any county where the defendant's principal place of business is located or where the water contaminant or point source is located or was located at the time the violation occurred. Any offer of settlement to resolve a civil penalty pursuant to this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department pursuant to this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director determines to be in persistent violation of the provisions of this section shall forfeit any permits issued by the department under sections 640.700 to 640.755, RSMo, chapter 643, RSMo, or chapter 644, until such time the concentrated animal feeding operation or recycling company that converts animal parts into petroleum successfully reapplies for a new permit. For the purposes of this subsection, the term "persistent violation" shall mean any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or the director has found to have violated the provisions of this section at least six times during any twelve-month period or at least twelve times during any thirty-six month period.

3. During any thirty-six month period, any concentrated animal feeding operation or recycling company that converts animal parts into petroleum that the commission or director has found to have violated the provisions of this section on more than one occasion shall be subject to a surcharge in addition to the civil penalties assessed under subsection 1 of this section. The surcharge shall be an amount equal to the sum of the penalty assessed under subsection 1 of this section for the current citation plus all the fines assessed against the violator during the thirty-six month period prior to the date the citation was issued.

4. The proceeds of any surcharge assessed under subsection 3 of this section shall be deposited into the "Water Pollution Enforcement Fund", which is hereby established and shall be administered by the department. One half of all moneys in the fund shall be utilized exclusively to enforce the provisions of this section, and one half of all the moneys in the fund shall be transferred at least annually to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo.

5. Notwithstanding the provisions of section 33.080, RSMo, moneys in the water pollution enforcement fund shall not revert to general revenue. The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to general revenue.

6. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to sections 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months, or by both.

[3.] 7. Any person who willfully or negligently commits any violation set forth pursuant to subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions for violation of the same provision of this section by any person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

[4.] 8. The liabilities which shall be imposed pursuant to any provision of sections 644.006 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard, rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation caused by an act of God, war, strike, riot, or other catastrophe."; and

Further amend said bill, Page 210, Section 6, Lines 4-8, by deleting all of said lines and inserting in lieu thereof the following:

"(2) "Health carrier", the same meaning as such term is defined in section 376.1350, RSMo; except when such health care services are provided, delivered, arranged for, paid for, or reimbursed by the MO HealthNet division within the department of social services or the department of mental health;

(3) "Pharmacy benefit manager" or "PBM", a person or entity other than a pharmacy or pharmacist acting as an administrator in connection with pharmacy benefits; except when such pharmacy services are provided, delivered, arranged for, paid for, or reimbursed by the MO HealthNet division within the department of social services or the department of mental health;"; and

Further amend said bill, Page 213, Section 8, Line 23, by inserting after all of said line, the following:

"Section 9. Notwithstanding any other provision of law, any electrical corporation as defined by subdivision 15 of section 386.020, RSMo, which, by January 20, 2009, achieves an amount of eligible renewable energy technology nameplate capacity equal to or greater than fifteen percent of such corporation's total owned

fossil-fired generating capacity, shall be exempt thereafter from a requirement to pay any subsidy, fee, or rebate to its customers that install their own solar electric energy system and shall be exempt from meeting any non-federal mandated renewable energy standard requirements. Any disputes or denial of exemptions under this section shall be reviewable by the circuit court of Cole County as prescribed by law."; and

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

Representative Burnett offered **House Amendment No. 1 to House Amendment No. 1.**

*House Amendment No. 1
to
House Amendment No. 1*

AMEND House Amendment No. 1 to House Committee Substitute No. 2 for Senate Bill No. 976, Page 58, Line 1, by inserting after all of said line the following:

'Further amend said bill, Sections 290.505 and 290.531, Pages 57 through 58, by removing all of said sections from the bill"; and '; and

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

On motion of Representative Burnett, **House Amendment No. 1 to House Amendment No. 1** was adopted.

Representative Self moved the previous question.

Which motion was adopted by the following vote:

AYES: 085

Baker 123	Bivins	Brandom	Brown 30	Bruns
Cooper 155	Cox	Cunningham 145	Cunningham 86	Davis
Day	Deeken	Denison	Dethrow	Dixon
Dusenberg	Emery	Ervin	Faith	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Guest	Hobbs	Ice	Jones 89	Jones 117
Kasten	Kelly	Kingery	Kraus	Lembke
Lipke	Loehner	Marsh	May	McGhee
Moore	Munzlinger	Muschany	Nance	Nieves
Parkinson	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 7	Richard	Robb	Ruestman
Ruzicka	Sander	Sater	Schaaf	Schad
Schamhorst	Schlottach	Schneider	Schoeller	Self
Silvey	Smith 14	Smith 150	Stevenson	St. Onge
Stream	Sutherland	Thomson	Threlkeld	Tilley
Wallace	Wasson	Wells	Weter	Wilson 119
Wilson 130	Wood	Wright 159	Yates	Mr Speaker

NOES: 058

Aull	Baker 25	Bringer	Brown 50	Burnett
Casey	Chappelle-Nadal	Curls	Darrough	Daus
Donnelly	El-Amin	Fallert	Frame	George
Grill	Harris 110	Haywood	Hodges	Holsman
Hoskins	Hughes	Komo	Kratky	Kuessner

Lampe	LeVota	Liese	Low 39	McClanahan
Meiners	Nasheed	Norr	Oxford	Quinn 9
Roorda	Rucker	Salva	Scavuzzo	Schieffer
Schoemehl	Shively	Skaggs	Storch	Swinger
Talboy	Todd	Villa	Vogt	Walsh
Whorton	Wildberger	Witte	Wright-Jones	Yaeger
Young	Zimmerman	Zweifel		

PRESENT: 000

ABSENT WITH LEAVE: 018

Avery	Bland	Cooper 120	Corcoran	Dougherty
Harris 23	Hubbard	Hunter	Johnson	Lowe 44
Meadows	Nolte	Onder	Page	Robinson
Spreng	Viebrock	Walton		

VACANCIES: 002

On motion of Representative Stevenson, **House Amendment No. 1, as amended**, was adopted.

Representative Richard offered **House Amendment No. 2**.

House Amendment No. 2

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Page 213, Section 8, Line 23, by inserting after all of said line, the following:

"Section 9. 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Joplin Regional Center, located in Jasper County, Joplin Missouri. The property to be conveyed is more particularly described as follows:

A tract of land lying in the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 31, Township 28, Range 32, Jasper County, Missouri, and described by the following metes and bounds: beginning at the Southwest corner of the above described Southwest Quarter (1/4) of the Southeast (1/4) of Section 31; thence North along the West line thereof 670.0 Feet; thence East with an angle of 90 degrees with the said West line 450.0 Feet to a point; thence South parallel to said West line 140.0 Feet; thence South 56 degrees East for a distance of 415.0 Feet to a point; thence South 290.0 Feet to the South line of said Southwest Quarter (1/4) of the Southeast Quarter (1/4); thence West along said South line 800.0 Feet to point of beginning, containing ten and two-tenths (10.2) acres, more or less, except a strip of land fifty feet wide East and West off of the West side thereof, the same being reserved for road purposes.

2. The conveyance of the property described in this section shall not occur until the Joplin Regional Center is relocated from the property described in this section to different property.

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve the form of the instrument of conveyance."; and

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

Representative Silvey offered **House Amendment No. 1 to House Amendment No. 2**.

House Amendment No. 1
to
House Amendment No. 2

AMEND House Amendment No. 2 to House Committee Substitute No. 2 for Senate Bill No. 976, Page 1, Line 5, by inserting after the word "Missouri" the following "**for no less than three hundred thousand dollars**"; and

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

On motion of Representative Silvey, **House Amendment No. 1 to House Amendment No. 2** was adopted.

On motion of Representative Richard, **House Amendment No. 2, as amended**, was adopted.

Representative Emery offered **House Amendment No. 3**.

House Amendment No. 3

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Section 566.226, Page 195, Line 15, by inserting after all of said section the following:

"573.525. 1. It is the purpose of sections 573.525 to 573.537 to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of this state, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the state. The provisions of sections 573.525 to 573.537 have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of sections 573.525 to 573.537 to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of sections 573.525 to 573.537 to condone or legitimize the distribution of obscene material.

2. The general assembly finds that:

(1) Sexually oriented businesses, as a category of commercial enterprises, are associated with a wide variety of adverse secondary effects, including but not limited to personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation;

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area;

(3) Each of the foregoing negative secondary effects constitutes a harm which the state has a substantial interest in preventing and/or abating. Such substantial government interest in preventing secondary effects, which is the state's rationale for sections 573.525 to 573.537, exists independent of any comparative analysis between sexually oriented and nonsexually oriented businesses. Additionally, the state's interest in regulating sexually oriented businesses extends to preventing future secondary effects of current or future sexually oriented businesses that may locate in the state.

573.528. For purposes of sections 573.525 to 573.537, the following terms shall mean:

(1) "Adult bookstore" or "adult video store", a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A "principal business activity" exists where the commercial establishment:

(a) Has a substantial portion of its displayed merchandise which consists of such items; or

(b) Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or

(c) Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or

(d) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of such items; or

(e) Maintains a substantial section of its interior business space for the sale or rental of such items; or

(f) Maintains an adult arcade. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas;

(2) "Adult cabaret", a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude;

(3) "Adult motion picture theater", a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration;

(4) "Characterized by", describing the essential character or dominant theme of an item. As applied in sections 573.525 to 573.537, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America;

(5) "Employ", "employee" or "employment", describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises;

(6) "Establish" or "establishment", any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business;

(7) "Influential interest", any of the following:

(a) The actual power to operate the sexually oriented business or control the operation, management, or policies of the sexually oriented business or legal entity which operates the sexually oriented business;

(b) Ownership of a financial interest of thirty percent or more of a business or of any class of voting securities of a business; or

(c) Holding an office, such as president, vice president, secretary, treasurer, managing member, or managing director, in a legal entity which operates the sexually oriented business;

(8) "Nudity" or "state of nudity", the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola;

(9) "Operator", any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business;

(10) "Premises", the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license;

(11) "Regularly", the consistent and repeated doing of the act so described;

(12) "Semi-nude" or "state of semi-nudity", the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include

any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part;

(13) "Semi-nude model studio", a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class;

(14) "Sexual encounter center", a business or commercial enterprise that, as one of its principal purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude;

(15) "Sexually oriented business", an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, or a sexual encounter center;

(16) "Specified anatomical areas":

(a) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered;

(17) "Specified criminal act", any of the following specified offenses for which less than eight years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:

(a) Rape and sexual assault offenses;

(b) Sexual offenses involving minors;

(c) Offenses involving prostitution;

(d) Obscenity offenses;

(e) Offenses involving money laundering;

(f) Offenses involving tax evasion;

(g) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in paragraphs (a) to (f) of this subdivision; or

(h) Any offense committed in another jurisdiction which if committed in this state would have constituted an offense listed in paragraphs (a) to (g) of this subdivision;

(18) "Specified sexual activity", any of the following:

(a) Intercourse, oral copulation, masturbation, or sodomy; or

(b) Excretory functions as a part of or in connection with any of the activities describe in paragraph (a) of this subdivision;

(19) "Substantial", at least thirty percent of the item or items so modified;

(20) "Viewing room", the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette, digital video disc, or other video reproduction.

573.531. 1. No person shall establish a sexually oriented business within one thousand feet of any preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business. This subsection shall not apply to any sexually oriented business lawfully established prior to the effective date of sections 573.525 to 573.537. For purposes of this subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the closest portion of the parcel containing the sexually oriented business to the closest portion of the parcel containing the preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business.

2. No person shall establish a sexually oriented business if a person with an influential interest in the sexually oriented business has been convicted of or pled guilty or nolo contendere to a specified criminal act.

3. No person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.

4. No employee shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain on a fixed stage at least six feet from all patrons and at least eighteen inches from the floor in a room of at least six hundred square feet.

5. No employee who appears in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

6. A sexually oriented business which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;

(2) An operator's station shall not exceed thirty-two square feet of floor area;

(3) If the premises has two or more operator's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations;

(4) The view required under this subsection shall be by direct line of sight from the operator's station;

(5) It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and

(6) It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

7. Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of sections 573.525 to 573.537 shall be given one hundred eighty days after the effective date of sections 573.525 to 573.537 to comply with the stage and building requirements of sections 573.525 to 573.537. During such one-hundred-eighty-day period, any employee who appears within view of any patron in a semi-nude condition shall remain, while semi-nude, at least six feet from all patrons.

8. No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day.

9. No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

10. No person shall knowingly allow a person under the age of eighteen years on the premises of a sexually oriented business.

573.534. Sections 573.525 to 573.537 do not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of sections 573.525 to 573.537. Notwithstanding any other provision of law to the contrary, for purposes of sections 573.525 to 573.537, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of sections 573.525 to 573.537 only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

573.537. 1. Any person, business, or entity violating or refusing to comply with any provision of sections 573.525 to 573.537 shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by imposition of a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed ninety days, or both. Each day that a violation is permitted to exist or occur, and each separate occurrence shall constitute a separate offense.

2. Any premises, building, dwelling, or other structure in which a sexually oriented business is repeatedly operated or maintained in violation of sections 573.525 to 573.537 shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the state in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

3. Notwithstanding the provisions of this section, the state may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of sections 573.525 to 573.537.

573.540. Nothing in sections 573.525 to 573.537 shall preempt or prevent any political subdivision in this state from maintaining, enacting, or enforcing any local ordinance, rule, regulation, resolution, or similar law concerning the regulation of sexually oriented businesses or similar adult oriented businesses.”; and

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

Representative Self moved the previous question.

Which motion was adopted by the following vote:

AYES: 088

Bivins	Brandom	Brown 30	Bruns	Cooper 120
Cooper 155	Cox	Cunningham 145	Cunningham 86	Davis
Day	Deeken	Denison	Dethrow	Dixon
Dusenberg	Emery	Ervin	Faith	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Guest	Hunter	Icet	Jones 89	Jones 117
Kasten	Kelly	Kingery	Kraus	Lembke
Lipke	Loehner	Marsh	May	McGhee
Moore	Munzlinger	Muschany	Nance	Nieves
Nolte	Onder	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Richard
Robb	Ruestman	Ruzicka	Sander	Sater
Schaaf	Schad	Scharnhorst	Schlottach	Schneider
Schoeller	Self	Silvey	Smith 14	Smith 150
Stevenson	St. Onge	Stream	Sutherland	Thomson
Threlkeld	Tilley	Viebrock	Wallace	Wasson
Wells	Weter	Wilson 119	Wilson 130	Wood
Wright 159	Yates	Mr Speaker		

NOES: 059

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Chappelle-Nadal	Curls	Darrough	Daus
Donnelly	El-Amin	Fallert	Frame	George
Grill	Harris 23	Harris 110	Haywood	Hodges
Holsman	Hoskins	Hughes	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low 39
Lowe 44	McClanahan	Meiners	Norr	Oxford
Page	Quinn 9	Roorda	Rucker	Salva
Scavuzzo	Schieffer	Schoemehl	Shively	Skaggs
Storch	Swinger	Talboy	Todd	Villa
Vogt	Walsh	Whorton	Witte	Wright-Jones
Yaeger	Young	Zimmerman	Zweifel	

PRESENT: 000

ABSENT WITH LEAVE: 014

Avery	Baker 123	Casey	Corcoran	Dougherty
Hobbs	Hubbard	Johnson	Meadows	Nasheed
Robinson	Spreng	Walton	Wildberger	

VACANCIES: 002

On motion of Representative Emery, **House Amendment No. 3** was adopted by the following vote:

AYES: 136

Aull	Avery	Baker 25	Bivins	Bland
Brandom	Bringer	Brown 30	Brown 50	Bruns
Chappelle-Nadal	Cooper 120	Cooper 155	Cox	Cunningham 145
Cunningham 86	Darrough	Davis	Day	Deeken
Denison	Dethrow	Dixon	Donnelly	Dougherty
Dusenberg	Emery	Ervin	Faith	Fallert
Fares	Fisher	Flook	Frame	Franz
Funderburk	George	Grill	Grisamore	Guest
Harris 23	Harris 110	Haywood	Hodges	Holsman
Hoskins	Icey	Jones 89	Jones 117	Kasten
Kelly	Kingery	Komo	Kratky	Kraus
Kuessner	Lampe	Lembke	LeVota	Liese
Lipke	Loehner	Marsh	May	McClanahan
McGhee	Meiners	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Norr	Onder
Oxford	Page	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Quinn 9
Richard	Robb	Roorda	Ruestman	Ruzicka
Salva	Sander	Sater	Scavuzzo	Schaaf
Schad	Scharnhorst	Schieffer	Schlottach	Schneider
Schoeller	Schoemehl	Self	Shively	Silvey
Skaggs	Smith 14	Smith 150	Stevenson	St. Onge
Storch	Stream	Sutherland	Swinger	Thomson
Threlkeld	Tilley	Todd	Viebrock	Wallace
Walsh	Wasson	Wells	Weter	Whorton
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Wright-Jones	Yaeger	Yates	Zimmerman	Zweifel
Mr Speaker				

NOES: 008

Daus	Hughes	Low 39	Lowe 44	Talboy
Villa	Vogt	Young		

PRESENT: 000

ABSENT WITH LEAVE: 017

Baker 123	Burnett	Casey	Corcoran	Curls
El-Amin	Hobbs	Hubbard	Hunter	Johnson
Meadows	Nasheed	Robinson	Rucker	Spreng
Walton	Wildberger			

VACANCIES: 002

Representative Pratt offered **House Amendment No. 4.**

House Amendment No. 4

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Page 194, Section 559.115, Line 69, by inserting after all of said line, the following:

"565.005. 1. At a reasonable time before the commencement of the first stage of any trial of murder in the first degree, **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve**, at which the death penalty is not waived, the state and defendant, upon request and without order of the court, shall serve counsel of the opposing party with:

(1) A list of all aggravating or mitigating circumstances as provided in [subsection 1 of] section 565.032 **for murder in the first degree or section 565.415 for forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve**, which the party intends to prove at the second stage of the trial;

(2) The names of all persons whom the party intends to call as witnesses at the second stage of the trial;

(3) Copies or locations and custodian of any books, papers, documents, photographs or objects which the party intends to offer at the second stage of the trial. If copies of such materials are not supplied to opposing counsel, the party shall cause them to be made available for inspection and copying without order of the court.

2. The disclosures required in subsection 1 of this section are supplemental to those required by rules of the supreme court relating to a continuing duty to disclose information, the use of matters disclosed, matters not subject to disclosure, protective orders, and sanctions for failure to comply with an applicable discovery rule or order, all of which shall also apply to any disclosure required by this section.

565.006. 1. At any time before the commencement of the trial of a homicide [offense], **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve**, the defendant may, with the assent of the court, waive a trial by jury and agree to submit all issues in the case to the court, whose finding shall have the force and effect of a verdict of a jury. Such a waiver must include a waiver of a trial by jury of all issues and offenses charged in the case, including the punishment to be assessed and imposed if the defendant is found guilty.

2. No defendant who pleads guilty to a homicide [offense], **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve**, or who is found guilty of a homicide [offense], **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve** after trial to the court without a jury shall be permitted a trial by jury on the issue of the punishment to be imposed, except by agreement of the state.

3. If a defendant is found guilty of murder in the first degree, **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve** after a jury trial in which the state has not waived the death penalty, the defendant may not waive a jury trial of the issue of the punishment to be imposed, except by agreement with the state and the court.

4. Any waiver of a jury trial and agreement permitted by this section shall be entered in the court record.

565.035. 1. Whenever the death penalty is imposed in any case, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the supreme court of Missouri. The circuit clerk of the court trying the case, within ten days after receiving the transcript, shall transmit the entire record and transcript to the supreme court together with a notice prepared by the circuit clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report by the judge shall be in the form of a standard questionnaire prepared and supplied by the supreme court of Missouri.

2. The supreme court of Missouri shall consider the punishment as well as any errors enumerated by way of appeal.

3. With regard to the sentence, the supreme court shall determine:

(1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(2) Whether the evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection 2 of section 565.032 **or subsection 2 of section 565.435** and any other circumstance found;

(3) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime, the strength of the evidence and the defendant.

4. Both the defendant and the state shall have the right to submit briefs within the time provided by the supreme court, and to present oral argument to the supreme court.

5. The supreme court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the supreme court, with regard to review of death sentences, shall be authorized to:

- (1) Affirm the sentence of death; or
- (2) Set the sentence aside and resentence the defendant to life imprisonment without eligibility for probation, parole, or release except by act of the governor; or
- (3) Set the sentence aside and remand the case for retrial of the punishment hearing. A new jury shall be selected or a jury may be waived by agreement of both parties and then the punishment trial shall proceed in accordance with this chapter, with the exception that the evidence of the guilty verdict shall be admissible in the new trial together with the official transcript of any testimony and evidence properly admitted in each stage of the original trial where relevant to determine punishment.

6. There shall be an assistant to the supreme court, who shall be an attorney appointed by the supreme court and who shall serve at the pleasure of the court. The court shall accumulate the records of all cases in which the sentence of death or life imprisonment without probation or parole was imposed after May 26, 1977, or such earlier date as the court may deem appropriate. The assistant shall provide the court with whatever extracted information the court desires with respect thereto, including but not limited to a synopsis or brief of the facts in the record concerning the crime and the defendant. The court shall be authorized to employ an appropriate staff, within the limits of appropriations made for that purpose, and such methods to compile such data as are deemed by the supreme court to be appropriate and relevant to the statutory questions concerning the validity of the sentence. The office of the assistant to the supreme court shall be attached to the office of the clerk of the supreme court for administrative purposes.

7. In addition to the mandatory sentence review, there shall be a right of direct appeal of the conviction to the supreme court of Missouri. This right of appeal may be waived by the defendant. If an appeal is taken, the appeal and the sentence review shall be consolidated for consideration. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence.

565.040. 1. In the event that the death penalty provided in this chapter is held to be unconstitutional, any person convicted of murder in the first degree, **forcible rape of a child under the age of twelve, or forcible sodomy of a child under the age of twelve** shall be sentenced by the court to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for resentencing or retrial of the punishment pursuant to subsection 5 of section 565.036.

2. In the event that any death sentence imposed pursuant to this chapter is held to be unconstitutional, the trial court which previously sentenced the defendant to death shall cause the defendant to be brought before the court and shall sentence the defendant to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be inapplicable, unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for retrial of the punishment pursuant to subsection 5 of section 565.035."; and

Further amend said bill, Page 195, Section 565.084, Line 20, by inserting after all of said line, the following:

"565.425. 1. Except as provided in subsections 2, 3, and 4 of this section, no forcible rape of a child under the age of twelve offense may be tried together with any offense other than forcible rape of a child under the age of twelve and no forcible sodomy of a child under the age of twelve offense may be tried together with any offense other than forcible sodomy of a child under the age of twelve. In the event of a joinder of forcible rape of a child under the age of twelve offenses or forcible sodomy of a child under the age of twelve offenses, all offenses charged which are supported by the evidence in the case shall, when requested by one of the parties or the court, be submitted to the jury or, in a jury-waived trial, considered by the judge.

2. A count charging any offense of forcible rape of a child under the age of twelve of a particular individual may be joined in an indictment or information and tried with one or more counts charging alternatively any other forcible rape of a child under the age of twelve or offense other than forcible rape of a child under the age of twelve committed against that individual. A count charging any offense of forcible sodomy of a child under the age of twelve of a particular individual may be joined in an indictment or information and tried with one or more counts charging alternatively any other forcible sodomy of a child under the age of twelve or offense other than forcible sodomy of a child under the age of twelve committed against that individual. The state shall not be required to make an election as to the alternative count on which it will proceed. This subsection in no way limits the right to try in the conjunctive, where they are properly joined under subsection 1 of this section, either:

(1) Separate offenses other than forcible rape of a child under the age of twelve or separate offenses of forcible rape of a child under the age of twelve committed against different individuals;

(2) Separate offenses other than forcible sodomy of a child under the age of twelve or separate offenses of forcible sodomy of a child under the age of twelve committed against different individuals.

3. (1) When a defendant has been charged and proven before trial to be a prior offender pursuant to chapter 558, RSMo, so that the judge shall assess punishment and not a jury for an offense other than forcible rape of a child under the age of twelve, that offense may be tried and submitted to the trier together with any forcible rape of a child under the age of twelve charge with which it is lawfully joined. In such case the judge shall assess punishment on any offense joined with a forcible rape of a child under the age of twelve charge according to law and, when the trier is a jury, it shall be instructed upon punishment on the charge of forcible rape of a child under the age of twelve in accordance with section 565.430.

(2) When a defendant has been charged and proven before trial to be a prior offender pursuant to chapter 558, RSMo, so that the judge shall assess punishment and not a jury for an offense other than forcible sodomy of a child under the age of twelve, that offense may be tried and submitted to the trier together with any forcible sodomy of a child under the age of twelve charge with which it is lawfully joined. In such case the judge shall assess punishment on any offense joined with a forcible sodomy of a child under the age of twelve charge according to law and, when the trier is a jury, it shall be instructed upon punishment on the charge of forcible sodomy of a child under the age of twelve in accordance with section 565.430.

4. When the state waives the death penalty for a forcible rape of a child under the age of twelve offense or forcible sodomy of a child under the age of twelve offense, that offense may be tried and submitted to the trier together with any other charge with which it is lawfully joined.

565.430. 1. Where forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve is charged but not submitted or where the state waives the death penalty, the submission to the trier and all subsequent proceedings in the case shall proceed as in all other criminal cases with a single stage trial in which guilt and punishment are submitted together.

2. Where forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage, the trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than forcible rape of a child under the age of twelve in a count together with a count of forcible rape of a child under the age of twelve, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo. If an offense is charged other than forcible sodomy of a child under the age of twelve in a count together with a count of forcible sodomy of a child under the age of twelve, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo.

3. If the trier at the first stage of a trial where the death penalty was not waived finds the defendant guilty of forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and mitigation of punishment, including but not limited to evidence supporting any of the aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.435, may be presented subject to the rules of evidence at criminal trials. Such evidence may include, within the discretion of the court, evidence concerning the victim and the impact of the crime upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. If the trier is a jury, it shall be instructed on the law. The attorneys may then argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor:

(1) If the trier finds by a preponderance of the evidence that the defendant is mentally retarded; or

(2) If the trier does not find beyond a reasonable doubt at least one of the aggravating circumstances set out in subsection 2 of section 565.435; or

(3) If the trier concludes that there is evidence in mitigation of punishment, including but not limited to evidence supporting the mitigating circumstances listed in subsection 3 of section 565.435, which is sufficient to outweigh the evidence in aggravation of punishment found by the trier; or

(4) If the trier decides under all of the circumstances not to assess and declare the punishment at death. If the trier is a jury it shall be so instructed.

If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out in writing the aggravating circumstance or circumstances listed in subsection 2 of section 565.435 which it found beyond a reasonable doubt. If the trier is a jury, it shall be instructed before the case is submitted that if it is unable to decide or agree upon the punishment the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor or death. The court shall follow the same procedure as set out in this section whenever it is required to determine punishment for forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve.

4. Upon written agreement of the parties and with leave of the court, the issue of the defendant's mental retardation may be taken up by the court and decided prior to trial without prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in subsection 3 of this section.

5. As used in this section, the terms "mental retardation" or "mentally retarded" refer to a condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with continual extensive related deficits and limitations in two or more adaptive behaviors such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which conditions are manifested and documented before eighteen years of age.

6. The provisions of this section shall only govern offenses committed on or after August 28, 2008.

565.435. 1. In all cases of forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve for which the death penalty is authorized, the judge in a jury-waived trial shall consider, or he or she shall include in his or her instructions to the jury for it to consider:

(1) Whether an aggravating circumstance or circumstances enumerated in subsection 2 of this section is established by the evidence beyond a reasonable doubt; and

(2) If an aggravating circumstance or circumstances is proven beyond a reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence of life imprisonment without eligibility for probation, parole, or release except by act of the governor. In determining the issues enumerated in this subdivision and subdivision (1) of this subsection, the trier shall consider all evidence which it finds to be in aggravation or mitigation of punishment, including evidence received during the first stage of the trial and evidence supporting any of the aggravating or mitigating circumstances set out in subsections 2 and 3 of this section. If the trier is a jury, it shall not be instructed upon any specific evidence which may be in aggravation or mitigation of punishment, but shall be instructed that each juror shall consider any evidence which he or she considers to be aggravating or mitigating.

2. Aggravating circumstances for a forcible rape of a child under the age of twelve offense or forcible sodomy of a child under the age of twelve offense shall be limited to the following:

(1) The offense was committed by a person with a prior record of pleading to or being found guilty of forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve, or the offense was committed by a person who has pleaded guilty to or been found guilty of one or more serious assaultive criminal offenses;

(2) The offense was committed while the offender was engaged in the commission or attempted commission of another unlawful rape or sodomy;

(3) The offender by his act of forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person;

(4) The offender committed the offense for himself or another, for the purpose of receiving money or any other thing of monetary value from the victim of the forcible rape or forcible sodomy or another;

(5) The offender caused or directed another to commit forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve or committed forcible rape of a child under the age of twelve or forcible sodomy of a child under the age of twelve as an agent or employee of another person;

(6) The raped or sodomized individual was a witness or potential witness in any past or pending investigation or past or pending prosecution, and was raped or sodomized as a result of his or her status as a witness or potential witness;

(7) The offense was committed during the commission of a crime which is part of a pattern of criminal street gang activity as defined in section 578.421, RSMo;

(8) The offense was committed outrageously, wantonly vile, horribly, or inhumanely in that it involved torture or depravity of mind;

(9) The offense was committed by a person in, or who escaped from, the lawful custody of a peace officer or place of lawful confinement;

(10) **The offense was committed while the defendant was engaged in the perpetration or was aiding or encouraging another person to perpetrate or attempt to perpetrate a felony of any degree of homicide, burglary, robbery, kidnapping or any felony offense under chapter 195, RSMo.**

3. Mitigating circumstances shall include the following:

- (1) The defendant has no significant history of prior criminal activity;**
- (2) The offense was committed while the defendant was under the influence of extreme mental or emotional disturbance;**
- (3) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired;**
- (4) The age of the defendant at the time of the crime;**
- (5) The defendant acted under the substantial domination of another person.**

566.030. 1. A person commits the crime of forcible rape if such person has sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible rape or an attempt to commit forcible rape is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years; or

(2) The victim is a child less than twelve years of age, in which case [the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section], **the punishment shall be either death or life imprisonment without eligibility for probation, parole, or release except by act of the governor; except that, if a person has not reached his or her eighteenth birthday at the time of the commission of the crime, the punishment shall be life imprisonment without eligibility for probation, parole, or release except by an act of the governor.**

3. No person found guilty of or pleading guilty to forcible rape or an attempt to commit forcible rape shall be granted a suspended imposition of sentence or suspended execution of sentence.

566.060. 1. A person commits the crime of forcible sodomy if such person has deviate sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The victim is a child less than twelve years of age, in which case [the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section], **the punishment shall be either death or life imprisonment without eligibility for probation, parole, or release except by act of the governor; except that, if a person has not reached his or her eighteenth birthday at the time of the commission of the crime, the punishment shall be life imprisonment without eligibility for probation, parole, or release except by an act of the governor.**

3. No person found guilty of or pleading guilty to forcible sodomy or an attempt to commit forcible sodomy shall be granted a suspended imposition of sentence or suspended execution of sentence."; and

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

Representative Self moved the previous question.

Which motion was adopted by the following vote:

AYES: 087

Avery	Bivins	Brandom	Brown 30	Bruns
Cooper 155	Cox	Cunningham 145	Cunningham 86	Davis
Day	Deeken	Denison	Dethrow	Dixon
Dusenberg	Emery	Ervin	Faith	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Guest	Hobbs	Icet	Jones 89	Jones 117
Kasten	Kelly	Kingery	Kraus	Lembke
Lipke	Loehner	Marsh	May	McGhee
Moore	Munzlinger	Muschany	Nance	Nieves
Nolte	Onder	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Richard
Robb	Ruestman	Ruzicka	Sander	Sater
Schaaf	Schad	Scharnhorst	Schlottach	Schneider
Schoeller	Self	Silvey	Smith 14	Smith 150
Stevenson	St. Onge	Stream	Sutherland	Thomson
Threlkeld	Tilley	Wallace	Wasson	Wells
Weter	Wilson 119	Wilson 130	Wood	Wright 159
Yates	Mr Speaker			

NOES: 060

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Curls	Darrough
Daus	Donnelly	Dougherty	Fallert	Frame
George	Grill	Harris 23	Harris 110	Hodges
Holsman	Hoskins	Hughes	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low 39
Lowe 44	McClanahan	Meiners	Norr	Oxford
Page	Quinn 9	Roorda	Rucker	Salva
Scavuzzo	Schieffer	Schoemehl	Shively	Skaggs
Storch	Swinger	Talboy	Todd	Villa
Vogt	Walsh	Whorton	Wildberger	Witte
Wright-Jones	Yaeger	Young	Zimmerman	Zweifel

PRESENT: 000

ABSENT WITH LEAVE: 014

Baker 123	Cooper 120	Corcoran	El-Amin	Haywood
Hubbard	Hunter	Johnson	Meadows	Nasheed
Robinson	Spreng	Viebrock	Walton	

VACANCIES: 002

On motion of Representative Pratt, **House Amendment No. 4** was adopted.

Representative Ruestman offered **House Amendment No. 5.**

House Amendment No. 5

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Section 640.013, Page 206, Line 9, by inserting immediately after said line the following:

"650.052. 1. The state's DNA profiling system shall:

(1) Assist federal, state and local criminal justice and law enforcement agencies in the identification, detection or exclusion of individuals who are subjects of the investigation or prosecution of criminal offenses in which biological evidence is recovered or obtained; and

(2) If personally identifiable information is removed, support development of forensic validation studies, forensic protocols, and the establishment and maintenance of a population statistics database for federal, state, or local crime laboratories of law enforcement agencies; and

(3) Assist in the recovery or identification of human remains from mass disasters, or for other humanitarian purposes, including identification of missing persons.

2. The Missouri state highway patrol shall act as the central repository for the DNA profiling system and shall collaborate with the Federal Bureau of Investigation and other criminal justice agencies relating to the state's participation in CODIS and the National DNA Index System or in any DNA database.

3. The Missouri state highway patrol may promulgate rules and regulations to implement the provisions of sections 650.050 to 650.100 in accordance with Federal Bureau of Investigation recommendations for the form and manner of collection of blood or other scientifically accepted biological samples and other procedures for the operation of sections 650.050 to 650.100. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. The Missouri state highway patrol shall provide the necessary components for collection of the [convicted] offender's biological samples. For qualified offenders as defined by section 650.055 who are under custody and control of the department of corrections, the DNA sample collection shall be performed by the department of corrections and the division of probation and parole, or their authorized designee or contracted third party. For qualified offenders as defined by section 650.055 who are under custody and control of a county jail, the DNA sample collections shall be performed by the county jail or its authorized designee or contracted third party. For qualified offenders as defined by section 650.055 who are under the custody and control of companies contracted by the county or court to perform supervision and/or treatment of the offender, the sheriff's department of the county assigned to the offender shall perform the DNA sample collection. The specimens shall thereafter be forwarded to the Missouri state highway patrol crime laboratory. Any DNA profiling analysis or collection of DNA samples by the state or any county performed pursuant to sections 650.050 to 650.100 shall be subject to appropriations.

5. The state's participating forensic DNA laboratories shall meet quality assurance standards specified by the Missouri state highway patrol crime laboratory and the Federal Bureau of Investigation to ensure quality DNA identification records submitted to the central repository.

6. The state's participating forensic DNA laboratories may provide the system for identification purposes to criminal justice, law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court and provide expert testimony in court on DNA evidentiary issues.

7. The department of public safety shall have the authority to promulgate rules and regulations to carry out the provisions of sections 650.050 to 650.100. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

650.055. 1. Every individual, in a Missouri circuit court, who pleads guilty to, or is found guilty of a felony or any offense under chapter 566, RSMo, **or who is seventeen years of age or older and who is arrested for a felony offense under chapter 565 or 566, RSMo,** or has been determined beyond a reasonable doubt to be a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) **Upon booking at a county jail or detention facility; or**

(2) Upon entering or before release from the department of corrections reception and diagnostic centers; or

[(2)] (3) Upon entering or before release from a county jail or detention facility, state correctional facility, or any other detention facility or institution, whether operated by private, local, or state agency, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo; or

[(3)] (4) When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other jurisdiction which would be considered a qualifying offense as defined in this section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or

[(4)] (5) If such individual is under the jurisdiction of the department of corrections. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody or jurisdiction over those who have been **arrested for**, convicted of, pleaded guilty to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed is hereby made mandatory. The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA databank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of sections 650.050 to 650.100 shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA databank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) Peace officers, as defined in section 590.010, RSMo, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;

(2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;

(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their employees who need to obtain such records to perform their public duties; or

(4) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes, including but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

8. An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section, section 488.5050, RSMo, and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records."; and

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

Representative Self moved the previous question.

Which motion was adopted by the following vote:

AYES: 084

Avery	Bivins	Brandom	Brown 30	Bruns
Cooper 155	Cox	Cunningham 145	Cunningham 86	Davis
Day	Deeken	Denison	Dethrow	Dixon
Dusenberg	Emery	Ervin	Faith	Fares
Fisher	Flook	Funderburk	Grisamore	Guest
Hobbs	Icet	Jones 89	Jones 117	Kasten
Kelly	Kingery	Kraus	Lembke	Lipke
Loehner	Marsh	May	McGhee	Moore
Munzlinger	Muschany	Nance	Nieves	Nolte
Onder	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 7	Richard	Ruestman
Ruzicka	Sander	Sater	Schaaf	Schad
Scharnhorst	Schlottach	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	St. Onge	Stream
Sutherland	Thomson	Threlkeld	Tilley	Viebrock
Wasson	Wells	Weter	Wilson 119	Wilson 130
Wood	Wright 159	Yates	Mr Speaker	

NOES: 056

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Curls	Daus
Donnelly	Fallert	Frame	George	Grill
Harris 23	Harris 110	Hodges	Hoskins	Hughes
Komo	Kratky	Kuessner	Lampe	LeVota
Liese	Low 39	Lowe 44	McClanahan	Meiners
Nasheed	Norr	Oxford	Quinn 9	Roorda
Rucker	Salva	Scavuzzo	Schieffer	Schoemehl
Skaggs	Storch	Swinger	Talboy	Todd
Villa	Vogt	Walsh	Whorton	Wildberger
Witte	Wright-Jones	Yaeger	Young	Zimmerman
Zweifel				

PRESENT: 000

ABSENT WITH LEAVE: 021

Baker 123	Cooper 120	Corcoran	Darrough	Dougherty
El-Amin	Franz	Haywood	Holsman	Hubbard
Hunter	Johnson	Meadows	Page	Robb
Robinson	Schneider	Shively	Spreng	Wallace
Walton				

VACANCIES: 002

On motion of Representative Ruestman, **House Amendment No. 5** was adopted.

Representative Schaaf offered **House Amendment No. 6**.

House Amendment No. 6

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Page 16, Section 58.720, Line 87, by inserting after all of said line the following:

"67.402. 1. The governing body of **the following counties may enact nuisance abatement ordinances as provided in this section:**

(1) Any county of the first classification with more than one hundred thirty-five thousand four hundred but [less] **fewer** than one hundred thirty-five thousand five hundred inhabitants[.];

(2) Any county of the first classification with more than seventy-one thousand three hundred but [less] **fewer** than seventy-one thousand four hundred inhabitants[, and];

(3) Any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but [less] **fewer** than one hundred ninety-nine thousand two hundred inhabitants;

(4) **Any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants;**

(5) **Any county of the third classification without a township form of government and with more than sixteen thousand four hundred but fewer than sixteen thousand five hundred inhabitants.**

2. **The governing body of any county described in subsection 1 of this section** may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances, broken furniture, or overgrown or noxious weeds in residential subdivisions or districts which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.

[2.] 3. Any ordinance enacted pursuant to this section shall:

(1) Set forth those conditions which constitute a nuisance and which are detrimental to the health, safety, or welfare of the residents of the county;

(2) Provide for duties of inspectors with regard to those conditions which may be declared a nuisance, and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such property;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the nuisance is to be abated, listing a reasonable time for commencement, and may provide that such notice be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located shall be made parties;

(4) Provide that upon failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter before the county commission, giving the affected parties at least ten days' written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if evidence supports a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, the county commission shall issue

an order making specific findings of fact, based upon competent and substantial evidence, which shows the property to be a nuisance and detrimental to the health, safety, or welfare of the residents of the county and ordering the nuisance abated. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, no order shall be issued.

[3.] **4.** Any ordinance authorized by this section may provide that if the owner fails to begin abating the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the county clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the county collector's option, for the property and the certified cost shall be collected by the county collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid."; and

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

On motion of Representative Schaaf, **House Amendment No. 6** was adopted.

Representative Lembke offered **House Amendment No. 7**.

House Amendment No. 7

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Page 192, Section 537.675, Line 75, by inserting after all of said line the following:

"538.205. As used in sections 538.205 to 538.230, the following terms shall mean:

(1) "Economic damages", damages arising from pecuniary harm including, without limitation, medical damages, and those damages arising from lost wages and lost earning capacity;

(2) "Equitable share", the share of a person or entity in an obligation that is the same percentage of the total obligation as the person's or entity's allocated share of the total fault, as found by the trier of fact;

(3) "Future damages", damages that the trier of fact finds will accrue after the damages findings are made;

(4) "Health care provider", any physician, hospital, health maintenance organization, ambulatory surgical center, long-term care facility including those licensed under chapter 198, RSMo, dentist, registered or licensed practical nurse, optometrist, podiatrist, pharmacist, chiropractor, professional physical therapist, psychologist, physician-in-training, and any other person or entity that provides health care services under the authority of a license or certificate;

(5) "Health care services", any services that a health care provider renders to a patient in the ordinary course of the health care provider's profession or, if the health care provider is an institution, in the ordinary course of furthering the purposes for which the institution is organized. Professional services shall include, but are not limited to, transfer to a patient of goods or services incidental or pursuant to the practice of the health care provider's profession or in furtherance of the purposes for which an institutional health care provider is organized;

(6) "Medical damages", damages arising from reasonable expenses for necessary drugs, therapy, and medical, surgical, nursing, x-ray, dental, custodial and other health and rehabilitative services;

(7) "Noneconomic damages", damages arising from nonpecuniary harm including, without limitation, pain, suffering, mental anguish, inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life, and loss of consortium but shall not include punitive damages;

(8) "Past damages", damages that have accrued when the damages findings are made;

(9) "Physician employee", any person or entity who works for hospitals **or surgical centers** for a salary or under contract and who is covered by a policy of insurance or self-insurance by a hospital **or surgical center** for acts performed at the direction or under control of the hospital **or surgical center**;

(10) "Punitive damages", damages intended to punish or deter willful, wanton or malicious misconduct, including exemplary damages and damages for aggravating circumstances;

(11) "Self-insurance", a formal or informal plan of self-insurance or no insurance of any kind."; and

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

Representative Muschany offered **House Substitute Amendment No. 1 for House Amendment No. 7.**

*House Substitute Amendment No. 1
for
House Amendment No. 7*

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Page 192, Section 537.675, Line 75, by inserting immediately after all of said line the following:

"538.205. As used in sections 538.205 to [538.230] **538.305**, the following terms shall mean:

(1) "Economic damages", damages arising from pecuniary harm including, without limitation, medical damages, and those damages arising from lost wages and lost earning capacity;

(2) "Equitable share", the share of a person or entity in an obligation that is the same percentage of the total obligation as the person's or entity's allocated share of the total fault, as found by the trier of fact;

(3) "Future damages", damages that the trier of fact finds will accrue after the damages findings are made;

(4) "Health care provider", any physician, hospital, health maintenance organization, ambulatory surgical center, long-term care facility including those licensed under chapter 198, RSMo, dentist, registered or licensed practical nurse, optometrist, podiatrist, pharmacist, chiropractor, professional physical therapist, psychologist, physician-in-training, and any other person or entity that provides health care services under the authority of a license or certificate; **except that, health care provider does not include a person, hospital, or abortion facility if the act that is the subject of the claim for damages involved the performance or inducement of an abortion, except for medical emergencies, as the terms abortion, abortion facility, and medical emergency are defined in section 188.015, RSMo;**

(5) "Health care services", any services that a health care provider renders to a patient in the ordinary course of the health care provider's profession or, if the health care provider is an institution, in the ordinary course of furthering the purposes for which the institution is organized. Professional services shall include, but are not limited to, transfer to a patient of goods or services incidental or pursuant to the practice of the health care provider's profession or in furtherance of the purposes for which an institutional health care provider is organized; **except that, health care services does not include the performance or inducement of an abortion, except for a medical emergency, as those terms are defined in section 188.015, RSMo;**

(6) "Medical damages", damages arising from reasonable expenses for necessary drugs, therapy, and medical, surgical, nursing, x-ray, dental, custodial and other health and rehabilitative services;

(7) "Noneconomic damages", damages arising from nonpecuniary harm including, without limitation, pain, suffering, mental anguish, inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life, and loss of consortium but shall not include punitive damages;

(8) "Past damages", damages that have accrued when the damages findings are made;

(9) "Physician employee", any person or entity who works for hospitals for a salary or under contract and who is covered by a policy of insurance or self-insurance by a hospital for acts performed at the direction or under control of the hospital;

(10) "Punitive damages", damages intended to punish or deter willful, wanton or malicious misconduct, including exemplary damages and damages for aggravating circumstances;

(11) "Self-insurance", a formal or informal plan of self-insurance or no insurance of any kind.

538.240. Under the policy and laws of the state of Missouri favoring childbirth over abortion and to regulate abortion to the greatest extent allowed by law, the general assembly declares that the protections from certain liabilities afforded health care providers under sections 538.205 to 538.305 shall not apply to persons, hospitals, and abortion facilities if and when engaged in the performance or inducement of abortion, except in the case of a medical emergency as the term is defined in section 188.015, RSMo."; and

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

Representative Lembke offered **House Amendment No. 1 to House Substitute Amendment No. 1 for House Amendment No. 7.**

*House Amendment No. 1
to
House Substitute Amendment No. 1
for
House Amendment No. 7*

AMEND House Substitute Amendment No. 1 for House Amendment No. 7 to House Committee Substitute No. 2 for Senate Bill No. 976, Page 3, Section 538.240, Line 5, by deleting the words, “**to regulate**” and insert in lieu thereof the word, “**in regulating**”; and

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

Representative Day assumed the Chair.

On motion of Representative Lembke, **House Amendment No. 1 to House Substitute Amendment No. 1 for House Amendment No. 7** was adopted.

Representative Self moved the previous question.

Which motion was adopted by the following vote:

AYES: 086

Baker 123	Bivins	Brandom	Brown 30	Bruns
Cooper 120	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Ice	Jones 89	Jones 117	Kasten
Kelly	Kingery	Kraus	Lembke	Lipke
Loehner	Marsh	May	McGhee	Moore
Munzlinger	Muschany	Nance	Nieves	Nolte
Onder	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 7	Richard	Robb
Ruestman	Ruzicka	Sander	Sater	Schaaf
Schad	Scharnhorst	Schlottach	Schneider	Schoeller
Self	Silvey	Smith 14	Smith 150	Stevenson
St. Onge	Stream	Sutherland	Thomson	Threlkeld
Viebrock	Wallace	Wasson	Wells	Weter
Wilson 119	Wilson 130	Wood	Wright 159	Yates
Mr Speaker				

NOES: 049

Aull	Bland	Bringer	Brown 50	Burnett
Casey	Chappelle-Nadal	Corcoran	Curls	Daus
Donnelly	Dougherty	Fallert	Grill	Harris 23
Harris 110	Haywood	Hodges	Hoskins	Hughes
Komo	Kratky	Kuessner	Lampe	LeVota
Lowe 44	McClanahan	Nasheed	Norr	Oxford
Page	Rucker	Salva	Schieffer	Schoemehl

Shively	Skaggs	Storch	Swinger	Talboy
Villa	Vogt	Walsh	Whorton	Wildberger
Witte	Yaeger	Zimmerman	Zweifel	

PRESENT: 000

ABSENT WITH LEAVE: 026

Avery	Baker 25	Darrough	El-Amin	Frame
George	Guest	Hobbs	Holsman	Hubbard
Hunter	Johnson	Liese	Low 39	Meadows
Meiners	Quinn 9	Robinson	Roorda	Scavuzzo
Spreng	Tilley	Todd	Walton	Wright-Jones
Young				

VACANCIES: 002

On motion of Representative Muschany, **House Substitute Amendment No. 1 for House Amendment No. 7, as amended**, was adopted by the following vote:

AYES: 108

Baker 123	Bivins	Brandom	Bringer	Brown 30
Bruns	Casey	Cooper 155	Cox	Cunningham 145
Cunningham 86	Davis	Day	Deeken	Denison
Dethrow	Dixon	Dusenberg	Emery	Ervin
Faith	Fallert	Fisher	Flook	Franz
Funderburk	George	Grisamore	Guest	Harris 110
Hobbs	Hodges	Ice	Jones 89	Jones 117
Kasten	Kelly	Kingery	Kratky	Kraus
Kuessner	Lembke	Liese	Lipke	May
McGhee	Meiners	Moore	Munzlinger	Muschany
Nance	Nasheed	Nieves	Nolte	Norr
Onder	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 7	Quinn 9	Richard
Robb	Ruestman	Ruzicka	Salva	Sander
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Schoemehl
Self	Shively	Silvey	Smith 14	Smith 150
Stevenson	St. Onge	Stream	Sutherland	Swinger
Thomson	Threlkeld	Todd	Viebrock	Villa
Wallace	Walsh	Wasson	Wells	Weter
Whorton	Wilson 119	Wilson 130	Witte	Wood
Yaeger	Yates	Mr Speaker		

NOES: 032

Aull	Baker 25	Bland	Brown 50	Burnett
Chappelle-Nadal	Corcoran	Curls	Daus	Donnelly
Dougherty	Fares	Harris 23	Haywood	Hoskins
Hughes	Komo	Lampe	LeVota	Low 39
Lowe 44	McClanahan	Oxford	Page	Rucker
Skaggs	Storch	Talboy	Vogt	Wildberger
Zimmerman	Zweifel			

PRESENT: 000

ABSENT WITH LEAVE: 021

Avery	Cooper 120	Darrough	El-Amin	Frame
Grill	Holsman	Hubbard	Hunter	Johnson
Loehner	Marsh	Meadows	Robinson	Roorda
Spreng	Tilley	Walton	Wright 159	Wright-Jones
Young				

VACANCIES: 002

Representative Parson offered **House Amendment No. 8.**

House Amendment No. 8

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Page 213, Section 8, Line 23, by inserting immediately after said line the following:

"Section 9. When a pharmacist fills a prescription for any name brand or generic drug that has been prescribed as an immunosuppressant from a specific manufacturer and that drug has been substituted with a drug from a manufacturer other than the manufacturer specified in the prescription, MO HealthNet enrollees shall be notified in writing or verbally, upon delivery of the prescription. If such drug is substituted with notice to the MO HealthNet enrollee, the pharmacist, who fills such prescription shall also notify, unless authorized to make such substitution under subdivisions (1) and (2) of subsection 2 of section 338.056, RSMo, the prescribing health care professional before the delivery of the prescription. This requirement shall not apply to prescriptions dispensed for inpatients of a hospital, nursing home, assisted living facility, or inpatients of a mental health or residential facility. The provisions of Section 208.227, RSMo shall apply to any additional geographic areas of the state or populations covered and designated after the effective date of this section to receive MO HealthNet benefits through a care plan other than fee for service. For purposes of this section, "immunosuppressive drug" means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system, and is used to prevent the rejection of transplanted organs and tissues."; and

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

Speaker Pro Tem Pratt assumed the Chair.

Representative Self moved the previous question.

Which motion was adopted by the following vote:

AYES: 087

Baker 123	Bivins	Brandom	Brown 30	Cooper 120
Cooper 155	Cox	Cunningham 145	Cunningham 86	Davis
Day	Deeken	Denison	Dethrow	Dixon
Dusenberg	Emery	Ervin	Faith	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Guest	Hobbs	Icet	Jones 89	Jones 117
Kasten	Kelly	Kingery	Kraus	Lembke
Lipke	Loehner	Marsh	May	McGhee
Moore	Munzlinger	Muschany	Nance	Nieves
Nolte	Onder	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Richard
Robb	Ruestman	Ruzicka	Sander	Sater
Schaaf	Schad	Scharnhorst	Schlottach	Schneider
Schoeller	Self	Silvey	Smith 14	Smith 150

Stevenson	Stream	Sutherland	Thomson	Threlkeld
Tilley	Viebrock	Wallace	Wasson	Wells
Weter	Wilson 119	Wilson 130	Wood	Wright 159
Yates	Mr Speaker			

NOES: 057

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Corcoran	Curls
Daus	Donnelly	Dougherty	Fallert	George
Grill	Harris 23	Harris 110	Haywood	Hodges
Hoskins	Hughes	Komo	Kratky	Kuessner
LeVota	Liese	Low 39	Lowe 44	McClanahan
Meiners	Nasheed	Norr	Oxford	Page
Quinn 9	Rucker	Salva	Scavuzzo	Schieffer
Schoemehl	Shively	Skaggs	Storch	Swinger
Talboy	Todd	Villa	Vogt	Walsh
Whorton	Wildberger	Witte	Wright-Jones	Yaeger
Zimmerman	Zweifel			

PRESENT: 000

ABSENT WITH LEAVE: 017

Avery	Bruns	Darrough	El-Amin	Frame
Holsman	Hubbard	Hunter	Johnson	Lampe
Meadows	Robinson	Roorda	Spreng	St. Onge
Walton	Young			

VACANCIES: 002

On motion of Representative Parson, **House Amendment No. 8** was adopted.

Representative Storch offered **House Amendment No. 9**.

House Amendment No. 9

AMEND House Committee Substitute No. 2 for Senate Bill No. 976, Section 386.266, Page 97, Line 84, by inserting after all of said section the following:

“402.205. 1. [The families, friends and guardians of] Persons who have a disability [or], **as defined in section 402.200, or persons who** are eligible for services provided by the department of mental health, or both, may participate in a trust which may supplement the care, support, and treatment of such persons pursuant to the provisions of sections 402.199 to 402.220. Neither the contribution to the trust for the benefit of a life beneficiary nor the use of trust income to provide benefits shall in any way reduce, impair or diminish the benefits to which such person is otherwise entitled by law; and the administration of the trust shall not be taken into consideration in appropriations for the department of mental health to render services required by law.

2. Unless otherwise prohibited by federal statutes or regulations, all state agencies shall disregard the trust as a resource when determining eligibility of Missouri residents for assistance under chapter 208, RSMo.

3. The assets of the board of trustees and assets held in trust pursuant to the provisions of sections 402.199 to 402.220 shall not be considered state money, assets of the state or revenue for any purposes of the state constitution or statutes. The property of the board of trustees and its income and operations shall be exempt from all taxation by the state or any of its political subdivisions.

402.210. 1. There is hereby created the "Missouri Family Trust Board of Trustees", which shall be a body corporate and an instrumentality of the state. The board of trustees shall consist of nine persons appointed by the

governor with the advice and consent of the senate. The members' terms of office shall be three years and until their successors are appointed and qualified. The trustees shall be persons who are not prohibited from serving by sections 105.450 to 105.482, RSMo, and who are not otherwise employed by the department of mental health. The board of trustees shall be composed of the following:

(1) Three members of the immediate family of persons who have a disability [or are the recipients of services provided by the department in the treatment of mental illness] **of mental illness**. The advisory council for comprehensive psychiatric services, created pursuant to section 632.020, RSMo, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council for comprehensive psychiatric services shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(2) Three members of the immediate family of persons who [are recipients of services provided by the department in the habilitation of the mentally retarded or developmentally disabled] **have a developmental disability**. The Missouri advisory council on mental retardation and developmental disabilities, created pursuant to section 633.020, RSMo, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council on mental retardation and developmental disabilities shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(3) Three persons who are recognized for their expertise in general business matters and procedures. Of the three business people to be appointed by the governor, one shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the governor shall appoint one business person as trustee for a term of three years.

2. The trustees shall receive no compensation for their services. The trust shall reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

3. As used in this section, the term "immediate family" includes spouse, parents, parents of spouse, children, spouses of children and siblings.

4. The board of trustees shall be subject to the provisions of sections 610.010 to 610.120, RSMo.

5. The board of trustees shall annually prepare or cause to be prepared an accounting of the trust funds and shall transmit a copy of the accounting to the governor, the president pro tempore of the senate and the speaker of the house of representatives.

6. The board of trustees shall establish policies, procedures and other rules and regulations necessary to implement the provisions of sections 402.199 to 402.220.

402.215. 1. The board of trustees is authorized and directed to establish and administer the Missouri family trust and to advise, consult with, and render services to departments and agencies of the state of Missouri and to other nonprofit organizations which qualify as organizations pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and which provide services to Missouri residents with a disability. The board shall be authorized to execute all documents necessary to establish and administer the trust including the formation of a not-for-profit corporation created pursuant to chapter 355, RSMo, and to qualify as an organization pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

2. The trust documents shall include and be limited by the following provisions:

(1) The Missouri family trust shall be authorized to accept contributions from any source including trustees, personal representatives, personal custodians pursuant to chapter 404, RSMo, and other fiduciaries, and, subject to the provisions of subdivision [(11)] (10) of this subsection, from the life beneficiaries and their respective spouses, to be held, administered, managed, invested and distributed in order to facilitate the coordination and integration of private financing for individuals who have a disability or are eligible for services provided by the Missouri department of mental health, or both, while maintaining the eligibility of such individuals for government entitlement funding. All contributions, and the earnings thereon, shall be administered as one trust fund; however, separate accounts shall be established for each designated beneficiary. The income earned[, after deducting administrative expenses,] shall be credited to the accounts of the respective life beneficiaries in proportion to the principal balance in the account for each such life beneficiary, to the total principal balances in the accounts for all life beneficiaries;

(2) Every donor may designate a specific person as the life beneficiary of the contribution made by such donor. In addition, each donor may name a cotrustee, including the donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on behalf of the designated life beneficiary; provided, however, a life beneficiary shall not be eligible to be a cotrustee or a successor cotrustee[, provided, however, that]. Court approval of the specific [person]

persons designated as life beneficiary and as cotrustee or successor trustee shall be required [in connection with] **at the time** any trust is created pursuant to section 473.657, RSMo, or section 475.093, RSMo;

(3) The cotrustee, with the consent of the trust, shall from time to time [but not less frequently than annually] determine the amount of income or principal or income and principal to be used to provide noncash benefits and the nature and type of benefits to be provided for the life beneficiary. Any net income which is not used shall be added to principal annually. In the event that the trust and the cotrustee shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the trust or the cotrustee shall have the right to request that the matter be resolved by arbitration which shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The requesting party shall send a written request for arbitration to the responding party and shall in such request set forth the name, address and telephone number of such requesting party's arbitrator. The responding party shall, within ten days after receipt of the request for arbitration, set forth in writing to the requesting party the name, address and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the director of the department. If the two designated arbitrators shall be unable to agree upon a third arbitrator within ten days after the responding party shall have identified such party's arbitrator, then the director of the department shall designate the third arbitrator by written notice to the requesting and responding parties' arbitrators. The three arbitrators shall meet, conduct a hearing, and render a decision within thirty days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of such party's arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties. Judgment on the arbitrators' award may be entered in any court of competent jurisdiction;

(4) Any donor, during his or her lifetime, except for a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, may revoke any gift made to the trust; provided, however, any donor may, at any time, voluntarily waive the right to revoke. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall not have received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall have received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent of the principal balance shall be returned to the donor. The balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust;

(5) Any acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, other than the original donor of a life beneficiary's account, shall have the right, for good and sufficient reason upon written notice to the trust and the department stating such reason, to withdraw all or a portion of the principal balance. In such event, the applicable portion, as set forth in subdivision (7) of this subsection, of the principal balance shall then be distributed to the successor trust and the balance of the principal balance together with any undistributed net income shall be distributed to the charitable trust;

(6) In the event that a life beneficiary for whose benefit a contribution or contributions shall have been made to the family trust shall cease to [be eligible for services provided by the department of mental health] **have a disability as defined in section 402.200** and neither the donor nor the then acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, shall revoke or withdraw the applicable portion, as set forth in subdivision (7) of this subsection, of the principal balance, then the board of trustees may, by written notice to such donor or acting cotrustee, terminate the trust as to such beneficiary and thereupon shall distribute the applicable portion, as set forth in subdivision (7) of this subsection, of the principal balance, to the trustee of the successor trust to be held, administered and distributed by such trustee in accordance with the provisions of the successor trust described in subdivision (12) of this subsection;

(7) If at the time of withdrawal or termination as provided in subdivision (6) of this subsection of a life beneficiary's account from the trust either the life beneficiary shall not have received any benefits provided by the use of the trust income or principal or the life beneficiary shall have received benefits provided by the use of trust income or principal for a period of not more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to ninety percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust; provided, however, if the life beneficiary at the time of such withdrawal by the cotrustee or termination as provided above shall have received any benefits provided by the use of trust income or principal for a period of more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to seventy-five percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income shall be distributed to the charitable trust;

(8) Subject to the provisions of subdivision (9) of this subsection, if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons as the donor shall have designated. Any undistributed net income shall be distributed to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, in such event, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons as the donor designated, and the balance of the principal balance, together with all undistributed net income, shall be distributed to the charitable trust;

(9) In the event the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. Any undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs at the time of either such distribution, the then-principal balance together with all undistributed income shall be distributed to the charitable trust;

(10) In the event the trust is created [as a result of the recovery of damages by reason of a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. If there are no heirs, the balance, if any, of the principal balance together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary should have been receiving benefits provided by the use of trust income or principal or income and principal then the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs, the balance of the principal balance, together with all undistributed income, shall be distributed to the charitable trust;

(11) In the event an account is established] **with the proceeds from the recovery of damages by reason of a personal injury to the life beneficiary or** with the assets of the beneficiary by the beneficiary, a family member, the beneficiary's guardian, or pursuant to a court order, all in accordance with Title 42 of the United States Code Section **1396p(d)(4)(A) or Section 1396p(d)(4)(C)**, then upon the death of the life beneficiary the state of [Missouri] **residence of the beneficiary** shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code[, and then] ("**State Plan**") **; except that twenty-five percent of the principal balance shall first be distributed to the charitable trust.** To the extent there is any amount remaining in the life beneficiary's account, [an amount equal to seventy-five percent of] the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law [and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust]. If there are no heirs, the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. **In the event that two or more states are entitled to receive reimbursement for medical assistance paid on behalf of a beneficiary and the total of such medical assistance is in excess of the balance in the beneficiary account, then each such state shall be paid an amount equal to that portion of the beneficiary's account as is equal to the portion of the total medical assistance paid by each such state;**

[(12)] **(11)** Notwithstanding the provisions of subdivisions (4) to (8) of this subsection to the contrary, the donor may voluntarily agree to a smaller percentage of the principal balance in any account established by such donor than is provided in this subsection to be returned to the donor or distributed to the successor trust, as the case may be; and a corresponding larger percentage of the principal balance in such account to be distributed either to the charitable trust or to a designated restricted account within the charitable trust;

[(13)] **(12)** Upon receipt of a notice of withdrawal from a designated cotrustee, other than the original donor, and a determination by the board of trustees that the reason for such withdrawal is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the

designated trustee of the successor trust the applicable portion of the principal balance as set forth in subdivision (7) of this subsection; provided, however, that court approval of distribution to a successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo.

The designated trustee of the successor trust shall hold, administer and distribute the principal and income of the successor trust, in the discretion of such trustee, for the maintenance, support, health, education and general well-being of the beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled and to increase the quality of such beneficiary's life by providing the beneficiary with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents and hobbies of the beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary. The designated trustee, in his or her discretion, may make payments from time to time for a person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any undistributed income shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including basic food, shelter and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled. After the death and burial of the beneficiary, the remaining balance of the successor trust shall be distributed to such person or persons as the donor shall have designated;

[(14)] **(13)** The charitable trust shall be administered as part of the family trust, but as a separate account. The income attributable to the charitable trust shall be used to provide benefits for individuals who have a disability [or who are eligible for services provided by or through the department and who either have no immediate family or whose immediate family, in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust sufficient to provide benefits for such individuals, while maintaining such individuals' eligibility for government entitlement funding] **and who have no income or very limited income other than benefits.** The trustees may from time to time determine to use part of the principal of the charitable trust to provide such benefits. [As used in this section, the term "immediate family" includes parents, children and siblings. The individuals to be beneficiaries of the charitable trust shall be recommended to the trustees by the department and others from time to time.] The trustees shall annually determine the amount of charitable trust income or principal to be used to provide benefits and the nature and type of benefits to be provided for each identified beneficiary of the charitable trust. Any income not used shall be added to principal annually;

[(15)] **(14)** Any person, with the consent of the board of trustees, may establish a restricted account within the charitable trust and shall be permitted to determine, with the consent of the board of trustees, the beneficiaries of such restricted account provided such beneficiaries qualify as participants of the trust as set forth in subsection 1 of section 402.205.

402.217. 1. No beneficiary shall have any vested or property rights or interests in [the family] **any trust established for the benefit of such beneficiary**, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of the [family] trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by such beneficiary, nor shall the principal or income of the [family] trust be subject to seizure by any creditor or any beneficiary under any writ or proceeding in law or in equity.

2. Except for the right of a donor to revoke any gift made to the trust, pursuant to subdivision (4) of subsection 2 of section 402.215, and the right of any acting cotrustee, other than the original donor, to withdraw all or a portion of the principal balance, pursuant to subdivision (5) of subsection 2 of section 402.215, neither the donor nor any acting cotrustee shall have the right to sell, assign, convey, alienate or otherwise encumber, for consideration or otherwise, any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by the donor or any acting cotrustee, nor shall the principal or income of the family trust be subject to seizure by any creditor of any donor or any acting cotrustee under any writ or proceeding in law or in equity.”; and

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

On motion of Representative Storch, **House Amendment No. 9** was adopted.

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 088

Baker 123	Bivins	Brandom	Brown 30	Bruns
Cooper 120	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Guest	Hobbs	Hunter	Ice
Jones 89	Jones 117	Kasten	Kelly	Kingery
Kraus	Lembke	Lipke	Loehner	Marsh
May	McGhee	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Onder	Parkinson
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Richard	Robb	Ruestman	Ruzicka
Sander	Sater	Schaaf	Schad	Scharnhorst
Schlottach	Schneider	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	Stream	Sutherland
Thomson	Threlkeld	Tilley	Viebrock	Wallace
Wells	Weter	Wilson 119	Wilson 130	Wood
Wright 159	Yates	Mr Speaker		

NOES: 060

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Darrough	Daus
Donnelly	Dougherty	Fallert	Frame	George
Grill	Harris 23	Harris 110	Haywood	Hodges
Holsman	Hoskins	Hughes	Komo	Kratky
Kuessner	Lampe	LeVota	Liese	Low 39
Lowe 44	McClanahan	Meiners	Norr	Oxford
Page	Quinn 9	Roorda	Rucker	Salva
Scavuzzo	Schieffer	Schoemehl	Shively	Skaggs
Storch	Swinger	Talboy	Todd	Villa
Vogt	Walsh	Whorton	Wildberger	Witte
Wright-Jones	Yaeger	Young	Zimmerman	Zweifel

PRESENT: 000

ABSENT WITH LEAVE: 013

Avery	Corcoran	Curls	El-Amin	Hubbard
Johnson	Meadows	Nasheed	Robinson	Spreng
St. Onge	Walton	Wasson		

VACANCIES: 002

On motion of Representative Stevenson, **HCS#2 SB 976, as amended**, was adopted by the following vote:

AYES: 105

Avery	Baker 123	Bivins	Brandom	Bringer
Brown 30	Bruns	Casey	Cooper 155	Corcoran
Cox	Cunningham 86	Davis	Day	Deeken
Denison	Dethrow	Dixon	Donnelly	Dusenberg
Emery	Ervin	Faith	Fallert	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Harris 23	Haywood	Hobbs	Hodges	Hunter
Icet	Jones 89	Jones 117	Kasten	Kelly
Kingery	Kraus	Lampe	Lembke	Loehner
Marsh	May	McClanahan	McGhee	Meiners
Moore	Munzlinger	Muschany	Nance	Nieves
Nolte	Page	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Richard	Robb
Ruestman	Ruzicka	Salva	Sander	Sater
Schaaf	Schad	Scharnhorst	Schieffer	Schlottach
Schneider	Schoeller	Self	Shively	Silvey
Smith 14	Smith 150	Stevenson	St. Onge	Storch
Stream	Sutherland	Swinger	Thomson	Threlkeld
Tilley	Viebrock	Wallace	Wasson	Wells
Weter	Wilson 119	Wilson 130	Witte	Wood
Wright 159	Yates	Zimmerman	Zweifel	Mr Speaker

NOES: 044

Aull	Baker 25	Bland	Brown 50	Burnett
Chappelle-Nadal	Cunningham 145	Curls	Darrough	Daus
Dougherty	Frame	George	Guest	Harris 110
Hoskins	Hughes	Komo	Kratky	Kuessner
LeVota	Liese	Lipke	Low 39	Lowe 44
Nasheed	Oxford	Quinn 7	Quinn 9	Roorda
Rucker	Scavuzzo	Schoemehl	Skaggs	Talboy
Todd	Villa	Vogt	Walsh	Whorton
Wildberger	Wright-Jones	Yaeger	Young	

PRESENT: 000

ABSENT WITH LEAVE: 012

Cooper 120	El-Amin	Grill	Holsman	Hubbard
Johnson	Meadows	Norr	Onder	Robinson
Spreng	Walton			

VACANCIES: 002

On motion of Representative Stevenson, **HCS#2 SB 976, as amended**, was read the third time and passed by the following vote:

AYES: 105

Avery	Baker 123	Bivins	Brandom	Bringer
Brown 30	Bruns	Casey	Cooper 155	Corcoran
Cox	Cunningham 86	Davis	Day	Deeken
Denison	Dethrow	Dixon	Donnelly	Dusenberg
Emery	Ervin	Faith	Fallert	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Harris 23	Haywood	Hobbs	Hodges	Hunter
Icet	Jones 89	Jones 117	Kasten	Kelly
Kingery	Kraus	Lampe	Lembke	Loehner
Marsh	May	McClanahan	McGhee	Meiners
Moore	Munzlinger	Muschany	Nance	Nasheed
Nieves	Norr	Page	Parkinson	Parson
Pearce	Pollock	Portwood	Pratt	Richard
Robb	Ruestman	Ruzicka	Salva	Sander
Sater	Schaaf	Scharnhorst	Schieffer	Schlottach
Schneider	Schoeller	Self	Shively	Silvey
Smith 14	Smith 150	Stevenson	St. Onge	Storch
Stream	Sutherland	Swinger	Thomson	Threlkeld
Tilley	Viebrock	Wallace	Wasson	Wells
Weter	Wilson 119	Wilson 130	Witte	Wood
Wright 159	Yates	Zimmerman	Zweifel	Mr Speaker

NOES: 042

Aull	Baker 25	Bland	Brown 50	Burnett
Chappelle-Nadal	Cunningham 145	Curls	Darrough	Daus
Dougherty	Frame	George	Guest	Harris 110
Hoskins	Hughes	Komo	Kratky	Kuessner
LeVota	Liese	Lipke	Low 39	Lowe 44
Oxford	Quinn 9	Roorda	Rucker	Scavuzzo
Schoemehl	Skaggs	Talboy	Todd	Villa
Vogt	Walsh	Whorton	Wildberger	Wright-Jones
Yaeger	Young			

PRESENT: 000

ABSENT WITH LEAVE: 014

Cooper 120	El-Amin	Grill	Holsman	Hubbard
Johnson	Meadows	Nolte	Onder	Quinn 7
Robinson	Schad	Sprenge	Walton	

VACANCIES: 002

Speaker Pro Tem Pratt declared the bill passed.

The emergency clause was adopted by the following vote:

AYES: 127

Aull	Avery	Baker 123	Bivins	Bland
Brandom	Bringer	Brown 30	Bruns	Casey
Cooper 120	Cooper 155	Corcoran	Cox	Cunningham 145
Cunningham 86	Curls	Darrough	Davis	Day
Deeken	Denison	Dethrow	Dixon	Donnelly
Dougherty	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Frame	Franz
Funderburk	Grisamore	Guest	Harris 23	Haywood
Hodges	Hoskins	Hubbard	Hunter	Icet
Jones 89	Jones 117	Kasten	Kelly	Kingery
Kratky	Kraus	Lampe	Lembke	Lipke
Loehner	Low 39	Marsh	May	McClanahan
McGhee	Moore	Munzlinger	Muschany	Nance
Nieves	Nolte	Norr	Onder	Oxford
Page	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 9	Richard	Robb
Roorda	Rucker	Ruestman	Ruzicka	Salva
Sander	Sater	Scavuzzo	Schaaf	Schad
Schamhorst	Schieffer	Schlottach	Schoeller	Schoemehl
Self	Shively	Silvey	Smith 14	Smith 150
Stevenson	St. Onge	Storch	Stream	Sutherland
Swinger	Thomson	Threlkeld	Tilley	Todd
Viebrock	Wallace	Walsh	Wasson	Wells
Weter	Whorton	Wilson 119	Wilson 130	Witte
Wood	Wright 159	Yaeger	Yates	Zimmerman
Zweifel	Mr Speaker			

NOES: 023

Baker 25	Burnett	Chappelle-Nadal	Daus	Fallert
George	Harris 110	Hughes	Johnson	Komo
Kuessner	LeVota	Liese	Lowe 44	Meiners
Nasheed	Skaggs	Talboy	Villa	Vogt
Wildberger	Wright-Jones	Young		

PRESENT: 000

ABSENT WITH LEAVE: 011

Brown 50	El-Amin	Grill	Hobbs	Holsman
Meadows	Quinn 7	Robinson	Schneider	Spreng
Walton				

VACANCIES: 002

HCS SCS SB 1209, as amended, with House Amendment No. 2, pending, relating to taxes and fees, was taken up by Representative Sutherland.

On motion of Representative Sutherland, **House Amendment No. 2** was adopted.

Representative Silvey offered **House Amendment No. 3**.

House Amendment No. 3

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Section 32.400, Page 3, Line 9, by inserting after all of said section, the following:

"52.240. **1.** The statement and receipt required by section 52.230 shall be mailed to the address of the taxpayer as shown by the county assessor on the current tax books, and postage for the mailing of the statements and receipts shall be furnished by the county commission. The failure of the taxpayer to receive the notice provided for in section 52.230 in no case relieves the taxpayer of any tax liability **and penalties and interest** imposed [on him] by law. **No penalty or interest imposed under any law shall be charged on any real property tax when there is clear and convincing evidence that the county made an error or omission in determining taxes owed by a taxpayer.**

2. The county collector shall refund penalties, interest, and taxes if the county made an error or omission. If a taxpayer believes that an error or omission has occurred and discovers the error or omission after December thirty-first, and the taxpayer has not paid current year taxes owing, the taxpayer shall pay the taxes with any penalties or interest owing. The taxpayer may then submit a written request for a refund of penalties, interest, or taxes to the county commission. If the county commission approves the refund, then such penalties, interest, or taxes shall be refunded as provided in subsection 5 of section 139.031, RSMo.

52.290. **1.** In all counties except counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312 and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo. **In any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, four-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo.**

2. [In all counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than seven hundred thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.

3.] Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector [may] **shall** charge a surcharge for payment by credit card."; and

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

Representative Flook offered **House Substitute Amendment No. 1 for House Amendment No. 3.**

House Substitute Amendment No. 1
for
House Amendment No. 3

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Section 32.400, Page 3, Line 9, by inserting after all of said section, the following:

"52.240. 1. The statement and receipt required by section 52.230 shall be mailed to the address of the taxpayer as shown by the county assessor on the current tax books, and postage for the mailing of the statements and receipts shall be furnished by the county commission. The failure of the taxpayer to receive the notice provided for in section 52.230 in no case relieves the taxpayer of any tax liability **and penalties and interest** imposed [on him] by law. **No penalty or interest imposed under any law shall be charged on any real property tax when there is clear and convincing evidence that the county made an error or omission in determining taxes owed by a taxpayer.**

2. The county collector shall refund penalties, interest, and taxes if the county made an error or omission. If a taxpayer believes that an error or omission has occurred and discovers the error or omission after December thirty-first, and the taxpayer has not paid current year taxes owing, the taxpayer shall pay the taxes with any penalties or interest owing. The taxpayer may then submit a written request for a refund of penalties, interest, or taxes to the county commission. If the county commission approves the refund, then such penalties, interest, or taxes shall be refunded as provided in subsection 5 of section 139.031, RSMo.

52.290. 1. In all counties except counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312 and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo. **In any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, four-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo.**

2. In all counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than seven hundred thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector [may] **shall** charge a surcharge for payment by credit card."; and

Further amend said bill, Section 67.175, Page 5, Line 64, by inserting after all of said section, the following:

"67.548. 1. In any first or second class county not having a charter form of government, which contains all or any part of a city with a population of greater than four hundred thousand inhabitants, in which the voters have approved a sales tax as provided by section 67.547, the county commission may:

(1) Reduce or eliminate the county general fund levy, the special road and bridge levy, or the park levy; and
(2) Grant county sales tax revenues to cities, towns and villages and to special road districts organized pursuant to chapter 233, RSMo.

2. [If the county commission reduces a special road and bridge tax levy pursuant to this section which results in a reduction of revenue available to a city, town or village or to a special road district organized pursuant to chapter 233, RSMo, the commission shall in that year in which the reduction of revenue occurs set aside and place to the credit of each such entity sales tax revenues in an amount at least equal to that which each such entity would have otherwise

been entitled from the special road and bridge tax levy, had it not been for such reduction. In subsequent years, each such entity shall receive from the county an amount of sales tax revenue equal to the amount of special road and bridge tax revenue that each such entity would have received in that year, but for the reduction in the special road and bridge tax. The county shall transfer such sales tax revenue to each such entity in twelve equal monthly installments during each year in which such entity is entitled to receive such sales tax revenue] **Nothing herein shall restrict or eliminate the county's obligation to allocate revenue from the special road and bridge levy, as annually considered by the county commission, to the cities, towns, and villages and to special road districts organized under chapter 233, RSMo. Additionally, in the event the county utilizes sales tax revenues received under section 67.547 for the county's road and bridge program, the county shall be obligated to pay the same allocation percentage of such revenue to the cities, towns, and villages and to special road districts as if such revenue had been received pursuant to the special road and bridge levy and shall be paid in twelve equal monthly installments during the year in which such entity is entitled to receive the revenue. Nothing herein shall be deemed to eliminate or restrict the county's discretion in setting the special road and bridge levy or the amount of sales tax revenue to be used for the county's road and bridge program.**"; and

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

HCS SCS SB 1209, as amended, with House Substitute Amendment No. 1 for House Amendment No. 3 and House Amendment No. 3, pending, was laid over.

MESSAGES FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and passed **SS HCS HBs 1549, 1771, 1395 & 2366**, entitled:

An act to repeal sections 8.283, 302.720, and 544.470, RSMo, and to enact in lieu thereof eighteen new sections relating to illegal aliens, with penalty provisions and an effective date for certain sections.

With Senate Amendment No. 4, Senate Amendment No. 5, Senate Amendment No. 6, Senate Amendment No. 7, Senate Amendment No. 8, Senate Amendment No. 9, Senate Substitute Amendment No. 1 for Senate Amendment No. 10, Senate Amendment No. 11, Senate Amendment No. 17, Senate Amendment No. 19 and Senate Amendment No. 20.

Senate Amendment No. 4

AMEND Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, Page 4, Section 208.009, Line 13, by inserting at the end of said line, the following:

"In processing applications for public benefits, an employee of an agency of state or local government shall not inquire about the legal status of a custodial parent or guardian applying for a public benefit on behalf of his or her dependent child who is a citizen or permanent resident of the United States."

Senate Amendment No. 5

AMEND Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 & 2366, Page 3, Section 208.009, Line 16 of said page, by inserting after "care," the following:

"prenatal care, services offering alternatives to abortion,"

Senate Amendment No. 6

AMEND Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, Page 26, Section 577.722, Line 19, by inserting immediately after the word "of", the following: **"8"**.

Senate Amendment No. 7

AMEND Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, Page 29, Section 650.681, Line 14, by inserting after all of said line, the following:

"5. The provisions of subsections 1 and 2 of this section shall not apply to any state or local agency administering one or more federal public benefit programs as such term is defined in 8 U.S.C. 1612."

Senate Amendment No. 8

AMEND Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, Page 11, Section 285.535, Line 28, by striking the word "ten" and inserting in lieu thereof the following:

"fifteen"; and

Further amend Page 12, Line 10, by striking the word "ten" and inserting in lieu thereof the following: **"fifteen"**.

Senate Amendment No. 9

AMEND Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 & 2366, Page 1, Section Title, Line 4 of said page, by inserting immediately after "provisions" the following:

", an emergency clause for certain sections,"; and

Further amend said bill, Page 5, Section 208.009, Line 24 of said page, by inserting after all of said line the following:

"285.309. 1. Every employer doing business in this state who employs five or more employees shall, if applicable, submit federal 1099 miscellaneous forms to the department of revenue. Such forms shall be submitted to the department of revenue within the time lines established for the filing of Missouri Form 99 forms.

2. Any employer who intentionally, on five or more occasions, fails to submit information on any employee required under subsection 1 of this section is guilty of a class A misdemeanor and shall be fined not more than one hundred dollars for each time the employer fails to submit the information on or after the fifth occurrence. If the failure is the result of a conspiracy between the employer and the employee or worker to not supply the required report or to supply a false or incomplete report, the fine shall be one thousand dollars for each failure to report or each false or incomplete report on and after the fifth occurrence.

285.500. For the purposes of sections 285.500 to 285.515 the following terms mean:

(1) "Employee", any individual who performs services for an employer that would indicate an employer-employee relationship in satisfaction of the factors in IRS Rev. Rule 87-41, 1987-1 C.B.296.;

(2) "Employer", any individual, organization, partnership, political subdivision, corporation, or other legal entity which has or had in the entity's employ five or more individuals performing any of the following services within this state:

(a) Construction as defined in section 290.210, RSMo;

(b) Public works as defined in section 290.210, RSMo;

(c) Maintenance work as defined in section 290.210, RSMo.

285.503. 1. An employer knowingly misclassifies a worker if that employer fails to claim the worker as an employee but knows, or has reason to know, that worker is an employee.

2. The attorney general may investigate alleged or suspected violations of sections 285.500 to 285.515 and shall have all powers provided by sections 407.040 to 407.090, RSMo, in connection with any investigation of an alleged or suspected violation of sections 285.500 to 285.515 as if the acts enumerated in sections 285.500 to 285.515 are unlawful acts proscribed by chapter 407, RSMo.

3. In addition to the powers set out in subsection 1 of this section, the attorney general may serve and enforce subpoenas related to the enforcement of sections 285.500 to 285.515.

285.506. 1. In any action brought under sections 285.500 to 285.515, the state shall have the burden of proving that the employer misclassified the worker. If the state is unable to produce any evidence supporting its contention that the alleged misclassified worker is misclassified, the court shall find that the worker is not an employee for purposes of that action.

2. In any action brought under sections 285.500 to 285.515, there is a rebuttable presumption that a worker is an employee if the worker is an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3). To rebut this presumption, the employer must produce an I-9 form to establish that the worker is not an unauthorized alien or other documentation to show that the worker is an independent contractor. If the employer fails to produce such evidence, the court shall find that the worker is an employee for purposes of that action.

285.509. 1. The department of labor and industrial relations shall establish a complaint form to receive complaints about alleged misclassification of workers. The form shall be made available on the Internet. Upon receiving a complaint, the department shall cross-check the complaint against any employer records it maintains and shall also cross-check the complaint against any records maintained by the department of revenue.

2. If the department determines, after conducting the review set out in subsection 1 of this section, that an employer appears to have misclassified a worker, it shall forward its determination along with supporting documentation to the attorney general.

3. Upon receiving the department's determination, the attorney general may request additional information or records from the department of labor and industrial relations, the department of revenue, or any other state agency that may have information or records relevant to the matter. Upon request, the department or other state agency shall provide the information or records requested. If the attorney general receives records that are otherwise closed pursuant to law, the attorney general shall likewise treat any such records obtained in the course of an investigation as closed records, except that such records may be used in the course of any action brought under sections 285.500 to 285.515.

4. The department of labor and industrial relations shall have the authority to promulgate rules necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

285.512. 1. Whenever the attorney general has reason to believe that an employer has engaged in, is engaging in, or is about to engage in any conduct that would be a violation of sections 285.500 to 285.515, the attorney general may seek an injunction prohibiting the employer from engaging in such conduct.

2. The attorney general may bring an action for injunctive relief in the circuit court of any county where the alleged violation is occurring or about to occur.

3. In seeking injunctive relief, the attorney general may petition the court to order that all work contracted for by the employer at any site of the employer be halted if the court determines that the employer has engaged in, or is about to engage in, any conduct that would be a violation of sections 285.500 to 285.515. In addition to such relief, the court may issue any other order or judgment necessary to prevent the employer from committing any further violations of sections 285.500 to 285.515.

285.515. 1. If a court determines that an employer has knowingly misclassified a worker, the court shall enter a judgment in favor of the state and award penalties in the amount of fifty dollars per day per misclassified worker up to a maximum of fifty thousand dollars to the Missouri worker protection fund established in section 285.518.

2. If a court determines that an employer has knowingly misclassified a worker after having been previously adjudicated for knowing misclassification of a worker, the court shall enter a judgment in favor of the state and award penalties in the amount of one hundred dollars per day per misclassified worker up to a maximum of one hundred thousand dollars to the Missouri worker protection fund established in section 285.518.

3. The court may, in addition to the penalties authorized by this section, order that attorneys' fees and costs be paid to the state.

4. The attorney general may enter into a consent judgment with any person alleged to have violated sections 285.500 to 285.515.

285.518. There is hereby created in the state treasury the "Missouri Worker Protection Fund", which shall consist of money collected under sections 285.500 to 285.515. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 285.500 to 285.515. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. This fund shall be administered by the attorney general for the purposes of ensuring that Missouri employers hire employees and subcontract with workers who are not misclassified. The fund shall consist of:

- (1) All amounts ordered to be paid into the fund pursuant to section 285.515;**
- (2) Any amounts appropriated to the fund; and**
- (3) Any voluntary contributions, gifts, or bequests to the fund."; and**

Further amend said bill, Section C, Page 30, Line 25 of said page, by inserting immediately after all of said line the following:

"Section D. Because of the need to provide a level playing field for Missouri employers and workers, the provisions of sections 285.309 and 285.500 to 285.518 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency within the meaning of the constitution, and sections 285.309 and 285.500 to 285.518 of this act shall be in full force and effect upon its passage and approval."; and

Further amend the title and enacting clause accordingly.

*Senate Substitute Amendment No. 1
for
Senate Amendment No. 10*

AMEND Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, Page 26, Section 577.722, Line 28, by inserting immediately after all of said line, the following:

"3. Nothing in this section shall be construed to deny any victim of an offense under sections 566.200 to 566.215, RSMo, of rights afforded by the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended."

Senate Amendment No. 11

AMEND Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, Page 28, Section 650.681, Line 7 of said page, by adding immediately thereafter the following:

"2. Municipalities and political subdivisions may collect and share the identity of persons by the same means the Federal Bureau of Investigation or its successor agency uses in its Integrated Automated Fingerprint Identification System or its successor program."; and

Re-number the remaining subsections accordingly.

Senate Amendment No. 17

AMEND Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, Page 4, Section 208.009, Line 23, by inserting after the word "number" the following:

"or any applicable federal identification number".

Senate Amendment No. 19

AMEND Senate Substitute for House Committee Substitute for House Bills Nos. 1549, 1771, 1395 & 2366, Page 5, Section 208.009, Line 24 of said page, by inserting after all of said line the following:

"8. Any agency that administers public benefits shall provide assistance in obtaining appropriate documentation to persons applying for public benefits who sign the affidavit required by subsection 4 of this section stating they are eligible for such benefits but lack the documents required under subsection 3 of this section."

Senate Amendment No. 20

AMEND Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, Page 6, Section 285.525, Line 20, by striking the words, "or applying for".

Emergency clause adopted.

In which the concurrence of the House is respectfully requested.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **Part 1 and Part 3 of HCS SCS SB 765**, and requests the House recede from its position and failing to do so grant the Senate a conference thereon.

BILL CARRYING REQUEST MESSAGE

HCS SCS SB 765, relating to political subdivisions, was taken up by Representative Schneider.

Representative Schneider moved that the House refuse to recede from its position on **Part I and Part III of HCS SCS SB 765** and grant the Senate a conference.

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 087

Avery	Bivins	Brandom	Brown 30	Bruns
Cooper 120	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Guest	Hobbs	Icet	Jones 89
Jones 117	Kasten	Kelly	Kingery	Kraus
Lembke	Lipke	Loehner	Marsh	May
McGhee	Moore	Munzlinger	Muschany	Nance
Nieves	Nolte	Onder	Parkinson	Parson
Pearce	Portwood	Pratt	Quinn 7	Richard
Robb	Ruestman	Ruzicka	Sander	Sater
Schaaf	Schad	Scharnhorst	Schlottach	Schneider
Schoeller	Self	Silvey	Smith 14	Smith 150
Stevenson	St. Onge	Stream	Sutherland	Thomson

Threlkeld	Tilley	Viebrock	Wallace	Wells
Weter	Wilson 119	Wilson 130	Wood	Wright 159
Yates	Mr Speaker			

NOES: 060

Aull	Baker 25	Bringer	Brown 50	Burnett
Casey	Chappelle-Nadal	Corcoran	Darrough	Daus
Donnelly	Dougherty	Fallert	Frame	George
Grill	Harris 23	Harris 110	Haywood	Hodges
Holsman	Hoskins	Hubbard	Hughes	Johnson
Komo	Kratky	Kuessner	Lampe	LeVota
Liese	Low 39	Lowe 44	McClanahan	Meiners
Nasheed	Norr	Oxford	Page	Quinn 9
Roorda	Salva	Scavuzzo	Schieffer	Schoemehl
Shively	Skaggs	Storch	Swinger	Talboy
Todd	Villa	Vogt	Walsh	Whorton
Wildberger	Witte	Yaeger	Zimmerman	Zweifel

PRESENT: 000

ABSENT WITH LEAVE: 014

Baker 123	Bland	Curls	El-Amin	Hunter
Meadows	Pollock	Robinson	Rucker	Spreng
Walton	Wasson	Wright-Jones	Young	

VACANCIES: 002

Representative Schneider again moved that the House refuse to recede from its position on **Part I and Part III of HCS SCS SB 765** and grant the Senate a conference.

Which motion was adopted.

Speaker Jetton resumed the Chair.

APPOINTMENT OF CONFERENCE COMMITTEE

The Speaker appointed the following Conference Committee to act with a like Committee from the Senate on the following bill:

HCS SCS SB 765: Representatives Schneider, Wasson, Nieves, Skaggs and Frame

MESSAGE FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS SCS SB 765, Part 1 and Part 3:** Senators Goodman, Griesheimer, Purgason, Days and Green.

Speaker Pro Tem Pratt resumed the Chair.

THIRD READING OF SENATE BILLS

HCS SCS SB 1209, as amended, with House Substitute Amendment No. 1 for House Amendment No. 3 and House Amendment No. 3, pending, relating to taxes and fees, was again taken up by Representative Sutherland.

On motion of Representative Flook, **House Substitute Amendment No. 1 for House Amendment No. 3** was adopted.

Representative Hubbard offered **House Amendment No. 4**.

House Amendment No. 4

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 8, Section 67.1360, Line 127, by inserting after all of said line the following:

"86.200. The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all mandatory contributions deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) "Average final compensation":

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a policeman, or if the member has had less than two years of creditable service, then the average earnable compensation of the member's entire period of creditable service;

(c) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer for reasons other than death or disability before earning at least two years of creditable service after such return, the portion of the member's benefit attributable to creditable service earned before DROP entry shall be determined using average final compensation as defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable to creditable service earned after return to active participation in the system shall be determined using average final compensation as defined in paragraph (b) of this subdivision;

(d) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer after earning at least two years of creditable service after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision;

(e) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and whose employment as a police officer terminates due to death or disability after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision; and

(f) With respect to the surviving spouse or surviving dependent child of a member who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a police officer or, if the member has had less than two years of creditable service, the average earnable compensation of the member's entire period of creditable service;

- (4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;
- (5) "Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;
- (6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer the retirement system;
- (7) "Creditable service", prior service plus membership service as provided in sections 86.200 to 86.366;
- (8) **"Dependent", an individual or individuals receiving at least one-half of their support from the member at his or her death;**
- (9) "DROP", the deferred retirement option plan provided for in section 86.251;
- [(9)] (10) "Earnable compensation", the annual salary which a member would earn during one year on the basis of the member's rank or position as specified in the applicable salary matrix in section 84.160, RSMo, plus additional compensation for academic work as provided in subsection 8 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 9 of section 84.160, RSMo. Such amount shall include the member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code or, effective October 1, 2001, to a transportation fringe benefit program pursuant to Section 132(f)(4) of the Internal Revenue Code. Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under the plan established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. For purposes of this subdivision, a "noneligible participant" is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:
 - (a) The last day of the plan year that includes August 28, 1995; or
 - (b) December 31, 1995;
- [(10)] (11) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;
- [(11)] (12) "Mandatory contributions", the contributions required to be deducted from the salary of each member who is not participating in DROP in accordance with section 86.320;
- [(12)] (13) "Medical board", the board of physicians provided for in section 86.237;
- [(13)] (14) "Member", a member of the retirement system as defined by sections 86.200 to 86.366;
- [(14)] (15) "Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;
- [(15)] (16) "Membership service", service as a policeman rendered since last becoming a member, except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman, in which case "membership service" means service as a policeman rendered since last becoming a member prior to entering such armed service;
- (17) **"Partial dependent", an individual or individuals who receive less than fifty percent of their support from the member at his or her death;**
- [(16)] (18) "Plan year" or "limitation year", the twelve consecutive-month period beginning each October first and ending each September thirtieth;
- [(17)] (19) "Policeman" or "police officer", any member of the police force of such cities who holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo;
- [(18)] (20) "Prior service", all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to 86.366;
- [(19)] (21) "Retirement allowance", annual payments for life as provided by sections 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon termination of employment as a police officer and actual retirement;
- [(20)] (22) "Retirement system", the police retirement system of the cities as defined in sections 86.200 to 86.366;
- [(21)] (23) "Surviving spouse", the surviving spouse of a member who was the member's spouse at the time of the member's death.

86.287. Upon the receipt by the board of trustees of evidence and proof that the death of a member was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty and not caused by negligence on the part of the member, there shall be paid in lieu of the benefits pursuant to sections 86.280 to 86.283:

(1) Effective October 1, 1999, a pension to the surviving spouse until the surviving spouse dies or remarries, whichever is earlier, of seventy-five percent of the deceased member's average final compensation plus fifteen percent of such compensation to, or for the benefit of, each unmarried dependent child of the deceased member, who is either under the age of eighteen, or who, regardless of age, is totally and permanently disabled and incapacitated from engaging in a gainful occupation sufficient to support himself or herself;

(2) Any surviving spouse or unmarried dependent child receiving benefits pursuant to this section immediately prior to October 1, 1999, shall upon application to the board of trustees be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the surviving spouse or unmarried dependent child is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, a surviving spouse shall receive additional monthly compensation equal to the amount which when added to the benefits the surviving spouse was receiving pursuant to this section prior to October 1, 1999, will increase the surviving spouse's total monthly benefit payment pursuant to this section to seventy-five percent of the deceased member's average final compensation, and there shall be payable an additional monthly compensation of one hundred dollars or five percent of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member;

(3) If no surviving spouse benefits are payable pursuant to subdivisions (1) and (2) of this section, such total pension as would have been paid pursuant to subdivisions (1) and (2) of this section had there been a surviving spouse shall be divided among the unmarried dependent children under age eighteen and such unmarried dependent children, regardless of age, who are totally and permanently disabled and incapacitated from engaging in a gainful occupation sufficient to support themselves. The benefit shall be divided equally among the eligible dependent children, and the share of a child who is no longer eligible shall be divided equally among the remaining eligible dependent children; provided that not more than one-half of the surviving spouse's benefit shall be paid for one child;

(4) If there is no surviving spouse or unmarried dependent children of either class mentioned in subdivision (3) of this section, then an amount equal to the surviving spouse's benefit shall be paid to the member's dependent father or dependent mother to continue until remarriage or death; **however, the board of trustees shall review the application for benefits and determine on the basis of the information presented whether the applicant or applicants are dependent or partially dependent and, if partially dependent, the benefit shall be paid based upon the proportionate share of support, considering all other sources, actually provided by the member to such applicant;**

(5) No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen;

(6) Wherever any dependent child designated by the board of trustees to receive benefits pursuant to this section is in the care of the surviving spouse of the deceased member, such benefits may be paid to such surviving spouse for the child;

(7) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) to (3) of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years in those cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university."; and

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

On motion of Representative Hubbard, **House Amendment No. 4** was adopted.

Representative St. Onge offered **House Amendment No. 5**.

House Amendment No. 5

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 26, Section 144.030, Line 270, by deleting all of said line and inserting in lieu thereof the following:

"(39) All purchases by a sports complex authority created under section 64.920, RSMo;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories."; and

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

On motion of Representative St. Onge, **House Amendment No. 5** was adopted.

Representative Ruestman offered **House Amendment No. 6**.

House Amendment No. 6

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 29, Section 190.451, Line 22, by inserting after all of said line the following:

"233.155. 1. Whenever the inhabitants of any special road district already formed under sections 233.010 to 233.165 shall desire to extend the boundaries of such district to take in territory not included in the original district, and shall present a petition to the county commission of the county in which such district is located, or if the proposed district is to include portions of more than one county, then to the county commissions of each of such counties, signed by not less than thirty-five voters in the old district and not less than fifty percent of the voters in the territory proposed to be taken into said district, asking the county commission or commissions of such county or counties to submit the proposition of the proposed extension of such road district to a vote of the people of such proposed district for their adoption or rejection, the county commission of such county, or if the proposed district shall include parts of more than one county, the county commissions of all such counties, shall each make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district.

2. The question shall be submitted in substantially the following form:

Shall the special road district be extended?

3. If the territory of more than one county be included in said special road district, the county commission of each county in said district shall, as soon as the returns are in from said election, cause a certificate to be made out stating the number of votes cast for and against said proposition in said county, and cause such certificate to be filed with the county clerk of the county commission of every other county which shall form a part of said special road district. If it shall appear from the returns of said county and from said certificate that a majority of the votes cast upon the proposition in the whole proposed district be in favor of the extension of said road district, the county commission or county commissions in said proposed district shall declare the result of the vote thereon in said proposed district by an order of record, and shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election.

4. If any territory added to any such original district be in any county outside of the county of such original district, each county outside of such original district may appoint one road commissioner to act with the commissioners appointed in the county of the original district. Such commissioners so appointed outside of the county of the original district shall serve for a term of three years from the date of such appointment, and until their successors shall be appointed and qualified. Such commissioners shall be voters of such added territory in such county of their appointment. Except as herein provided, such commissioners shall be governed by sections 233.010 to 233.165. No change shall be made in the number of commissioners appointed by the county of the original district or in the manner of their appointment. **In any special road district located in two counties with an additional fourth commissioner appointed by the county outside of the original district as provided in this subsection, a fifth commissioner may**

be appointed by the same county that appointed the fourth commissioner. Except as herein provided, a fifth commissioner shall be governed by sections 233.010 to 233.165, shall serve for a term of three years from the date of the appointment and until the fifth commissioner's successor shall be appointed and qualified, and shall be a voter of the county of appointment.

5. If a majority of the votes of the proposed district, as extended, be cast in favor of such extension, then the territory of such district, as extended, shall be governed by sections 233.010 to 233.165. But if such extension proposition shall not receive a majority of the votes of said district, as extended, then said special road district shall remain as it was before said petition was filed. Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than seventeen miles square."; and

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

On motion of Representative Ruestman, **House Amendment No. 6** was adopted.

Representative Weter offered **House Amendment No. 7**.

House Amendment No. 7

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Section 94.271, Page 9, Lines 10-11, by deleting the words, "**and funding the construction, maintenance, and operation of capital improvements**"; and

Further amend said bill, section, page, Lines 17-18, by deleting the words, "**and funding the construction, maintenance, and operation of capital improvements**"; and

Further amend said bill, Section 155.010, Page 28, Line 13, by inserting the following after all of said line:

"190.335. 1. In lieu of the tax levy authorized under section 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of (insert name of county) impose a county sales tax of (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

YES

NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

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

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the governing body shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The governing body shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the governing body shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, who shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, any other emergency services and the general public. This initial board shall serve until its successor board is duly elected and installed in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large, such member to be the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years.

11. Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the first classification with more than two hundred forty thousand three hundred but fewer than two hundred forty thousand four hundred inhabitants, any emergency telephone service 911 board appointed by the county under section 190.309 which is in existence on the date the voters approve a sales tax under this section shall continue to exist and shall have the powers set forth under section 190.339.

12. (1) Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the second classification with more than fifty-four thousand two hundred but fewer than fifty-four thousand three hundred inhabitants that has approved a sales tax under this section, the county commission shall appoint the members of the board to administer the funds and oversee the provision of emergency services in the county.

(2) The board shall consist of seven members appointed without regard to political affiliation. Each member shall be one of the following:

- (a) The head of any of the county's fire protection districts, or a designee;**
- (b) The head of any of the county's ambulance districts, or a designee;**
- (c) The county sheriff, or a designee;**
- (d) The head of any of the police departments in the county, or a designee; and**
- (e) The head of any of the county's emergency management organizations, or a designee.**

(3) Upon the appointment of the board under this subsection, the board shall have the power provided in section 190.339 and shall exercise all powers and duties exercised by the county commission under this chapter, and the commission shall relinquish all powers and duties relating to the provision of emergency services under this chapter to the board."; and

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

On motion of Representative Weter, **House Amendment No. 7** was adopted.

Representative Corcoran offered **House Amendment No. 8**.

House Amendment No. 8

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 35, Section 246.305, Line 54, by inserting after all of said line the following:

"253.550. **1.** Any person, firm, partnership, trust, estate, or corporation incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, shall be entitled to a credit against the taxes imposed pursuant to chapters 143 and 148, RSMo, except for sections 143.191 to 143.265, RSMo, on that person or entity in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources.

2. For purposes of sections 253.545 to 253.559, any municipal library district and any nonprofit entity to which the municipal library district has transferred a structure shall be deemed a corporation and a for-profit entity, if the nonprofit entity immediately enters into a lease or other agreement that gives the municipal library district the right to use, control, and possess the structure and the structure being rehabilitated was first placed into service before the year 1936. In determining the rehabilitation expenditures for which credits are permitted, Sections 47(c)(2)(B)(v) and 168 of the Internal Revenue Code of 1986, as amended, shall be disregarded."; and

Further amend said bill, Page 37, Section B, Lines 1 to 7, by deleting all of said lines and inserting in lieu thereof the following:

"Section B. Because immediate action is necessary to protect the economic welfare of the citizens of this state, the repeal and reenactment of section 253.550 and the enactment of section 144.067 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 253.550 and the enactment of section 144.067 of section A of this act shall be in full force and effect upon its passage and approval."; and

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

On motion of Representative Corcoran, **House Amendment No. 8** was adopted.

Representative Cunningham (86) offered **House Amendment No. 9**.

House Amendment No. 9

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Section 32.400, Page 3, Line 9, by inserting after all of said line the following:

"52.290. **1.** In all counties except counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the [tax maintenance] **county jails** fund of the county as required by section [52.312] **49.310, RSMo**, and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo. **In all first class counties not having a charter form of government, three-tenths of the fees collected by the public administrator shall be paid into a guardian maintenance fund and three-tenths percent of the fees paid into funds controlled by elected officials shall be paid into an audit maintenance fund. The guardian maintenance fund shall be administered at the sole discretion of the public administrator and the audit maintenance fund shall be administered at the sole discretion of the county auditor and each fund shall be subject to the same restrictions and conditions as the tax maintenance and county jail funds. The Guardian Maintenance**

Fund may be used by the public administrator for training, purchasing new or upgrading information technology, salary supplements for existing employees, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of public administrator and anything necessarily pertaining thereto. The Audit Maintenance Fund may also be used by the auditor for training, purchasing new or upgrading information technology, salary supplements for existing employees, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of auditor and anything necessarily pertaining thereto.

2. In all counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than seven hundred thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector [may] **shall** charge a surcharge for payment by credit card.”; and

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

Representative Robb offered **House Substitute Amendment No. 1 for House Amendment No. 9.**

*House Substitute Amendment No. 1
for
House Amendment No. 9*

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Section 32.400, Page 3, Line 9, by inserting after all of said line the following:

“52.290. 1. In all counties except counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312, **RSMo** and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, **RSMo**. **In all first class counties not having a charter form of government, three percent of the fees collected by the public administrator shall be paid into a guardian maintenance fund and three percent of the fees paid into funds controlled by elected officials shall be paid into an audit maintenance fund. The guardian maintenance fund shall be administered at the sole discretion of the public administrator and the audit maintenance fund shall be administered at the sole discretion of the county auditor and each fund shall be subject to the same restrictions and conditions as the tax maintenance fund in the same manner as section 52.315, RSMo. The Guardian Maintenance Fund may be used by the public administrator for training, purchasing new or upgrading information technology, salary supplements for existing employees, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of public administrator and anything necessarily pertaining thereto. The Audit Maintenance Fund may also be used by the auditor for training, purchasing new or upgrading information technology, salary supplements for existing employees, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of auditor and anything necessarily pertaining thereto.**

2. In all counties having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than

seven hundred thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector [may] **shall** charge a surcharge for payment by credit card.”; and

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

On motion of Representative Robb, **House Substitute Amendment No. 1 for House Amendment No. 9** was adopted.

Representative Onder offered **House Amendment No. 10**.

House Amendment No. 10

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1209, Page 35, Section 321.227, Lines 1 to 73, by deleting all of said lines; and

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

On motion of Representative Onder, **House Amendment No. 10** was adopted.

Representative Self moved the previous question.

Which motion was adopted by the following vote:

AYES: 088

Avery	Baker 123	Bivins	Brandom	Brown 30
Bruns	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Guest	Hobbs	Icet	Jones 89
Jones 117	Kasten	Kelly	Kingery	Kraus
Lembke	Lipke	Loehner	Marsh	May
McGhee	Moore	Munzlinger	Muschany	Nance
Nieves	Nolte	Onder	Parkinson	Parson
Pearce	Pollock	Portwood	Pratt	Quinn 7
Richard	Robb	Ruestman	Ruzicka	Sander
Sater	Schaaf	Schad	Scharnhorst	Schlottach
Schneider	Schoeller	Self	Silvey	Smith 14
Smith 150	Stevenson	St. Onge	Stream	Sutherland
Thomson	Threlkeld	Tilley	Viebrock	Wallace
Wells	Weter	Wilson 119	Wilson 130	Wood
Wright 159	Yates	Mr Speaker		

NOES: 058

Baker 25	Bringer	Brown 50	Burnett	Casey
Chappelle-Nadal	Corcoran	Curls	Darrough	Donnelly
Dougherty	Fallert	Frame	George	Grill

Harris 110	Haywood	Hodges	Holsman	Hoskins
Hubbard	Johnson	Komo	Kratky	Kuessner
Lampe	LeVota	Liese	Low 39	Lowe 44
McClanahan	Meiners	Nasheed	Norr	Oxford
Page	Quinn 9	Roorda	Salva	Scavuzzo
Schieffer	Schoemehl	Shively	Skaggs	Spreng
Storch	Swinger	Talboy	Todd	Villa
Vogt	Walsh	Whorton	Wildberger	Witte
Yaeger	Zimmerman	Zweifel		

PRESENT: 000

ABSENT WITH LEAVE: 015

Aull	Bland	Cooper 120	Daus	El-Amin
Harris 23	Hughes	Hunter	Meadows	Robinson
Rucker	Walton	Wasson	Wright-Jones	Young

VACANCIES: 002

On motion of Representative Sutherland, **HCS SCS SB 1209, as amended**, was adopted.

On motion of Representative Sutherland, **HCS SCS SB 1209, as amended**, was read the third time and passed by the following vote:

AYES: 105

Avery	Bivins	Brandom	Brown 30	Brown 50
Bruns	Burnett	Chappelle-Nadal	Cooper 155	Corcoran
Cox	Cunningham 145	Cunningham 86	Curls	Davis
Day	Deeken	Denison	Dethrow	Dixon
Dougherty	Dusenberg	Emery	Faith	Fares
Fisher	Flook	Funderburk	Grill	Grisamore
Guest	Hobbs	Hodges	Holsman	Hubbard
Hunter	Icet	Jones 89	Jones 117	Kasten
Kelly	Kingery	Kraus	Lampe	Lembke
Liese	Lipke	Loehner	Low 39	Marsh
May	McGhee	Meiners	Moore	Munzlinger
Muschany	Nance	Nieves	Nolte	Norr
Onder	Page	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Richard
Robb	Ruestman	Ruzicka	Salva	Sander
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Self
Silvey	Skaggs	Smith 14	Smith 150	Stevenson
St. Onge	Stream	Sutherland	Thomson	Threlkeld
Tilley	Viebrock	Wallace	Wells	Weter
Wilson 119	Wilson 130	Wood	Wright 159	Mr Speaker

NOES: 043

Baker 25	Baker 123	Bringer	Casey	Darrrough
Daus	Donnelly	Ervin	Fallert	Frame
Franz	George	Harris 23	Harris 110	Hoskins
Johnson	Komo	Kratky	Kuessner	LeVota
Lowe 44	McClanahan	Nasheed	Oxford	Quinn 9

1769 *Journal of the House*

Roorda	Schoemehl	Shively	Spreng	Storch
Swinger	Talboy	Todd	Villa	Vogt
Walsh	Whorton	Wildberger	Witte	Yaeger
Yates	Zimmerman	Zweifel		

PRESENT: 000

ABSENT WITH LEAVE: 013

Aull	Bland	Cooper 120	El-Amin	Haywood
Hughes	Meadows	Robinson	Rucker	Walton
Wasson	Wright-Jones	Young		

VACANCIES: 002

Speaker Pro Tem Pratt declared the bill passed.

The emergency clause was adopted by the following vote:

AYES: 129

Aull	Avery	Bivins	Brandom	Bringer
Brown 30	Brown 50	Bruns	Casey	Chappelle-Nadal
Cooper 155	Corcoran	Cox	Cunningham 145	Cunningham 86
Curls	Daus	Davis	Day	Deeken
Denison	Dethrow	Dixon	Donnelly	Dougherty
Dusenberg	Emery	Ervin	Faith	Fallert
Fares	Fisher	Flook	Frame	Franz
Funderburk	Grill	Grisamore	Guest	Harris 23
Hobbs	Hodges	Holsman	Hubbard	Hunter
Icet	Jones 89	Jones 117	Kasten	Kelly
Kingery	Komo	Kratky	Kraus	Lampe
Lembke	Liese	Lipke	Loehner	Low 39
Lowe 44	Marsh	May	McClanahan	McGhee
Meiners	Moore	Munzlinger	Muschany	Nance
Nasheed	Nieves	Nolte	Norr	Onder
Oxford	Page	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Quinn 9
Richard	Robb	Roorda	Ruestman	Ruzicka
Sander	Sater	Scavuzzo	Schaaf	Schad
Scharmhorst	Schlottach	Schneider	Schoeller	Schoemehl
Self	Silvey	Smith 14	Smith 150	Spreng
Stevenson	St. Onge	Storch	Stream	Sutherland
Swinger	Thomson	Threlkeld	Tilley	Viebrock
Wallace	Walsh	Wells	Weter	Wilson 119
Wilson 130	Witte	Wood	Wright 159	Yaeger
Yates	Zimmerman	Zweifel	Mr Speaker	

NOES: 021

Baker 25	Baker 123	Burnett	Darrough	George
Harris 110	Haywood	Hoskins	Hughes	Johnson
Kuessner	LeVota	Rucker	Shively	Skaggs
Talboy	Todd	Villa	Vogt	Whorton
Wildberger				

PRESENT: 000

ABSENT WITH LEAVE: 011

Bland	Cooper 120	El-Amin	Meadows	Robinson
Salva	Schieffer	Walton	Wasson	Wright-Jones
Young				

VACANCIES: 002

HCS SCS SBs 1181, 1100, 1262 & 1263, relating to energy regulation, was taken up by Representative Schoeller.

Representative Emery offered **House Amendment No. 1**.

House Amendment No. 1

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Pages 21 and 22, Section 393.108, Lines 1 to 17, by deleting all of said lines and inserting in lieu thereof the following:

"393.108. For purposes of this section, the hot weather rule shall mean the period of time from June first to September thirtieth, in which the discontinuance of gas and electric service to all residential users, including all residential tenants of apartment buildings, for nonpayment of bills where gas or electricity is used as the source of cooling or to operate the only cooling equipment at the residence, is prohibited in the following situations:

(1) On any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 p.m. for the following twenty-four hours predicts that the temperature shall rise above ninety-five degrees Fahrenheit or that the heat index shall rise above one hundred five degrees Fahrenheit;

(2) On any day when utility personnel are not available to reconnect utility service during the immediately succeeding day or days and the National Weather Service local forecast between 6:00 a.m. and 9:00 p.m. predicts that the temperature during the period of unavailability shall rise above ninety-five degrees Fahrenheit or that the heat index shall rise above one hundred five degrees Fahrenheit; and

(3) In any other applicable situations provided for in rules established and amended by the public service commission.;" and

Further amend said bill, Page 22, Section 393.171, Lines 1 to 16, by deleting all of said lines and inserting in lieu thereof the following:

"393.171. 1. The commission shall have the authority to grant the permission and approval specified in section 393.170, after the construction or acquisition of any electric plant located in a first class county without a charter form of government has been completed if the commission determines that the grant of such permission and approval is necessary or convenient for the public service. Any such permission and approval shall, for all purposes, have the same effect as the permission and approval granted prior to such construction or acquisition. This subsection is enacted to clarify and specify the law in existence at all times since the original enactment of section 393.170.

2. No permission or approval granted for an electric plant by the commission under subsection 1 of this section, nor any special use permit issued for any such electric plant by the governing body of the county in which the electric plant is located, shall extinguish, render moot, or mitigate any suit or claim pending or otherwise allowable by law by any landowner or other legal entity for monetary damages allegedly caused by the operation or existence of such electric plant. Expenses incurred by an electrical corporation in association with the payment of any such damages shall not be recoverable, in any form at any time, from the rate payers of any such electrical corporation.

3. The commission's authority under subsection 1 of this section shall expire on August 28, 2009.;" and

Further amend said bill, Pages 22 and 23, Section 393.275, Lines 1 to 40, by deleting all of said lines and inserting in lieu thereof the following:

"393.275. 1. The commission shall notify the governing body of each city or county imposing a business license tax pursuant to section 66.300, 92.045, 94.110, 94.270 or 94.360, RSMo, or a similar tax adopted pursuant to charter provisions in any constitutional charter city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, on gross receipts of any gas corporation, electric corporation, water corporation or sewer corporation of any tariff increases authorized for such firm doing business in that city or county if the approved increase exceeds seven percent. The commission shall include with such notice to any city or county the percentage increase approved for the utility, together with an estimate of the annual increase in gross receipts resulting from the tariff increase on customers residing in that city or county. The provisions of this subsection shall not apply to rate adjustments in the purchase price of natural gas which are approved by the commission.

2. The governing body of each city or county notified of a tariff increase as provided in subsection 1 of this section shall reduce the tax rate of its business license tax on the gross receipts of utility corporations. Within sixty days of the effective date of the tariff increase, the tax rate shall be reduced to the extent necessary so that revenue for the ensuing twelve months will be approximately equal to the revenue received during the preceding twelve months plus a growth factor. The growth factor shall be equal to the average of the additional revenue received in each of the preceding three years. However, a city or county may maintain the tax rate of its business license tax on the gross receipts of utility corporations without reduction if an ordinance to maintain the tax rate is enacted by the governing body of the city or an order to maintain the tax rate is issued by the governing body of the county after September 28, 1985. The provisions of this subsection shall not apply to rate adjustments in the purchase price of natural gas which are approved by the commission **and such purchased gas adjustment rates shall include the gas cost portion of net write-offs incurred by the gas corporation in providing service to system sales customers upon the filing and approval of new rate schedules applicable to such customers. Such rate schedules shall be designed to simultaneously decrease the gas corporation's base rates and increase its purchased gas adjustment rates by like amounts so as to reasonably ensure that the gas cost portion of the net write-offs applicable to such customers, as such portion is determined by the commission, is only being recovered once through the gas corporation's purchased gas adjustment rates. Increases and decreases in the gas cost portion of net write-offs shall thereafter be reflected in the gas corporation's purchased gas adjustment rates pursuant to tariff provisions approved by the commission provided, however, that such tariff provisions shall:**

(1) **Limit increases or decreases in the gas cost portion of net write-offs as reflected in purchased gas adjustment rates to once each year;**

(2) **Require a true-up of the gas cost portion of net write-offs as reflected in purchased gas adjustment rates once each year; and**

(3) **Require commission review of the gas cost portion of net write-offs as reflected in purchased gas adjustment rates once each year to insure that the gas corporation is prudently pursuing collection of amounts owed by its customers.**

Based on its annual reviews of such collection efforts, the commission shall prepare and submit a report to the general assembly by December 1, 2011, comparing and describing any changes made or experienced in the collection practices, level of utility resources devoted to collection activities, amount and percentage of net write-offs incurred, and regulations affecting collection activities for the period beginning July 1, 2007, and ending July 1, 2011."; and

Further amend said bill, Pages 24 and 25, Section 407.300, Lines 1 to 36, by deleting all of said lines and inserting in lieu thereof the following:

"407.300. 1. Every **purchaser or** collector of, or dealer in, junk, **scrap metal**, or any secondhand property shall keep a register [which shall contain the name and address of the person from whom] **containing a written or electronic record for each purchase or trade in which each type of metal subject to the provisions of this section is obtained for value. There shall be a separate record for each transaction involving any:**

(1) **Copper, brass, or bronze;**

(2) **Aluminum wire [or is purchased,], cable, pipe, tubing, bar, ingot, rod, fitting, or fastener; or**

(3) **Material containing copper or aluminum that is knowingly used for farming purposes as "farming" is defined in section 350.010, RSMo;**

whatever may be the condition or length of such [copper wire or cable] metal. **The record shall contain the following data: A copy of the driver's license or photo identification issued by the state or by the United States government or agency thereof to the person from whom the material is obtained, which shall contain a current address of the person from whom the material is obtained; [the residence or place of business and driver's license number of such person;] and the date, time, and place of and a full description of each such purchase or trade including the quantity by weight thereof; and shall permit any peace officer to inspect the register at any reasonable time].**

2. The records required under this section shall be maintained for a minimum of twenty-four months from when such material is obtained and shall be available for inspection by any law enforcement officer.

3. Anyone convicted of violating this section shall be [fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both] guilty of a class A misdemeanor.

4. This section shall not apply to any of the following transactions:

(1) Any transaction for which the total amount paid for all regulated scrap metal purchased or sold does not exceed fifty dollars;

(2) Any transaction for which the seller, including a farm or farmer, has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or

(3) Any transaction for which the type of metal subject to subsection 1 of this section is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications."; and

Further amend said bill, Page 25, Section 407.301, Lines 1 to 9, by deleting all of said lines and inserting in lieu thereof the following:

"407.301. 1. No scrap metal dealer shall knowingly purchase or possess a metal beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut, or otherwise alter scrap metal except when the purchase is from the brewer or its authorized representative. For purposes of this section, "keg" shall have the same meaning as in section 311.082, RSMo.

2. Anyone who is found guilty of, or pleads guilty to, violating this section shall be guilty of a class A misdemeanor punishable only by fine. Nothing in this section shall be construed to preclude a person violating this section from also being prosecuted for any applicable criminal offense."; and

Further amend said bill, Page 25, Section 407.302, Lines 1 to 11, by deleting all of said lines and inserting in lieu thereof the following:

"407.302. 1. No scrap yard shall purchase any metal that can be identified as belonging to a public or private cemetery or to a political subdivision or electrical cooperative, municipal utility, or a utility regulated under chapter 386 or 393, RSMo, including bleachers, guardrails, signs, street and traffic lights or signals, and manhole cover or covers, whether broken or unbroken, from anyone other than the cemetery or monument owner, political subdivision, electrical cooperative or utility, or manufacturer of the metal or item described in this section unless such person is authorized in writing by the cemetery or monument owner, political subdivision, electrical cooperative or utility, or manufacturer to sell the metal.

2. Anyone convicted of violating this section shall be guilty of a class B misdemeanor."; and

Further amend said bill, Page 26, Section 407.303, Lines 1 to 8, by deleting all of said lines and inserting in lieu thereof the following:

"407.303. 1. Any scrap metal dealer paying out an amount that is five hundred dollars or more shall make such payment in the form of a check or shall pay by any method in which a financial institution makes and retains a record of the transaction.

2. This section shall not apply to any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business."; and

Further amend said bill, Pages 26 to 28, Section 537.340, Lines 1 to 68, by deleting all of said lines; and

Further amend said bill, Page 28, Section 570.055, Lines 1 to 5, by deleting all of said lines and inserting in lieu thereof the following:

"570.055. Any person who steals or appropriates, without consent of the owner, any wire, electrical transformer, metallic wire associated with transmitting telecommunications, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels shall be guilty of a class C felony."; and

Further amend said bill, Page 28, Section 570.056, Lines 1 to 4, by deleting all of said lines and inserting in lieu thereof the following:

"570.056. Any person who steals or appropriates, without consent of the owner, any property located on the premises of electrical cooperatives or municipal utilities or utilities regulated under chapter 386, RSMo, shall be guilty of a class D felony."; and

Further amend said bill, Page 31, Lines 1 to 14, by deleting all of said lines and inserting in lieu thereof the following:

"660.115. 1. For each eligible household, an amount not exceeding [six] **eight** hundred dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary heating source supplier, or both, including suppliers of heating fuels, such as gas, electricity, wood, coal, propane and heating oil. For each eligible household, an amount not exceeding [six] **eight** hundred dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary cooling source supplier, or both; provided that the respective shares of overall funding previously received by primary and secondary heating and cooling source suppliers on behalf of their customers shall be substantially maintained.

2. For an eligible household, other than a household located in publicly owned or subsidized housing, an adult boarding facility, an intermediate care facility, a residential care facility or a skilled nursing facility, whose members rent their dwelling and do not pay a supplier directly for the household's primary or secondary heating or cooling source, utilicare payments shall be paid directly to the head of the household, except that total payments shall not exceed eight percent of the household's annual rent or one hundred dollars, whichever is less."; and

Further amend said bill, Pages 31 and 32, Section 660.135, Lines 1 to 13, by deleting all of said lines and inserting in lieu thereof the following:

"660.135. 1. Not more than five million dollars from state general revenue shall be appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 for the support of the utilicare program established by sections 660.100 to 660.136 for any fiscal year, except in succeeding years the amount of state funds may be increased by a percentage which reflects the national cost-of-living index or seven percent, whichever is lower.

2. The department of social services [may] **shall**, in coordination with the department of natural resources, apply a portion of the funds appropriated annually by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 to the low income weatherization assistance program of the department of natural resources; provided that any project financed with such funds shall be consistent with federal guidelines for the Weatherization Assistance Program for Low-Income Persons as authorized by 42 U.S.C. 6861."; and

Further amend said bill, Page 32, Section 660.135, Line 13, by inserting after all of said line the following:

"Section 1. For any electric generation plant unlawfully constructed after August 28, 2008, in any suit or claim brought by any landowner or other legal entity for monetary damages allegedly caused by the operation or existence of such electric plant, the measure of damages shall be treble the actual damages to the plaintiff's real estate proved as determined by a judge or jury, plus court costs and reasonable attorney fees."; and

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

On motion of Representative Emery, **House Amendment No. 1** was adopted.

Representative Schoeller offered **House Amendment No. 2**.

House Amendment No. 2

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Section 393.275, Page 23, Line 40, by inserting after all of said section and line the following:

"Section 393.1045. Any renewable mandate required by law shall not raise the retail rates charged to the customers of electric retail suppliers by an average of more than one percent in any year, and all the costs associated with any such renewable mandate shall be recoverable in the retail rates charged by the electric supplier. Solar rebates shall not exceed twenty-five percent of the cost of the solar panels and are included in the one percent rate cap provided for in this section."; and

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

Representative Chappelle-Nadal offered **House Amendment No. 1 to House Amendment No. 2**.

*House Amendment No. 1
to
House Amendment No. 2*

AMEND House Amendment No. 2 to House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Page 1, Line 1, by inserting immediately before said line the following:

'AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262, & 1263, Section 393.275, Page 23, Line 40, by inserting immediately after said line the following:

"393.1036. Sections 393.1036 to 393.1040 shall be known as the "Renewable Energy Standard".

393.1037. As used in sections 393.1036 to 393.1040, the following terms mean:

- (1) "Commission", the public service commission;
- (2) "Department", the department of natural resources;
- (3) "Electric utility", any electrical corporation as defined by section 386.020, RSMo;
- (4) "Renewable energy resources", electric energy produced from wind, solar thermal sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills or from wastewater treatment, clean and untreated wood such as pallets, hydropower (not including pumped storage), that does not require a new diversion or impoundment of water and that has a nameplate rating of ten megawatts or less, fuel cells using hydrogen produced by one of the above-named renewable energy sources, and other sources of energy not including nuclear that become available after August 28, 2008, and are certified as renewable by rule by the department; and

(5) "Renewable energy credit" or "REC", a tradeable certificate of proof that one megawatt-hour of electricity has been generated from renewable energy sources.

393.1038. 1. The commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources. Such portfolio requirement shall provide that electricity from renewable energy resources shall constitute the following portions of each electric utility's sales:

- (1) No less than two percent for calendar years 2011 to 2013;
- (2) No less than five percent for calendar years 2014 to 2017;
- (3) No less than ten percent for calendar years 2018 to 2020; and
- (4) No less than fifteen percent in each calendar year beginning in 2021.

At least two percent of each portfolio requirement shall be derived from solar energy. The portfolio requirement shall apply to all power sold to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state. A utility may comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible energy generated in Missouri shall count as one and one-quarter kilowatt-hour for purposes of compliance.

2. The commission, in consultation with the department and within one year of August 28, 2008, shall select a program for tracking and verifying the trading of renewable energy credits. An unused credit may exist for up to three years from the date of its creation. A credit may be used only once to comply with sections 393.1036 to 393.1040 and shall not also be used to satisfy any similar nonfederal requirement. An electric utility shall not use a credit derived from a green pricing program. Certificates from net-metered sources shall initially be owned by the customer-generator. The commission, except where the department is specified, shall make whatever rules are necessary to enforce the renewable energy standard. Such rules shall include:

(1) A maximum average retail rate increase of one percent determined by estimating and comparing the electric utility's cost of compliance with least-cost renewable generation and the cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking into proper account future environmental regulatory risk including the risk of greenhouse gas regulation;

(2) Penalties of at least twice the average market value of renewable energy credits for the compliance period for failure to meet the targets of subsection 1 of this section. An electric utility shall be excused if it proves to the commission that failure was due to events beyond its reasonable control that could not have been reasonably mitigated, or that the maximum average retail rate increase has been reached. Penalties shall not be recovered from customers. Amounts forfeited under this section shall be remitted to the department to purchase renewable energy credits needed for compliance. Any excess forfeited revenues shall be used by the department's energy center solely for renewable energy and energy efficiency projects;

(3) Provisions for an annual report to be filed by each electric utility in a format sufficient to document its progress in meeting the targets;

(4) Provisions for recovery outside the context of a regular rate case of prudently incurred costs and the pass through of benefits to customers of any savings achieved by an electrical corporation in meeting the requirements of this section.

3. Each electric utility shall make available to its retail customers a standard rebate offer of at least two dollars per installed watt for new or expanded solar electric systems sited on the customers' premises, up to a maximum of twenty-five kilowatts per system, that becomes operational after 2009.

4. The department shall, in consultation with the commission, establish by rule a certification process for electricity generated from renewable resources and used to fulfill the requirements of subsection 1 of this section. Certification criteria for renewable energy generation shall be determined by factors that include fuel type, technology, and the environmental impacts of the generating facility. Renewable energy facilities shall not cause undue adverse air, water, or land use impacts, including impacts associated with the gathering of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources, only the portion of electrical output attributable or renewable energy resources shall be used to fulfill the portfolio requirements.

5. The department and the commission shall promulgate rules to implement the provisions of sections 393.1036 to 393.1040. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

393.1040. In addition to the renewable energy objectives set forth in sections [393.1025, 393.1030, and 393.1035] **393.1036, 393.1037, and 393.1038**, it is also the policy of this state to encourage electrical corporations to develop and administer energy efficiency initiatives that reduce the annual growth in energy consumption and the need to build additional electric generation capacity."; and "; and

Further amend said amendment, said page, Line 10, by deleting said line and inserting in lieu thereof the following:

"section.

[393.1020. 1. It is the general assembly's intent to encourage the development and utilization of technically feasible and economical renewable technologies, creating cleaner and more sustainable forms of energy for the residents of the state. It is for this reason that sections 393.1020 to 393.1040 shall be known as the "Green Power Initiative".

2. The definitions provided in section 386.020, RSMo, shall apply to sections 393.1020 to 393.1040. As used in sections 393.1020 to 393.1040, the following terms mean:

- (1) "Department", the department of natural resources;
- (2) "Eligible renewable energy technology", sources of energy that shall be considered renewable for purposes of this section shall include but not be limited to the following:
 - (a) Solar, including photovoltaic cells, concentrating solar power technologies, and low temperature solar collectors;
 - (b) Wind;
 - (c) Hydroelectric, not including pump storage;
 - (d) Hydrogen from renewable sources;
 - (e) Biomass, any organic matter available on a renewable basis, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, animal waste, aquatic plants, biogas from landfills or wastewater treatment plants; and
 - (f) Other renewable energy sources defined by rule by the commission after consultation with the department;
- (3) "Energy efficiency", verifiable reductions in energy consumption, or verifiable reductions in the rate of energy consumption growth, as defined by rule by the commission after consultation with the department, as a result of measures implemented by electrical corporations and electricity consumers which may include, but not be limited to, pricing signals, electronic controls, education, information, infrastructure improvements, and the use of high efficiency equipment and lighting;
- (4) "Total retail electric sales", the kilowatt-hours of electricity delivered in a year by an electrical corporation to its Missouri retail customers.]

[393.1025. 1. Each electrical corporation shall make a good faith effort to generate or procure sufficient electricity generated by an eligible renewable energy technology, and support energy efficiency measures, so that by 2012, four percent of total retail electric sales in the aggregate by electrical corporations is generated by eligible renewable energy technologies, increasing to eight percent by 2015, and eleven percent generated by eligible renewable energy technologies by 2020. Generation provided by any existing eligible renewable energy technology, owned, controlled, or purchased by electrical corporations, that are operational prior to August 28, 2007, shall be applied towards meeting the objective so long as it continues to generate electricity. Credit towards the objective also may be achieved through energy efficiency that includes electrical corporation and consumer efforts to reduce the consumption of electric energy. After consulting with the department, the commission may establish intermediate goals for the use of renewable energy technologies as part of its rulemaking process.

2. By July 1, 2008, the commission shall, after consultation with the department, adopt rules that integrate into its resource planning rules the renewable energy objective of subsection 1 of this section and the criteria and standards by which it will measure an electrical corporation's efforts to meet that objective to determine whether it is making the required good faith effort. In this rulemaking, the commission shall include criteria and standards that, at a minimum, shall:

- (1) Protect against adverse economic impacts, including the costs of any transmission investments necessary to access eligible renewable energy technologies, on the ratepayers and shareholders;
- (2) Protect against undesirable impacts on the reliability of each electrical corporation's system;
- (3) Consider environmental compliance costs, present and future, of each source being evaluated; and

(4) Consider technical feasibility, providing for flexibility in meeting the objective in the event electrical corporations are, for good cause shown, unable to meet in aggregate the objective of this section.

3. In its rulemaking under this section, the commission shall provide for a weighted scale of how energy produced by various eligible renewable energy technologies shall count toward an electrical corporation's objective. In establishing this scale, the commission shall consider the attributes of various technologies and fuels and shall establish a system that grants multiple credits toward the objective for those technologies and fuels the commission determines are in the public interest to encourage. The commission may also grant multiple credits toward the objective for generation in the state or procurement of electricity generated in the state that uses an eligible renewable energy technology.

4. The commission shall develop rules as provided in this section in consultation with the department as necessary to implement the requirements of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section and section 393.1020 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.]

[393.1030. 1. Each electric corporation shall submit to the commission a biennial report by December thirty-first, beginning in 2009, on its plans, activities, and progress with regard to the objective of section 393.1025, demonstrating to the commission that it is making the required good faith effort. The report must be submitted in a format prescribed by the commission, not to exceed fifty pages, and it shall include the following:

- (1) Sufficient data to specify and verify the status of its renewable energy mix relative to the good faith objective;
- (2) Sufficient data to specify and verify the status of the electric corporation's and its customers' energy efficiency efforts relative to the good faith objective;
- (3) Efforts taken to meet the objective;
- (4) Any obstacles encountered or anticipated in meeting the objective; and
- (5) Potential solutions to the obstacles.

2. The commission shall compile the information provided under subsection 1 of this section and biennially report by July first, beginning in 2010, to the governor, the speaker of the house of representatives, the president pro tempore of the senate, the chairs of the committees in the house of representatives and senate with jurisdiction over energy and environment policy issues, and the department as to the progress of electrical corporations in the state in increasing the amount of renewable energy provided to retail customers and increasing energy efficiency, with any recommendations for regulatory or legislative action. In addition, the Missouri director of the department of economic development shall issue a biennial report by July first, beginning in 2010, on the impact of the renewable portfolio standard on the Missouri economy and the director of the department of natural resources shall issue a biennial report by July first, beginning in 2010, on the environmental impact of sections 393.1020 to 393.1040. The biennial reporting requirements under this subsection shall end after July 1, 2022.]

[393.1035. 1. Electricity produced by fuel combustion may only count toward an electrical corporation's objectives if the generation facility complies with all federal and state statutes and rules.

2. An electrical corporation may blend or co-fire a fuel listed in subsection 2 of section 393.1020, with other fuels in the generation facility, but only the percentage of electricity that is attributable to a fuel listed in that section can be counted toward an electric corporation's renewable energy objectives.]" and

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

Representative Nieves assumed the Chair.

Representative Chappelle-Nadal moved that **House Amendment No. 1 to House Amendment No. 2** be adopted.

Which motion was defeated by the following vote:

AYES: 037

Aull	Bland	Brown 50	Burnett	Chappelle-Nadal
Curls	Daus	Fallert	George	Harris 23
Haywood	Hodges	Holsman	Komo	Kratky
LeVota	Low 39	Lowe 44	Meiners	Nasheed
Oxford	Page	Parkinson	Quinn 9	Roorda
Rucker	Salva	Scavuzzo	Storch	Talboy
Todd	Walsh	Walton	Wildberger	Wright-Jones
Zimmerman	Zweifel			

NOES: 105

Baker 123	Bivins	Brandom	Bringer	Brown 30
Bruns	Casey	Cooper 120	Cooper 155	Cox
Cunningham 145	Cunningham 86	Darrough	Davis	Day
Deeken	Denison	Dethrow	Dixon	Dusenberg
Emery	Ervin	Faith	Fares	Fisher
Flook	Frame	Franz	Funderburk	Grill
Grisamore	Guest	Harris 110	Hobbs	Hoskins
Hubbard	Ice	Jones 89	Jones 117	Kasten
Kelly	Kingery	Kraus	Kuessner	Lampe
Lembke	Liese	Lipke	Loehner	Marsh
May	McGhee	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Norr	Onder
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Richard	Robb	Ruestman	Ruzicka
Sander	Sater	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Schoemehl
Shively	Silvey	Skaggs	Smith 14	Smith 150
Stevenson	St. Onge	Stream	Sutherland	Swinger
Thomson	Threlkeld	Tilley	Villa	Wallace
Wasson	Wells	Weter	Whorton	Wilson 119
Witte	Wood	Wright 159	Yaeger	Yates

PRESENT: 001

Wilson 130

ABSENT WITH LEAVE: 018

Avery	Baker 25	Corcoran	Donnelly	Dougherty
El-Amin	Hughes	Hunter	Johnson	McClanahan
Meadows	Robinson	Self	Spreng	Viebrock
Vogt	Young	Mr Speaker		

VACANCIES: 002

Speaker Pro Tem Pratt resumed the Chair.

On motion of Representative Schoeller, **House Amendment No. 2** was adopted.

Representative Wasson offered **House Amendment No. 3.**

House Amendment No. 3

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262, & 1263, Section 64.170, by inserting after all of said section the following:

"135.670. 1. As used in this section, the following terms mean:

(1) "Class 8 truck", a heavy duty vehicle, as defined in 42 U.S.C. Section 16104, as amended, that has a gross vehicle weight in excess of thirty three thousand pounds;

(2) "Department", the department of revenue;

(3) "Idle reduction technology", shall have the same meaning ascribed in 42 U.S.C. Section 16104, as amended;

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, and 153, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

(5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. For all tax years beginning on or after January 1, 2008, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the amount such taxpayer paid to purchase and install idle reduction technology on a class 8 truck after January 1, 2008. In no case shall the tax credit exceed thirty five hundred dollars per truck.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed. However, any tax credit that cannot be claimed in the taxable year the purchase and installation was made may be carried over to the next three succeeding taxable years until the full credit has been claimed. The tax credit allowed under this section shall be nontransferable.

4. The cumulative amount of tax credits which may be issued under this section in any one fiscal year shall not exceed ten million dollars, and the total amount of tax credits which may be issued under this section shall not exceed twenty million dollars. If the amount of tax credits claimed under this section exceeds ten million dollars in any one fiscal year, the director of the department of revenue shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all taxpayers allowed a tax credit under this section. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

5. Not less than one hundred and twenty days from the effective date of this act, the department shall promulgate rules necessary for the implementation of the provisions of this act. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

6. The provisions of this section shall automatically sunset two years after August 28, 2008, unless reauthorized."; and

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

Representative Pearce assumed the Chair.

On motion of Representative Wasson, **House Amendment No. 3** was adopted.

Representative Hobbs offered **House Amendment No. 4**.

House Amendment No. 4

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Section 394.320, Page 23, Lines 1 to 17, by striking all of said section from bill; and

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

On motion of Representative Hobbs, **House Amendment No. 4** was adopted.

Representative Holsman offered **House Amendment No. 5**.

House Amendment No. 5

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Page 15, Section 64.170, Line 34, by inserting after all of said line the following:

- "135.032. 1. This section shall be known and may be cited as the "Green Building Tax Credit".
2. As used in this section, the following terms mean:
- (1) "Applicant", a taxpayer who is either the owner or builder or contract purchaser of a building, and is applying for a green building tax credit for such building;
 - (2) "Base building", all areas of a building not intended for occupancy by a tenant or owner, including, but not limited to, the structural components of the building, exterior walls, floors, windows, roofs, foundations, chimneys and stacks, parking areas, mechanical rooms and mechanical systems, and owner-controlled and/or operated service spaces, sidewalks, main lobby, shafts and vertical transportation mechanisms, stairways, and corridors;
 - (3) "Commissioning", the process of verifying and ensuring that the entire building and the systems within are designed, constructed, functionally tested, and calibrated to operate as intended;
 - (4) "Credit allowance year", the year as stated on the preliminary credit certificate by the director;
 - (5) "Department", the department of natural resources;
 - (6) "Director", the director of the department of natural resources;
 - (7) "Economic development area", an economic development area as defined under section 99.805, RSMo;
 - (8) "Eligible building", a building located within the state, which is:
 - (a) A residential multi-family building;
 - (b) A residential, single-family, detached dwelling;
 - (c) A building used for commercial or industrial purposes; or
 - (d) Any combination of buildings described in paragraphs (a) to (d) of this subdivision;
 - (9) "Energy and Atmosphere Credit Number One", the credit awarded by the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, which requires increased energy performance above the standard as defined in the most current version of the LEED-NC or LEED-EB Rating System;
 - (10) "Energy and Atmosphere Credit Number Three", the credit awarded by the LEED Green Building Rating System, which requires additional commissioning above the fundamental commissioning prerequisite as defined in the most current version of the LEED-NC or LEED-EB Rating System;
 - (11) "Gold rating", the rating in compliance with, or exceeding, the second highest rating awarded by the USGBC LEED certification process;
 - (12) "Green base building", a base building that meets all requirements in the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System for Core and Shell or that meets the most current requirements for at least a three globes rating under Green Globes;

(13) "Green building" or "high-performance building", a building that is designed to achieve integrated systems design and construction so as to significantly reduce or eliminate the negative impact of the built environment on the following:

- (a) Site conservation and sustainable planning;
- (b) Water conservation and efficiency;
- (c) Energy efficiency and renewable energy;
- (d) Conservation of materials and resources; and
- (e) Indoor environmental quality and human health;

(14) "Green Globes", an environmental assessment and rating tool for green buildings developed by the Green Building Initiative;

(15) "Green tenant space", a tenant space as defined under subdivision (24) of this section that meets all requirements in the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System for Commercial Interiors or that meets the most current requirements for at least a three globes rating under Green Globes;

(16) "Green whole building", a whole building that meets all requirements in the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System for New Building Construction and Major Renovations LEED-NC, as amended from time to time, or that meets all requirements in the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System for Existing Buildings, or that meets the most current requirements for at least a three globes rating under Green Globes;

(17) "LEED-CI" or "LEED Green Building Rating System Version LEED-CI", the most current Leadership in Energy and Environmental Design Green Building Rating System guidelines developed and the United States Green Building Council for commercial interiors;

(18) "LEED-CS" or "LEED Green Building Rating System Version LEED-CS", the most current Leadership in Energy and Environmental Design Green Building Rating System guidelines developed and adopted by the United States Green Building Council for the core and shell of buildings otherwise known as the base building;

(19) "LEED-EB" or "LEED Green Building Rating System Version LEED-EB", the most current Leadership in Energy and Environmental Design Green Building Rating System guidelines developed and adopted by the United States Green Building Council for existing buildings;

(20) "LEED-NC" or "LEED Green Building Rating System Version LEED-NC", the most current Leadership in Energy and Environmental Design Green Building Rating System developed and adopted by the United States Green Building Council for new buildings and major renovations;

(21) "Platinum rating", the rating in compliance with, or exceeding, the highest rating awarded by the USGBC LEED certification process;

(22) "Silver rating", the rating in compliance with, or exceeding, the third highest rating awarded by the USGBC LEED certification process;

(23) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer under the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

(24) "Tenant space", the portion of a building intended for occupancy by a tenant or occupying owner;

(25) "United States Green Building Council" or "USGBC", the specific council which measures and evaluates the energy and environmental performance of a building according to its own Leadership in Energy and Environmental Design Rating system;

(26) "Whole building", the entire building, as comprised of the base building and tenant space.

3. (1) The green building tax credit shall be available to an applicant for:

(a) Either the construction of a green building or the rehabilitation of a building, which is not a green building, into a green building;

(b) The construction or rehabilitation of a base building which is not a green base building, into a green base building; or

(c) The construction or rehabilitation of a tenant space which is not green tenant space, into green tenant space.

(2) An applicant may apply for a green building tax credit provided that the facility subject to the green building tax credit is located within the state and the applicant will be the owner or contract purchaser of the facility at the time of erection, construction, installation, or acquisition of the proposed facility.

(3) If a credit is allowed to a building owner pursuant to this section with respect to property, and such property or an interest therein is sold, the credit for the period after the sale, which would have been allowable under this section to the prior owner, shall be allowable to the new owner. Credit for the year of sale shall be allocated between the parties on the basis of the number of days during such year that the property or interest was held by each.

(4) In the case of allowance of credit under this section to a successor owner as provided in subdivision (3) of this subsection, the director shall have the authority to reveal to the successor owner any information, with respect to the credit of the prior owner, which is the basis for the denial in whole or in part of the credit claimed by such successor owner.

4. An applicant shall be eligible for a green building tax credit against a state tax liability provided such applicant complies with the requirements of subsection 5 of this section and provided that the building meets the requirements of an eligible building as set forth in subdivision (8) of subsection 2 of this section. The amount of credit shall be determined pursuant to subsection 7 of this section, but the total amount of tax credits issued to a single applicant under this section shall not exceed fifty thousand dollars per tax year.

(1) The credit amount shall be the sum of the following credit components, whichever are applicable:

(a) The green whole-building credit component shall be available to an applicant for either the construction of a green building or the rehabilitation of a building which is not a green whole building into a green whole building. The green whole-building credit component may not be allowed for any taxable year unless all the requirements under subsection 5 of this section are met; and

a. The whole building achieves a Silver, Gold, or Platinum Rating as approved by the LEED-NC Green Building Rating System, as amended from time to time, or the most recent version, for a new building and for major renovations; or, LEED Green Building Rating System Version LEED-EB, or the most recent version, for an existing building; or

b. The whole building achieves at least a three globes rating under the most current requirements of Green Globes;

(b) The green base building credit component shall be available to an applicant who is the contract owner for either the construction of a green building or the rehabilitation of a building, which is not a green base building, into a green base building. The green base building credit component may not be allowed for any taxable year unless all the requirements under subsection 5 of this section are met; and

a. The base building achieves a Silver, Gold, or Platinum Rating as approved by the LEED-CS Green Building Rating System, or the most recent version thereof; or

b. The base building achieves at least a three globes rating under the most current requirements of Green Globes;

(c) The green tenant space credit component shall be available to an applicant for constructing tenant space or rehabilitating tenant space, which is not green tenant space, into green tenant space. The green tenant space credit component may not be allowed for a taxable year unless all the requirements under subsection 5 of this section are met; and

a. The tenant space achieves a Silver, Gold, or Platinum Rating as approved by the LEED-CI Green Building Rating System, or the most recent version thereof; or

b. The tenant space achieves at least a three globes rating under the most current requirements of Green Globes.

(2) For each component eligible to receive credit such credit component amount shall not exceed the maximum amount specified in the preliminary certificate issued pursuant to subsection 8 of this section.

5. (1) The green building tax credit shall not be allowed for any taxable year unless the following are met:

(a) The applicant has obtained and filed a preliminary credit certificate issued under subsection 8 or 9 of this section;

(b) The building is in service as shown by a certificate of occupancy or other acceptable form of documentation as determined by the department; and

(c) The whole building, base building or tenant space has achieved either:

a. At least a three globes rating under the most current requirements for Green Globes; or

b. A Silver, Gold, or Platinum rating as approved by the applicable and most recent LEED Green Building Rating System as determined under subsection 4 of this section and in achieving its LEED rating, the whole building, base building, or tenant space must earn:

i. At least four LEED points for Energy and Atmosphere Credit Number One, or the equivalent points under any subsequent version of LEED; and

ii. The point for Energy and Atmosphere Credit Number Three, or the equivalent points under any subsequent version of LEED.

(2) For each component eligible to receive credit under subsection 4 of this section, once construction is complete and an occupancy certificate is received, such credit component amount shall be allowed for each of the next four succeeding taxable years provided that the applicant obtains an eligibility certificate that meets all requirements for an eligibility certificate as described in paragraph (b) of subdivision (3) of subsection 10 of this section.

(3) When filing with the department of revenue, the applicant shall file the eligibility certificate and the preliminary credit component certificate with the claim for credit. Allowable costs in this subsection and for all five years that the credit may be available shall not exceed, in the aggregate, the amount determined under subsections 4, 6, and 7 of this section.

6. For tax years beginning on or after January 1, 2010, the tax credits authorized under this section may be used to satisfy taxes owed under chapters 143, 147, and 148, RSMo, excluding sections 143.191 to 143.265, RSMo, in the tax year the credit is issued. Tax credits issued under this section shall be refundable and may be transferred, sold, or assigned by notarized endorsement, which names the transferee. In no case shall the aggregate amount of all tax credits issued under this section exceed one million dollars per tax year.

7. As soon as practicable, but not later than December 1, 2009, the department shall promulgate rules, in accordance with the provisions of this section, to:

(1) Determine the amount of green building tax credit available to a taxpayer based on the following:

(a) The amount of floor space in the building;

(b) The square footage of the building;

(c) The green globes rating or the level of LEED rating achieved by the building, with higher ratings corresponding to greater tax credits; and

(d) Whether the building is located in an economic development area with a higher tax credit corresponding to those buildings located in an economic development area;

(2) Determine allowable credit for each of:

(a) The whole green building credit component;

(b) The base green building credit component; and

(c) The green tenant space credit component.

The department shall promulgate rules for granting green building tax credits to applicants constructing or owning buildings that achieve National Association of Home Builder Model Green Building Ratings that are substantially similar to the performance standards set forth in this bill. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

8. (1) Prior to construction of a proposed facility an applicant may apply to the department for preliminary certification if the applicant will be the owner or contract purchaser of the facility at the time of construction.

(2) An application for preliminary certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the applicant plans to construct a facility that meets the requirements under subsection 5 of this section;

(b) A detailed description of the proposed facility and its operation and information showing that the facility shall operate as represented in the application;

(c) The estimated start and finish date of the construction of the facility;

(d) Evidence of official registration in the LEED system or green globes rating system; and

(e) Any other information determined by the director to be necessary prior to issuance of a preliminary certificate.

(3) The director may allow an applicant to file the preliminary application after the start of the construction of the facility if the director finds that filing the application before the start of construction is inappropriate because special circumstances render filing earlier unreasonable.

(4) If the director determines that the proposed construction is technically feasible and should operate in accordance with the representations made by the applicant, and is in accordance with the provisions under subsection 5 of this section and any applicable rules or standards adopted by the director, the director shall issue a preliminary credit certificate approving the construction of the facility. The preliminary credit certificate shall state the following:

- (a) The first taxable year for which the credit may be applied;
- (b) The expiration date of the tax credit. Such expiration date may be extended at the discretion of the director in order to avoid unwarranted hardship; and
- (c) The maximum amount of the total credit allowed and the maximum amount of credit allowed in any single tax year.

(5) If the director determines that the construction does not comply with the provisions under subsection 5 of this section and applicable rules and standards, the director shall issue an order denying certification.

9. (1) To change a project that has already received preliminary certification, the applicant shall file a written request to the director which states:

- (a) A detailed description of the changes;
- (b) The reasons for the changes; and
- (c) The effects that the changes will have on the amount of tax credit stated by the preliminary certification.

(2) The director shall make the determination as to whether the changed project complies with the requirements under subsection 5 of this section.

(a) If the changed project complies with the requirements under subsection 5 of this section, then the director shall issue an amended preliminary certification.

(b) If the changed project fails to comply with the requirements under subsection 5 of this section, then the director shall issue an order that revokes the preliminary certification.

10. (1) No final certification shall be issued by the director under this subsection unless the facility was constructed under a preliminary certificate of approval issued under subsection 8 of this section.

(2) An applicant may apply to the department for final certification of a facility:

(a) If the department issued preliminary certification for the facility under subsection 8 of this section; and

(b) After completion of construction of the proposed facility.

(3) An application for final certification shall be made in writing on a form prepared by the department and shall contain:

- (a) A statement that the conditions of the preliminary certification have been complied with;
- (b) An eligibility certificate from the project architect or professional engineer licensed to practice in the state of Missouri or from a LEED accredited professional that consists of a certification by either:

a. The Green Building Initiative that the building with respect to which the credit is claimed meets the requirements for a green globes rating; or

b. The United States Green Building Council that the building with respect to which the credit is claimed is LEED certified and that in achieving its LEED rating, the building has earned at least four LEED points for Energy and Atmosphere Credit Number One and the Energy and Atmosphere Credit Number Three;

(c) A statement of the level of Green Globes or LEED performance achieved by the building to permit determination of the proper credit amount under subsection 6 of this section;

(d) A statement that the facility is in operation; and

(e) Any other information determined by the director to be necessary prior to issuance of a final certificate, including inspection of the facility by the department.

11. (1) The director may order the revocation of the final certificate issued under subsection 10 of this section if the director finds that:

- (a) The certification was obtained by fraud or misrepresentation; or
- (b) The holder of the certificate has failed substantially to construct the facility in compliance with the plans, specification, and procedures in such certificate.

(2) As soon as the order of revocation under this subsection becomes final, the director shall notify the department of revenue of such order.

(3) If the certificate is ordered revoked under paragraph (a) of subdivision (1) of this subsection, all prior tax credits provided to the applicant by virtue of such certificate shall be forfeited, and upon notification under subdivision (2) of this subsection, the department of revenue immediately shall proceed to collect those taxes not paid by the applicant as a result of the tax credits provided to the applicant under this section.

(4) If the certificate is ordered revoked under this subsection, the applicant shall be denied any tax credit under this section in connection with such facility after the date that the order of revocation becomes final.

12. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The tax credit authorized under this section shall automatically sunset three years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset."; and

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

On motion of Representative Holsman, **House Amendment No. 5** was adopted.

Representative Stevenson offered **House Amendment No. 6**.

House Amendment No. 6

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1181, 1100, 1262 & 1263, Page 32, Section 660.135, Line 13, by inserting after all of said line, the following:

"Section 1. Notwithstanding any other provision of law, any electrical corporation as defined by subdivision 15 of section 386.020, RSMo, which, by January 20, 2009, achieves an amount of eligible renewable energy technology nameplate capacity equal to or greater than fifteen percent of such corporation's total owned fossil-fired generating capacity, shall be exempt thereafter from a requirement to pay any subsidy, fee, or rebate to its customers that install their own solar electric energy system and shall be exempt from meeting any non-federal mandated renewable energy standard requirements. Any disputes or denial of exemptions under this section shall be reviewable by the circuit court of Cole County as prescribed by law."; and

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

On motion of Representative Stevenson, **House Amendment No. 6** was adopted.

On motion of Representative Schoeller, **HCS SCS SBs 1181, 1100, 1262 & 1263, as amended**, was adopted.

On motion of Representative Schoeller, **HCS SCS SBs 1181, 1100, 1262 & 1263, as amended**, was read the third time and passed by the following vote:

AYES: 116

Aull	Baker 25	Bivins	Bland	Brandom
Brown 30	Brown 50	Bruns	Casey	Cooper 155
Cox	Cunningham 145	Cunningham 86	Curls	Davis
Day	Deeken	Denison	Dixon	Dusenberg
Emery	Faith	Fallert	Fares	Fisher
Flook	Frame	Franz	Grill	Grisamore
Guest	Hobbs	Hodges	Holsman	Hoskins
Hubbard	Hughes	Ice	Jones 89	Jones 117
Kasten	Kelly	Kingery	Komo	Kratky
Kraus	Lampe	Lembke	LeVota	Liese
Lipke	Loehner	Marsh	May	McGhee
Meiners	Moore	Munzlinger	Muschany	Nance
Nieves	Nolte	Norr	Onder	Parkinson

Parson	Pollock	Portwood	Pratt	Quinn 7
Richard	Robb	Roorda	Rucker	Ruestman
Ruzicka	Salva	Sander	Schaaf	Schad
Scharmhorst	Schieffer	Schlottach	Schneider	Schoeller
Self	Silvey	Skaggs	Smith 14	Smith 150
Stevenson	St. Onge	Storch	Stream	Sutherland
Thomson	Threlkeld	Tilley	Todd	Viebrock
Wallace	Walsh	Walton	Wasson	Wells
Weter	Wildberger	Wilson 119	Witte	Wood
Wright 159	Wright-Jones	Yaeger	Yates	Zimmerman
Mr Speaker				

NOES: 025

Baker 123	Bringer	Burnett	Chappelle-Nadal	Daus
Dethrow	Donnelly	Ervin	George	Harris 23
Harris 110	Johnson	Kuessner	McClanahan	Page
Pearce	Quinn 9	Sater	Scavuzzo	Shively
Talboy	Villa	Vogt	Whorton	Zweifel

PRESENT: 002

Oxford	Wilson 130
--------	------------

ABSENT WITH LEAVE: 018

Avery	Cooper 120	Corcoran	Darrough	Dougherty
El-Amin	Funderburk	Haywood	Hunter	Low 39
Lowe 44	Meadows	Nasheed	Robinson	Schoemehl
Spreng	Swinger	Young		

VACANCIES: 002

Representative Pearce declared the bill passed.

The emergency clause was adopted by the following vote:

AYES: 129

Aull	Baker 25	Bivins	Bland	Brandom
Bringer	Brown 30	Brown 50	Bruns	Casey
Chappelle-Nadal	Cooper 120	Cooper 155	Corcoran	Cox
Cunningham 145	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Denison	Dethrow
Dixon	Donnelly	Dusenberg	Emery	Ervin
Faith	Fallert	Fares	Fisher	Flook
Frame	Franz	Grill	Grisamore	Guest
Harris 23	Hobbs	Hodges	Holsman	Hoskins
Hubbard	Ice	Jones 89	Jones 117	Kasten
Kelly	Kingery	Komo	Kratky	Kraus
Kuessner	Lampe	Lembke	LeVota	Liese
Lipke	Loehner	Marsh	May	McClanahan
McGhee	Meiners	Moore	Munzlinger	Muschany
Nance	Nasheed	Nieves	Nolte	Norr
Onder	Parkinson	Parson	Pollock	Portwood
Pratt	Quinn 7	Richard	Robb	Roorda
Rucker	Ruestman	Ruzicka	Salva	Sander

1787 *Journal of the House*

Sater	Schaaf	Schad	Scharnhorst	Schieffer
Schlottach	Schneider	Schoeller	Self	Silvey
Skaggs	Smith 14	Smith 150	Stevenson	St. Onge
Storch	Stream	Sutherland	Swinger	Thomson
Threlkeld	Tilley	Todd	Viebrock	Wallace
Walsh	Walton	Wells	Weter	Wilson 119
Witte	Wood	Wright 159	Wright-Jones	Yaeger
Yates	Zimmerman	Zweifel	Mr Speaker	

NOES: 015

Baker 123	Burnett	George	Harris 110	Hughes
Page	Pearce	Quinn 9	Scavuzzo	Shively
Talboy	Villa	Vogt	Whorton	Wildberger

PRESENT: 002

Oxford	Wilson 130
--------	------------

ABSENT WITH LEAVE: 015

Avery	Dougherty	El-Amin	Funderburk	Haywood
Hunter	Johnson	Low 39	Lowe 44	Meadows
Robinson	Schoemehl	Spreng	Wasson	Young

VACANCIES: 002

Speaker Pro Tem Pratt resumed the Chair.

HOUSE BILL WITH SENATE AMENDMENTS

SS HCS HBs 1549, 1771, 1395 & 2366, as amended, relating to illegal aliens, was taken up by Representative Nolte.

Representative Nolte moved that the House refuse to adopt **SS HCS HBs 1549, 1771, 1395 & 2366, as amended**, and request the Senate to recede from its position and, failing to do so, grant the House a conference.

Representative LeVota made a substitute motion that the House adopt **SS HCS HBs 1549, 1771, 1395 & 2366, as amended**.

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 082

Baker 123	Bivins	Brandom	Brown 30	Bruns
Cooper 155	Cox	Cunningham 145	Cunningham 86	Davis
Day	Deeken	Denison	Dethrow	Dixon
Dusenberg	Ervin	Faith	Fares	Fisher
Flook	Franz	Funderburk	Grisamore	Guest
Hobbs	Icet	Jones 89	Jones 117	Kasten

Kelly	Kingery	Kraus	Lipke	Loehner
Marsh	May	McGhee	Moore	Munzlinger
Muschany	Nance	Nieves	Nolte	Onder
Parkinson	Parson	Pearce	Pollock	Pratt
Quinn 7	Richard	Robb	Ruestman	Ruzicka
Sander	Sater	Schaaf	Schad	Scharnhorst
Schlottach	Schneider	Schoeller	Self	Silvey
Smith 14	Smith 150	St. Onge	Stream	Sutherland
Thomson	Threlkeld	Tilley	Viebrock	Wasson
Wells	Weter	Wilson 119	Wilson 130	Wood
Yates	Mr Speaker			

NOES: 055

Aull	Baker 25	Bland	Brown 50	Casey
Chappelle-Nadal	Corcoran	Curls	Darrough	Daus
Donnelly	Dougherty	Fallert	Frame	George
Harris 23	Harris 110	Hodges	Hoskins	Hubbard
Hughes	Johnson	Komo	Kratky	Kuessner
Lampe	LeVota	Liese	Lowe 44	McClanahan
Meiners	Nasheed	Norr	Oxford	Quinn 9
Roorda	Rucker	Scavuzzo	Schieffer	Shively
Skaggs	Storch	Swinger	Talboy	Todd
Villa	Vogt	Walsh	Walton	Whorton
Wildberger	Witte	Wright-Jones	Yaeger	Zweifel

PRESENT: 000

ABSENT WITH LEAVE: 024

Avery	Bringer	Burnett	Cooper 120	El-Amin
Emery	Grill	Haywood	Holsman	Hunter
Lembke	Low 39	Meadows	Page	Portwood
Robinson	Salva	Schoemehl	Spreng	Stevenson
Wallace	Wright 159	Young	Zimmerman	

VACANCIES: 002

Representative LeVota again moved that the House adopt **SS HCS HBs 1549, 1771, 1395 & 2366, as amended.**

Which motion was defeated by the following vote:

AYES: 049

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Corcoran	Curls	Darrough	Donnelly
Dougherty	Fallert	Frame	George	Grill
Harris 23	Harris 110	Hodges	Hubbard	Komo
Kratky	Kuessner	Lampe	Liese	Lowe 44
McClanahan	Nasheed	Norr	Page	Quinn 9
Roorda	Rucker	Scavuzzo	Schieffer	Shively
Stevenson	Storch	Swinger	Todd	Villa
Vogt	Walsh	Walton	Whorton	Wildberger
Witte	Wright-Jones	Zimmerman	Zweifel	

1789 *Journal of the House*

NOES: 097

Baker 123	Bivins	Brandom	Brown 30	Bruns
Casey	Chappelle-Nadal	Cooper 155	Cox	Cunningham 145
Cunningham 86	Daus	Davis	Day	Deeken
Denison	Dethrow	Dixon	Dusenberg	Ervin
Faith	Fares	Fisher	Flook	Franz
Funderburk	Grisamore	Guest	Hobbs	Hoskins
Hughes	Hunter	Ice	Johnson	Jones 89
Jones 117	Kasten	Kelly	Kingery	Kraus
Lembke	LeVota	Lipke	Loehner	Marsh
May	McGhee	Meiners	Moore	Munzlinger
Muschany	Nance	Parson	Nolte	Onder
Oxford	Parkinson	Richard	Pearce	Pollock
Pratt	Quinn 7	Sater	Robb	Ruestman
Ruzicka	Sander	Schneider	Schaaf	Schad
Scharnhorst	Schlottach	Smith 14	Schoeller	Self
Silvey	Skaggs	Talboy	Smith 150	St. Onge
Stream	Sutherland	Wasson	Thomson	Threlkeld
Tilley	Viebrock	Wood	Wells	Weter
Wilson 119	Wilson 130		Wright 159	Yaeger
Yates	Mr Speaker			

PRESENT: 000

ABSENT WITH LEAVE: 015

Avery	Cooper 120	El-Amin	Emery	Haywood
Holsman	Low 39	Meadows	Portwood	Robinson
Salva	Schoemehl	Spreng	Wallace	Young

VACANCIES: 002

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 086

Bivins	Brandom	Brown 30	Bruns	Cooper 155
Cox	Cunningham 145	Cunningham 86	Davis	Day
Deeken	Denison	Dethrow	Dixon	Dusenberg
Emery	Ervin	Faith	Fares	Fisher
Flook	Franz	Funderburk	Grisamore	Guest
Hobbs	Ice	Jones 89	Jones 117	Kasten
Kelly	Kingery	Kraus	Lembke	Lipke
Loehner	Marsh	May	McGhee	Moore
Munzlinger	Muschany	Nance	Nieves	Nolte
Onder	Parkinson	Parson	Pearce	Pollock
Pratt	Quinn 7	Richard	Robb	Ruestman
Ruzicka	Sander	Sater	Schaaf	Schad
Scharnhorst	Schlottach	Schneider	Schoeller	Self
Silvey	Smith 14	Smith 150	Stevenson	St. Onge
Stream	Sutherland	Thomson	Threlkeld	Tilley
Viebrock	Wallace	Wasson	Wells	Weter

Wilson 119 Wilson 130 Wood Wright 159 Yates
Mr Speaker

NOES: 059

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Corcoran	Curls
Darrough	Daus	Donnelly	Dougherty	Fallert
Frame	George	Grill	Harris 23	Harris 110
Hodges	Holsman	Hoskins	Hubbard	Hughes
Johnson	Komo	Kratky	Kuessner	Lampe
LeVota	Liese	Lowe 44	McClanahan	Meiners
Norr	Oxford	Page	Quinn 9	Rucker
Salva	Scavuzzo	Schieffer	Shively	Storch
Swinger	Talboy	Todd	Villa	Vogt
Walsh	Walton	Whorton	Wildberger	Witte
Wright-Jones	Yaeger	Zimmerman	Zweifel	

PRESENT: 000

ABSENT WITH LEAVE: 016

Avery	Baker 123	Cooper 120	El-Amin	Haywood
Hunter	Low 39	Meadows	Nasheed	Portwood
Robinson	Roorda	Schoemehl	Skaggs	Spreng
Young				

VACANCIES: 002

Representative Nolte again moved that the House refuse to adopt **SS HCS HBs 1549, 1771, 1395 & 2366, as amended**, and request the Senate to recede from its position and, failing to do so, grant the House a conference.

Which motion was adopted.

THIRD READING OF SENATE BILLS

HCS#2 SS SCS SB 718, relating to incentives for business development, was taken up by Representative Pearce.

Representative Pearce offered **House Amendment No. 1**.

House Amendment No. 1

AMEND House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 32.105, Page 2, Line 24, by deleting "5%" and inserting in lieu thereof "35%"; and

Further amend said bill, Section 137.115, Page 15, Line 7, by deleting the word "possessor" from said line and inserting in lieu thereof the following: "[possessor] **possessory**"; and

Further amend said page, Line 9, by deleting the word "**possessor**" and inserting in lieu thereof the word "**possessory**"; and

Further amend said bill, section, page, Line 13, by deleting the word "**possessor**" and inserting in lieu thereof the word "**possessory**"; and

Further amend said bill, section, page, Line 16, by deleting the word "**possessor**" and inserting in lieu thereof the word "**possessory**"; and

Further amend said bill, Section 620.1881, Page 57, Lines 204 and 205, by removing the open "[" and closed "]" brackets from said lines; and

Further amend said page, Line 205, by inserting an open bracket "[" in front of the word "forty"; and

Further amend said line, by inserting after the word "forty" the following:

"] **sixty**"; and

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

Representative Salva offered **House Amendment No. 1 to House Amendment No. 1**.

Representative Richard raised a point of order that **House Amendment No. 1 to House Amendment No. 1** goes beyond the scope of the amendment.

The Chair ruled the point of order well taken.

On motion of Representative Pearce, **House Amendment No. 1** was adopted.

Representative Richard offered **House Amendment No. 2**.

House Amendment No. 2

AMEND House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Page 1, In the Title, Line 4, by inserting after "RSMo," the following:

"and section 99.825 as enacted by senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session,"; and

Further amend said bill, Page 1, Section A, Line 3, by inserting after "RSMo," the following:

"senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session,"; and

Further amend said bill, Page 6, Section 67.1545, Line 57, by inserting after all of said line the following:

"99.820. 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 or 3 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with

a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) [Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments. **Members appointed by the county executive or presiding commissioner prior to August 28, 2008, shall continue their service on the commission established in subsection 3 of this section without further appointment unless the county executive or presiding commissioner appoints a new member or members.**

3. [The commission] **Beginning August 28, 2008:**

(1) **In lieu of a commission created under subsection 2 of this section, any city, town, or village in a county with a charter form of government and with more than one million inhabitants, in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, or in a county of the first classification with more than one hundred eighty-five thousand but fewer than two hundred thousand inhabitants shall, prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, create a commission consisting of twelve persons to be appointed as follows:**

(a) **Six members appointed either by the county executive or presiding commissioner; notwithstanding any provision of law to the contrary, no approval by the county's governing body shall be required;**

(b) **Three members appointed by the cities, towns, or villages in the county which have tax increment financing districts in a manner in which the chief elected officials of such cities, towns, or villages agree;**

(c) **Two members appointed by the school boards whose districts are included in the county in a manner in which the school boards agree; and**

(d) **One member to represent all other districts levying ad valorem taxes in the proposed redevelopment area in a manner in which all such districts agree.**

No city, town, or village subject to this subsection shall create or maintain a commission under subsection 2 of this section, except as necessary to complete a public hearing for which notice under section 99.830 has been provided prior to August 28, 2008, and to vote or make recommendations relating to redevelopment plans, redevelopment projects, or designation of redevelopment areas, or amendments thereto that were the subject of such public hearing;

(2) **Members appointed to the commission created under this subsection, except those six members appointed by either the county executive or presiding commissioner, shall serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan, or designation of a redevelopment area is considered for approval by the commission. The six members appointed by either the county executive or the presiding commissioner shall serve on all such commissions until replaced. The city, town, or village that creates a commission under this subsection shall send notice thereof by certified mail to the county executive or presiding commissioner, to the school districts whose boundaries include any portion of the proposed redevelopment area, and to the other taxing districts whose boundaries include any portion of the proposed redevelopment area. The city, town, or village that creates the commission shall also be solely responsible for notifying all other cities, towns, and villages in the county that have tax increment financing districts and shall exercise all administrative functions of the commission. The school districts receiving notice from the city, town, or village shall be solely responsible for notifying the other school districts within the county of the formation of the commission. If the county, school board, or other taxing district fails to appoint members to the commission within thirty days after the city, town, or village sends the written notice, as provided herein, that it has convened such a commission or within thirty days of the expiration of any such member's term, the remaining duly appointed members of the commission may exercise the full powers of the commission.**

4. (1) **Any commission created under this section, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. [The]**

(2) **Any commission created under subsection 2 of this section shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.**

(3) **Any commission created under subsection 3 of this section shall, within fifteen days of the receipt of a redevelopment plan meeting the minimum requirements of section 99.810, as determined by counsel to the city, town, or village creating the commission and a request by the applicable city, town, or village for a public hearing, fix a time and place for the public hearing referred to in section 99.825. The public hearing shall be held no later than seventy-five days from the commission's receipt of such redevelopment plan and request for public hearing. The commission shall vote and make recommendations to the governing body of the city, town, or village requesting the public hearing on all proposed redevelopment plans, redevelopment projects, and designations of**

redevelopment areas, and amendments thereto within thirty days following the completion of the public hearing. If the commission fails to vote within thirty days following the completion of the public hearing referred to in section 99.825 concerning the proposed redevelopment plan, redevelopment project, or designation of redevelopment area, or amendments thereto, such plan, project, designation, or amendment thereto shall be deemed rejected by the commission.

99.825. 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing **as required in subsection 4 of section 99.820** and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing; **provided, if the commission is created under subsection 3 of section 99.820, the hearing shall not be continued for more than thirty days beyond the date on which it is originally opened unless such longer period is requested by the chief elected official of the municipality creating the commission and approved by a majority of the commission.** Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. Effective January 1, 2008, if, after concluding the hearing required under this section, the commission makes a recommendation under section 99.820 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, a municipality desiring to approve such project, plan, designation, or amendments shall do so only upon a two-thirds majority vote of the governing body of such municipality.

3. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings."; and

Further amend said bill, Page 57, Section 620.1881, Line 261, by inserting after all of said line the following:

[99.825. 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or

designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.]; and

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

On motion of Representative Richard, **House Amendment No. 2** was adopted.

Representative Dougherty offered **House Amendment No. 3**.

House Amendment No. 3

AMEND House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 253.550, Page 30, Line 20, by inserting after all of said line the following:

“313.057. 1. It is unlawful for any person, either as an owner, lessee or employee, to operate, carry on, conduct or maintain any form of manufacturing, selling, leasing or distribution of any bingo equipment or supplies without having first procured and maintained a Missouri bingo equipment and supplies manufacturer or supplier license.

2. The commission shall submit two sets of fingerprints for each key person, as defined in commission rules and regulations, of an entity or organization seeking issuance or renewal of a Missouri bingo equipment and supplies manufacturer or supplier license, for the purpose of checking the person's prior criminal history when the commission determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. The second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the commission of any criminal history information or lack of criminal history information discovered on the individual. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the commission.

3. The holder of a state bingo license may, within two years of cessation of conducting bingo or upon specific approval by the commission, dispose of by sale in a manner approved by the commission, any or all of his bingo equipment and supplies, without a supplier's license. In case of foreclosure of a lien by a bank or other person holding a security interest for which bingo equipment is security in whole or in part for the lien, the commission may authorize the disposition of the bingo equipment without requiring a supplier's license.

4. Any person whom the commission determines to be a suitable person to receive a license pursuant to the provisions of this section may be issued a manufacturer's or supplier's license. The commission may require suppliers to post a bond with the commission in an amount and in the manner prescribed by the commission. The burden of proving his qualification to receive or hold a license pursuant to this section is at all times on the applicant or licensee.

5. The commission shall charge and collect from each applicant for a supplier's license a one-time application fee set by the commission, not to exceed five thousand dollars. The commission shall charge and collect an annual renewal fee for each supplier licensee not to exceed one thousand dollars.

6. The commission shall charge and collect from each applicant for a manufacturer's license a one-time application fee set by the commission, not to exceed one thousand dollars. The commission shall charge and collect an annual renewal fee for each manufacturer licensee not to exceed five hundred dollars.

7. The commission shall charge and collect from each applicant for a hall provider's license a one-time application fee set by the commission, not to exceed seven hundred fifty dollars. The commission shall charge and collect an annual renewal fee for each hall provider licensee not to exceed five hundred dollars.

8. All licenses issued pursuant to this section shall be issued for the calendar year and shall expire on December thirty-first of each year. Regardless of the date of application or issuance of the license, the fee to be charged and collected pursuant to this section shall be the full annual fee.

9. All license fees collected pursuant to this section shall be paid over immediately to the state treasurer to be deposited to the credit of the gaming commission bingo fund.

10. All licensees pursuant to this section shall maintain for a period of not less than three years full and complete records of all business carried on in this state and shall make same available for inspection to any duly authorized representative of the commission. If a supplier does not receive payment in full from an organization within thirty days of the delivery of bingo supplies, the supplier shall notify the commission in writing, or in a manner specified by the commission in its rules and regulations, of the delinquency. Upon receipt of the notice of delinquency, the commission shall notify all suppliers that until further notice from the commission, all sales of bingo supplies to the delinquent organizations shall be on a cash-only basis. Upon receipt of the notice from the commission, no supplier may extend credit to the delinquent organization until such time as the commission approves credit sales. If a manufacturer does not receive payment in full from a supplier within ninety days of the delivery of bingo supplies, the manufacturer shall notify the commission in writing, or in a manner specified by the commission in its rules and regulations, of the delinquency. Upon receipt of the notice of delinquency, the commission shall notify all manufacturers that until further notice from the commission, all sales of bingo supplies to the delinquent supplier shall be on a cash-only basis. Upon receipt of the notice from the commission, no manufacturer may extend credit to the delinquent supplier until such time as the commission approves credit sales.

11. [Until January 1, 1995, all suppliers shall pay a tax on all pull-tab cards distributed by them in the amount of ten dollars per box when sold by any organization licensed to conduct bingo pursuant to the provisions of sections 313.005 to 313.080. No box sold shall contain more than twenty-four hundred pull-tab cards. Beginning January 1, 1995, a tax is hereby imposed in the amount of two percent of the gross receipts of the retail sales value charged for each pull-tab card sold in Missouri to be paid by the supplier. The taxes, less two percent of the total amount paid which may be retained by the supplier, if timely filed and paid, shall be paid on a monthly basis to the commission by each supplier of pull-tabs and shall be due on the last day of each month following the month in which the pull-tabs were sold. The taxes shall be deposited in the state treasury, credited to the bingo proceeds for education fund.] All pull-tab cards sold by suppliers in this state shall bear on the face thereof the amount for which such pull-tab cards will be sold, and the license number of the supplier shall be printed on the inventory statement commonly called the flare, enclosed in each unit container. Each unit container shall contain cards printed in such a manner as to ensure that at least sixty percent of the gross revenues generated by the ultimate sale of such cards shall be returned to the final purchasers of such cards. [Any supplier who fails to pay the tax imposed pursuant to this subsection shall have his license issued pursuant to this section revoked and shall be guilty of a class A misdemeanor.]; and

Further amend said bill, Section 620.1881, Page 59, Line 260, by inserting after all of said line the following:

“[313.055. 1. A tax is hereby imposed on each organization conducting the game of bingo which awards to winners of bingo games prizes or merchandise having an aggregate retail value of more than five thousand dollars annually and more than one hundred dollars in any single day. The tax shall be in the amount of two-tenths of one cent upon each bingo card and progressive bingo game card sold in Missouri to be paid by the supplier. The taxes, less two percent of the total amount paid which may be retained by the supplier, shall be paid on a monthly basis to the commission, by each supplier of bingo supplies and shall be due on the last day of the month following the month in which the bingo card was sold, with the date of sale being the date on the invoice evidencing the sale, along with such reports as may be required by the commission. The taxes shall be deposited in the state treasury, credited to the bingo proceeds for education fund.

2. All taxes not paid to the commission by the person or licensee required to remit the same on the date when the same becomes due and payable to the commission under the provisions of sections 313.005 to 313.085 shall bear interest at the rate to be set by the commission not to exceed two percent per calendar month, or fraction thereof, from and after such date until paid. In addition, the commission may impose a penalty not to exceed three times the amount of taxes due for failure to submit the reports required by this section and pay the taxes due.]; and

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

On motion of Representative Dougherty, **House Amendment No. 3** was adopted.

Representative Wilson (119) offered **House Amendment No. 4**.

House Amendment No. 4

AMEND House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 135.682, Page 12, Line 35, by inserting after all of said line the following:

- "135.903. 1. To qualify as a rural empowerment zone, an area shall meet all the following criteria:
- (1) The area is one of pervasive poverty, unemployment, and general distress;
 - (2) At least sixty-five percent of the population has earned income below eighty percent of the median income of all residents within the state according to the last decennial census or other appropriate source as approved by the director;
 - (3) The population of the area is at least four hundred but not more than three thousand five hundred at the time of designation as a rural empowerment zone;
 - (4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis;
 - (5) The area is situated more than ten miles from any existing rural empowerment zone;
 - (6) The area is situated in [a county of the third classification without a township form of government and with more than eight thousand nine hundred twenty-five but less than nine thousand twenty-five] **any county with eighteen thousand or fewer** inhabitants; and
 - (7) The area is not situated in an existing enterprise zone.
2. The governing body of any county in which an area may be designated a rural empowerment zone shall submit to the department an application showing that the area complies with the requirements of subsection 1 of this section. The department shall declare the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section. If the area is found not to meet the requirements, the governing body shall have the opportunity to submit another application for designation as a rural empowerment zone and the department shall designate the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section.
3. There shall be no more than two rural empowerment zones **per county** as created under sections 135.900 to 135.906 in existence at any time."; and

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

Representative Wallace offered **House Amendment No. 1 to House Amendment No. 4**.

House Amendment No. 1
to
House Amendment No. 4

AMEND House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 348.274, Page 35, Line 135, by inserting after all of said line the following:

"407.1240. As used in sections 407.1240 to 407.1252, the following terms shall mean:

- (1) "Business day", every day except Sundays and holidays;
- (2) "Holiday", any day that the United States Post Office is closed;
- (3) "Membership fee", the initial or reoccurring fee that is unrelated to actual pass-through costs associated with the use and enjoyment of travel benefits;

(4) "Rescission statement", a statement that shall be printed on all contracts pertaining to the purchase of travel club memberships from a travel club that shall provide in at least fourteen-point bold type the following statement:

"Assuming you have [not accessed any travel benefits and have] returned to the travel club all materials delivered to the purchaser at closing, you have the right to rescind this transaction for a period of three business days after the date of this agreement. To exercise the right of rescission, you must deliver to the travel club, either in person or by first class mail postmarked within the three-business-day period, at the address referenced in this contract, a written statement of your desire to rescind this transaction, and all materials **of value** that were provided and given to you at the time of the purchase of your travel club membership.";

(5) "Surety bond", any surety bond, corporate guaranty, letter of credit, certificate of deposit, or other bond or financial assurance in the sum of fifty thousand dollars that is required to be delivered by travel clubs which have been adjudged to have violated subsection 4 or 5 of section 407.1252 and in the event that such surety bond is accessed subsequent to posting as a result of the need to reimburse purchasers, the amount of the surety bond shall be increased by ten thousand dollars per reimbursement. All surety bonds shall:

(a) Serve as a source of funds to reimburse purchasers of travel club memberships who validly exercise their rights under the rescission statement in their contract but who are not, after judgment, provided a refund equal to the purchase price of their unused travel club memberships or, after settlement, equal to the terms of the settlement;

(b) Serve as a source of funds to reimburse purchasers of travel club memberships who have been proven to be the subject of fraud;

(c) Remain in full force and effect during the period of time the travel club conducts its business activities; and

(d) Be deemed acceptable to the attorney general if:

a. It is issued by an insurance company that possesses at least a "B+" rating, or its equivalent by A.M. Best or its successors or by any other nationally recognized entity that rates the creditworthiness of insurance companies;

b. It is in the form of a letter of credit that is issued by a banking institution with assets of at least seventy-five million dollars;

c. It is in the form of a certificate of deposit; or

d. It is in a form that otherwise is acceptable to the attorney general;

(6) "Travel benefits", benefits that are offered to travel club purchasers and customers that include all forms of overnight resort, condominium, time-share, hotel, motel, and other rental housing of every nature; all forms of air travel and rental car access; all forms of cruise line access; and all other forms of discounted travel benefits of every nature;

(7) "Travel club", any business enterprise that either directly, indirectly, or through the use of a fulfillment company or other third party offers to sell to the public the reoccurring right to purchase travel benefits at prices that are represented as being discounted from prices otherwise not generally available to the public and charges members or customers a membership fee that collectively equals no less than seven hundred fifty dollars.

407.1249. Assuming a purchaser [has not otherwise accessed any travel benefits and] returns to the travel club all materials of value delivered to the purchaser at closing, all purchasers of travel club memberships from a travel club that is registered shall have the nonwaivable right for a period of three business days after the date of their purchase to rescind and cancel their travel club purchase and receive a full refund of all sums otherwise paid to the travel club within fifteen business days of such rescission, minus the actual and reasonable cost of processing the refund, including credit card fees if applicable. **Use of travel club benefits during such rescission period shall not waive the right afforded by this section.** Individuals who purchase travel club memberships from a travel club that is not registered under sections 407.1240 to 407.1252 shall have a nonwaivable right for a period of three years from the date of purchase to

rescind and cancel their travel club membership and shall receive a full refund within fifteen business days of such rescission."; and

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

On motion of Representative Wallace, **House Amendment No. 1 to House Amendment No. 4** was adopted.

On motion of Representative Wilson (119), **House Amendment No. 4, as amended**, was adopted.

Representative Ruestman offered **House Amendment No. 5**.

House Amendment No. 5

AMEND House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 135.562, Page 11, Line 50, by inserting after all of said line the following:

"135.610. 1. For all tax years beginning on or after January 1, 2008, any taxpayer who is a volunteer firefighter with a registered fire department in this state shall be allowed a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo.

2. The credit authorized in this section shall be claimed as follows:

(1) The taxpayer may claim a credit in the amount of one hundred eighty dollars in the first tax year the taxpayer claims the credit if the taxpayer has completed at least twelve hours of any firefighter training program approved by the office of the state fire marshal in the tax year for which the credit is claimed. The taxpayer may claim the credit authorized in this subdivision in each subsequent tax year if the taxpayer completes at least twelve hours of any firefighter training program approved by the office of the state fire marshal in such subsequent tax year;

(2) After the initial tax credit is claimed under subdivision (1) of this subsection and the taxpayer has completed the Basic Fire Fighter program or been certified after completing the Fire Fighter I or Fire Fighter II program by the division of fire safety for a minimum of thirty-six hours, the taxpayer may claim a credit in the amount of three hundred sixty dollars in each tax year if the taxpayer has completed at least twelve hours of firefighter training program approved by the office of the state fire marshal in the tax year the taxpayer claims the credit under this subdivision.

3. The state fire marshal may develop or approve existing training programs for volunteer firefighters, may establish procedures for providing documentation that the taxpayer is a volunteer firefighter in good standing with a registered fire department, as required in chapter 320, RSMo, and has completed the training requirements in this section, and may promulgate rules to implement the provisions of this section.

4. The tax credit allowed by this section shall be claimed by the qualified taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after all other credits provided by law have been applied. If the amount of the tax credit exceeds the taxpayer's tax liability, the difference shall not be refundable but may be carried forward to any of the taxpayer's four subsequent taxable years.

5. The director of revenue shall establish the procedure by which the tax credit in this section may be claimed, and shall promulgate rules to implement the provisions of this section.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

7. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

- (1) **The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and**
- (2) **If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and**
- (3) **This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.";** and

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

On motion of Representative Ruestman, **House Amendment No. 5** was adopted.

Representative Scavuzzo offered **House Amendment No. 6.**

House Amendment No. 6

AMEND House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Section 67.1545, Page 6, Line 55, by inserting after all of said section and line:

"94.900. 1. The governing body of any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants located at least partly within a county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, **or any city of the fourth classification with more than eight thousand nine hundred but fewer than nine thousand inhabitants**, is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the city submits to the voters of the city, at a county or state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of (city's name) impose a citywide sales tax of (insert amount) for the purpose of improving the public safety of the city?

YES

NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second **calender** quarter [immediately following the election approving the proposal] **after the director of revenue receives notification of adoption of the local sales tax**. If a proposal receives less than the required majority, then the governing body of the city shall have no power to impose the sales tax herein authorized unless and until the governing body of the city shall again have submitted another proposal to authorize the governing body of the city to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a city from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for improving the public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for improving the public safety for the city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created [in the state treasury], to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

6. The director of the department of revenue may [authorize the state treasurer to] make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the department of revenue of the action at least ninety days prior to the effective date of the repeal and the director of the department of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of the department of revenue shall remit the balance in the account to the city and close the account of that city. The director of the department of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

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

94.902. 1. The governing body of any city of the third classification with more than twenty-six thousand three hundred but less than twenty-six thousand seven hundred inhabitants, **or any city of the fourth classification with more than thirty thousand three hundred but fewer than thirty thousand seven hundred inhabitants**, may impose, by order or ordinance, a sales tax on all retail sales made in the city which are subject to taxation under chapter 144, RSMo. The tax authorized in this section may be imposed in an amount of up to one-half of one percent, and shall be imposed solely for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance imposing a sales tax under this section shall not become effective unless the governing body of the city submits to the voters residing within the city, at a county or state general, primary, or special election, a proposal to authorize the governing body of the city to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall the city of (city's name) impose a citywide sales tax at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

YES NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments to the order or ordinance shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the sales tax. If a majority of the votes cast on the proposal by the qualified voters voting thereon are opposed to the proposal, then the tax shall not become effective unless the proposal is resubmitted under this section to the qualified voters and such proposal is approved by a majority of the qualified voters voting on the proposal. However, in no event shall a proposal under this section be submitted to the voters sooner than twelve months from the date of the last proposal under this section.

3. Any sales tax imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087, RSMo. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after

payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created in the state treasury, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director shall keep accurate records of the amount of money in the trust **fund** and which was collected in each city imposing a sales tax under this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax. Such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The director of the department of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the action at least ninety days before the effective date of the repeal, and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

5. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the sales tax imposed at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

YES

NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

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

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

On motion of Representative Scavuzzo, **House Amendment No. 6** was adopted.

Speaker Jetton resumed the Chair.

Representative Meiners offered **House Amendment No. 7**.

House Amendment No. 7

AMEND House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, Page 30, Section 253.550, Line 20, by inserting after all of said line the following:

"311.489. 1. A permit for the sale of intoxicating liquor as defined in section 311.020, and nonintoxicating beer as defined in section 312.010, RSMo, for consumption on premises where sold, and to conduct specified festival events, may be issued to any festival district, located in any home rule city with more than four hundred thousand inhabitants and located in more than one county, that includes three or more businesses that are licensed bars, nightclubs, restaurants, or other entertainment venues and a common area where a pedestrian access is controlled and that is closed to vehicle traffic, provided that the permit is held by a promotional association. A "promotional association" is defined as an entity formed by property owners who own or operate fifty percent or more of the square feet of bars, nightclubs, restaurants, and other entertainment venues located within the proposed district.

2. The promotional association may obtain a permit if the promotional association submits a plan to the governing body of the city containing basic information, which includes the legal description of the district and the common area within which such festivals shall be held, the name, address, and responsible person of each business participating in the promotional association, the specific calendar of events for the district which shall not exceed twenty such events and shall include the dates and times of any such events, a description of the proposed festival activities including any proposed public street closures if applicable, proof of adequate insurance, and a detailed description of security for any proposed festivals. Such permit shall cost three hundred dollars per year. Such plan may be amended during the year subject to governing municipality approval.

3. Prior to submitting a plan to the governing body of the city, the promotional association shall provide notice of its intent to apply for a festival district permit and conduct a public hearing on the plan. If any business owner, property owner, or resident within the boundaries of the common area of the event do not approve in the public hearing of any proposed event, or the proposed plan of events, the promotional association shall obtain written approval of such event or plan from seventy-five percent of the property owners, business owners, and residents within the district. If the plan is approved, the promotional association may conduct the events described in the plan and may sell liquor for consumption within the district common areas between 9:00 a.m. and 1:00 a.m. on Monday through Saturday and between 11:00 a.m. and 12:00 a.m. on Sunday and in accordance with any additional time constraints stated in such plan. Such promotional association may permit customers to leave an establishment within the district after purchasing an alcoholic beverage and consume the beverage in the district common areas or another licensed establishment within the district. No person shall be allowed to take any alcoholic beverage outside the boundaries of the festival district.

4. If participating in a promotional association event, every bar, nightclub, restaurant, promotional association, or other entertainment venue that serves alcoholic beverages within the festival district shall use disposable paper, plastic, or foam cups or other light-weight containers for all alcoholic beverages that the bar, nightclub, restaurant, promotional association, or other entertainment venue sells within the festival district boundaries for consumption in the district common area.

5. If minors are allowed to enter the festival district, which shall be clearly stated in the festival district's approved plan, the applicant shall ensure that such minors are easily distinguished from persons of legal age and any approved plan shall include the method by which this provision shall be satisfied.

6. The holder of the permit is solely responsible for any alcohol violations occurring within the common areas. For any violation of this chapter or of any rule or regulation of the supervisor of alcohol and tobacco control, the promotional association may be assessed a civil fine of not more than five thousand dollars. If a promotional association is found to be responsible for such violations at three separate events, then such promotional association shall not seek approval for subsequent plans without the prior written consent of the supervisor of alcohol and tobacco control. The promotional association's then current plan shall be deemed terminated, and the businesses participating in the promotional association's events shall not participate in activities permitted by subsection 3 of this section without prior written consent from the supervisor of alcohol and tobacco control."; and

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

On motion of Representative Meiners, **House Amendment No. 7** was adopted.

1805 *Journal of the House*

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 089

Avery	Baker 123	Bivins	Brandom	Brown 30
Bruns	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Guest	Hobbs	Hunter	Ice
Jones 89	Jones 117	Kasten	Kelly	Kingery
Kraus	Lembke	Lipke	Loehner	Marsh
May	McGhee	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Onder	Parkinson
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Richard	Robb	Ruestman	Ruzicka
Sander	Sater	Schaaf	Schad	Scharnhorst
Schlottach	Schneider	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	St. Onge	Stream
Sutherland	Thomson	Tilley	Viebrock	Wallace
Wasson	Wells	Weter	Wilson 119	Wilson 130
Wood	Wright 159	Yates	Mr Speaker	

NOES: 059

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Corcoran	Curls
Darrough	Daus	Donnelly	Dougherty	Fallert
Frame	George	Grill	Harris 110	Hodges
Holsman	Hoskins	Hubbard	Hughes	Johnson
Komo	Kratky	Kuessner	Lampe	LeVota
Liese	Low 39	Lowe 44	McClanahan	Meiners
Nasheed	Norr	Oxford	Page	Roorda
Rucker	Scavuzzo	Schieffer	Shively	Skaggs
Storch	Swinger	Talboy	Villa	Vogt
Walsh	Walton	Wildberger	Witte	Wright-Jones
Yaeger	Young	Zimmerman	Zweifel	

PRESENT: 000

ABSENT WITH LEAVE: 013

Cooper 120	El-Amin	Harris 23	Haywood	Meadows
Quinn 9	Robinson	Salva	Schoemehl	Spreng
Threlkeld	Todd	Whorton		

VACANCIES: 002

On motion of Representative Pearce, **HCS#2 SS SCS SB 718, as amended**, was adopted.

On motion of Representative Pearce, **HCS#2 SS SCS SB 718, as amended**, was read the third time and passed by the following vote:

AYES: 131

Aull	Avery	Baker 25	Baker 123	Bivins
Bland	Brandom	Brown 30	Brown 50	Bruns
Casey	Chappelle-Nadal	Cooper 155	Corcoran	Cox
Cunningham 145	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Denison	Dixon
Donnelly	Dougherty	Dusenberg	Emery	Ervin
Faith	Fallert	Fares	Fisher	Flook
Franz	Funderburk	Grill	Grisamore	Guest
Hobbs	Hodges	Holsman	Hoskins	Hubbard
Hughes	Hunter	Ice	Johnson	Jones 89
Jones 117	Kasten	Kelly	Kingery	Komo
Kratky	Lampe	Lembke	LeVota	Lipke
Loehner	Marsh	May	McClanahan	McGhee
Meiners	Moore	Munzlinger	Nance	Nasheed
Nieves	Nolte	Norr	Onder	Page
Parkinson	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 7	Quinn 9	Richard	Robb
Roorda	Rucker	Ruestman	Ruzicka	Salva
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schlottach	Schneider	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	St. Onge	Storch
Stream	Sutherland	Swinger	Talboy	Thomson
Threlkeld	Tilley	Todd	Viebrock	Villa
Wallace	Walsh	Walton	Wasson	Wells
Weter	Wildberger	Wilson 119	Wilson 130	Witte
Wood	Wright 159	Wright-Jones	Young	Zweifel
Mr Speaker				

NOES: 020

Bringer	Dethrow	Frame	George	Harris 110
Kraus	Kuessner	Liese	Low 39	Lowe 44
Muschany	Oxford	Sander	Schieffer	Shively
Skaggs	Vogt	Yaeger	Yates	Zimmerman

PRESENT: 000

ABSENT WITH LEAVE: 010

Burnett	Cooper 120	El-Amin	Harris 23	Haywood
Meadows	Robinson	Schoemehl	Spreng	Whorton

VACANCIES: 002

Speaker Jetton declared the bill passed.

1807 *Journal of the House*

The emergency clause was adopted by the following vote:

AYES: 129

Aull	Avery	Baker 25	Bivins	Bland
Brandom	Brown 30	Brown 50	Bruns	Casey
Chappelle-Nadal	Cooper 120	Cooper 155	Corcoran	Cox
Cunningham 145	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Denison	Dixon
Donnelly	Dougherty	Dusenberg	Emery	Ervin
Faith	Fallert	Fares	Fisher	Flook
Franz	Funderburk	Grill	Grisamore	Guest
Hobbs	Hodges	Holsman	Hoskins	Hubbard
Hunter	Icet	Jones 89	Jones 117	Kasten
Kelly	Kingery	Komo	Kratky	Kraus
Lampe	Lembke	LeVota	Lipke	Loehner
Marsh	May	McClanahan	McGhee	Meiners
Moore	Munzlinger	Muschany	Nance	Nasheed
Nieves	Norr	Onder	Oxford	Page
Parkinson	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 7	Quinn 9	Richard	Robb
Roorda	Rucker	Ruestman	Ruzicka	Salva
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schlottach	Schneider	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	St. Onge	Storch
Stream	Sutherland	Talboy	Thomson	Threlkeld
Tilley	Viebrock	Wallace	Walsh	Walton
Wells	Weter	Wilson 119	Wilson 130	Witte
Wood	Wright 159	Wright-Jones	Yaeger	Yates
Young	Zimmerman	Zweifel	Mr Speaker	

NOES: 020

Burnett	Dethrow	Frame	George	Harris 110
Hughes	Johnson	Kuessner	Liese	Low 39
Lowe 44	Sander	Schieffer	Shively	Skaggs
Swinger	Todd	Villa	Vogt	Wildberger

PRESENT: 000

ABSENT WITH LEAVE: 012

Baker 123	Bringer	El-Amin	Harris 23	Haywood
Meadows	Nolte	Robinson	Schoemehl	Sprenge
Wasson	Whorton			

VACANCIES: 002

HCS SCS SB 1170, relating to school construction and leases, was taken up by Representative Swinger.

Representative Smith (14) assumed the Chair.

Representative Nolte offered **House Amendment No. 1**.

House Amendment No. 1

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1170, Section 177.088, Page 6, Line 80, by inserting after all of said line the following:

"12. Notwithstanding provisions of this section to the contrary, the board of education of any school district located within a county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants may enter into agreements with such county, or a city, town, or village wholly or partially located within the boundaries of such school district, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation, and financing of sites, buildings, facilities, furnishings, and equipment for the use of the school district for educational purposes. Such an agreement may provide for the present or future acquisition of an ownership interest in such facilities by the school district, by lease, lease purchase agreement, option to purchase agreement, or similar provisions, and may provide for a joint venture between the school district and other entity or entities that are parties to such an agreement providing for the sharing of the costs of acquisition, construction, repair, maintenance, and operation of such facilities. The school district may wholly own such facilities, or may acquire a partial ownership interest along with the county, city, town, or village with which the agreement was executed. Notwithstanding the provisions of subsection 11 of this section, the school district may expend funds from its general or incidental funds to satisfy its obligations for rent, lease payments, construction, improvements, maintenance, repairs, and operation of such facilities, and may acquire an ownership interest in such facilities, without being subject to the deductions from funds payable to the district under section 163.031, RSMo."; and

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

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 086

Avery	Baker 123	Bivins	Brandom	Brown 30
Bruns	Cooper 120	Cooper 155	Cox	Cunningham 145
Cunningham 86	Davis	Day	Deeken	Denison
Dethrow	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Guest	Hobbs	Hunter	Icet
Jones 89	Jones 117	Kasten	Kelly	Kingery
Kraus	Lembke	Lipke	Loehner	Marsh
May	McGhee	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Onder	Parkinson
Parson	Pollock	Portwood	Pratt	Richard
Robb	Ruestman	Ruzicka	Sander	Sater
Schaaf	Schad	Scharnhorst	Schlottach	Schoeller
Self	Silvey	Smith 14	Smith 150	St. Onge
Stream	Sutherland	Thomson	Threlkeld	Tilley
Viebrock	Wallace	Wasson	Wells	Weter
Wilson 119	Wilson 130	Wood	Wright 159	Yates
Mr Speaker				

NOES: 058

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Curls	Darrough
Daus	Donnelly	Dougherty	Fallert	Frame
George	Grill	Harris 110	Hodges	Holsman
Hoskins	Hubbard	Hughes	Johnson	Komo

1809 *Journal of the House*

Kratky	Kuessner	Lampe	LeVota	Liese
Low 39	Lowe 44	McClanahan	Meiners	Nasheed
Norr	Oxford	Page	Quinn 9	Roorda
Rucker	Salva	Scavuzzo	Schieffer	Schoemehl
Shively	Skaggs	Storch	Talboy	Todd
Villa	Walsh	Walton	Wildberger	Witte
Yaeger	Zimmerman	Zweifel		

PRESENT: 001

Swinger

ABSENT WITH LEAVE: 016

Corcoran	Dixon	El-Amin	Harris 23	Haywood
Meadows	Pearce	Quinn 7	Robinson	Schneider
Spreng	Stevenson	Vogt	Whorton	Wright-Jones
Young				

VACANCIES: 002

Speaker Jetton resumed the Chair.

Representative Witte raised a point of order that the previous Speaker did not restate the motion properly.

The Chair ruled the point of order not well taken.

On motion of Representative Nolte, **House Amendment No. 1** was adopted.

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 087

Avery	Baker 123	Bivins	Brandom	Brown 30
Bruns	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Guest	Hobbs	Iceet	Jones 89
Jones 117	Kasten	Kelly	Kingery	Kraus
Lembke	Lipke	Loehner	Marsh	May
McGhee	Moore	Munzlinger	Muschany	Nance
Nieves	Nolte	Onder	Parkinson	Parson
Pearce	Pollock	Portwood	Pratt	Quinn 7
Richard	Robb	Ruestman	Ruzicka	Sander
Sater	Schaaf	Schad	Scharnhorst	Schlottach
Schoeller	Self	Silvey	Smith 14	Smith 150
Stevenson	St. Onge	Stream	Sutherland	Thomson
Threlkeld	Tilley	Viebrock	Wallace	Wasson
Wells	Weter	Wilson 119	Wilson 130	Wood
Yates	Mr Speaker			

NOES: 060

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Curls	Darrough
Daus	Donnelly	Dougherty	Fallert	Frame
George	Grill	Harris 110	Hodges	Holsman
Hoskins	Hubbard	Hughes	Johnson	Komo
Kratky	Kuessner	Lampe	LeVota	Liese
Low 39	Lowe 44	McClanahan	Meiners	Nasheed
Norr	Oxford	Page	Quinn 9	Roorda
Rucker	Salva	Scavuzzo	Schieffer	Schoemehl
Shively	Skaggs	Storch	Swinger	Talboy
Todd	Villa	Vogt	Walsh	Walton
Wildberger	Witte	Yaeger	Zimmerman	Zweifel

PRESENT: 000

ABSENT WITH LEAVE: 014

Cooper 120	Corcoran	El-Amin	Harris 23	Haywood
Hunter	Meadows	Robinson	Schneider	Spreng
Whorton	Wright 159	Wright-Jones	Young	

VACANCIES: 002

On motion of Representative Swinger, **HCS SCS SB 1170, as amended**, was adopted.

On motion of Representative Swinger, **HCS SCS SB 1170, as amended**, was read the third time and passed by the following vote:

AYES: 138

Aull	Avery	Baker 25	Baker 123	Bivins
Bland	Brandom	Brown 30	Brown 50	Bruns
Burnett	Casey	Cooper 155	Corcoran	Cox
Cunningham 145	Cunningham 86	Curls	Daus	Davis
Day	Deeken	Denison	Dethrow	Dixon
Donnelly	Dougherty	Dusenberg	Emery	Faith
Fallert	Fares	Fisher	Frame	Franz
Funderburk	Grill	Grisamore	Guest	Harris 110
Hobbs	Hodges	Holsman	Hoskins	Hubbard
Hunter	Icet	Johnson	Jones 89	Jones 117
Kasten	Kelly	Kingery	Komo	Kratky
Kuessner	Lampe	Lembke	Liese	Lipke
Loehner	Lowe 44	Marsh	May	McClanahan
McGhee	Meiners	Moore	Munzlinger	Muschany
Nance	Nasheed	Nieves	Nolte	Norr
Onder	Oxford	Page	Parkinson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Quinn 9
Richard	Robb	Roorda	Rucker	Ruestman
Ruzicka	Salva	Sander	Sater	Scavuzzo
Schaaf	Schad	Scharnhorst	Schieffer	Schlottach
Schneider	Schoeller	Schoemehl	Self	Shively
Silvey	Skaggs	Smith 14	Smith 150	Stevenson
St. Onge	Storch	Stream	Sutherland	Swinger
Thomson	Threlkeld	Tilley	Todd	Viebrock

1811 *Journal of the House*

Villa	Vogt	Wallace	Walsh	Walton
Wasson	Wells	Weter	Wildberger	Wilson 119
Wilson 130	Witte	Wood	Wright 159	Wright-Jones
Yaeger	Zweifel	Mr Speaker		

NOES: 012

Bringer	Chappelle-Nadal	Cooper 120	Darrough	Ervin
Flook	George	Kraus	LeVota	Talboy
Yates	Zimmerman			

PRESENT: 000

ABSENT WITH LEAVE: 011

El-Amin	Harris 23	Haywood	Hughes	Low 39
Meadows	Parson	Robinson	Spreng	Whorton
Young				

VACANCIES: 002

Speaker Jetton declared the bill passed.

The emergency clause was adopted by the following vote:

AYES: 145

Aull	Avery	Baker 25	Baker 123	Bivins
Bland	Brandom	Bringer	Brown 30	Brown 50
Bruns	Burnett	Casey	Cooper 120	Cooper 155
Corcoran	Cox	Cunningham 145	Cunningham 86	Curls
Darrough	Daus	Davis	Day	Deeken
Denison	Dethrow	Dixon	Donnelly	Dougherty
Dusenberg	Emery	Ervin	Faith	Fallert
Fares	Fisher	Frame	Franz	Funderburk
Grill	Grisamore	Guest	Harris 110	Hodges
Holsman	Hoskins	Hughes	Hunter	Icet
Johnson	Jones 89	Jones 117	Kasten	Kelly
Kingery	Komo	Kratky	Kraus	Kuessner
Lampe	Lembke	Liese	Lipke	Loehner
Lowe 44	May	McClanahan	McGhee	Meiners
Moore	Munzlinger	Muschany	Nance	Nasheed
Nieves	Nolte	Norr	Onder	Oxford
Page	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 7	Quinn 9	Richard
Robb	Roorda	Rucker	Ruestman	Ruzicka
Salva	Sander	Sater	Scavuzzo	Schaaf
Schad	Scharnhorst	Schieffer	Schlottach	Schneider
Schoeller	Schoemehl	Self	Shively	Silvey
Skaggs	Smith 14	Smith 150	Stevenson	St. Onge
Storch	Stream	Sutherland	Swinger	Talboy
Thomson	Threlkeld	Tilley	Todd	Viebrock
Villa	Vogt	Wallace	Walsh	Walton
Wasson	Wells	Weter	Wildberger	Wilson 119
Wilson 130	Witte	Wood	Wright 159	Wright-Jones
Yaeger	Yates	Zimmerman	Zweifel	Mr Speaker

NOES: 004

Chappelle-Nadal Flook LeVota Low 39

PRESENT: 001

George

ABSENT WITH LEAVE: 011

El-Amin Harris 23 Haywood Hobbs Hubbard
Marsh Meadows Robinson Spreng Whorton
Young

VACANCIES: 002

SIGNING OF HOUSE BILL

All other business of the House was suspended while **SS SCS HCS HB 2393** was read at length and, there being no objection, was signed by the Speaker to the end that the same may become law.

Having been duly signed in open session of the Senate, **SS SCS HCS HB 2393** was delivered to the Governor by the Chief Clerk of the House.

SIGNING OF SENATE BILL

All other business of the House was suspended while **HCS SCS SBs 1034 & 802** was read at length and, there being no objection, was signed by the Speaker to the end that the same may become law.

MESSAGES FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to recede from its position on **SS HCS HBs 1549, 1771, 1395 & 2366, as amended**, and grants the House a conference thereon.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HCS#2 SB 976, as amended**, and requests the House to recede from its position and failing to do so grant the Senate a conference thereon.

BILL CARRYING REQUEST MESSAGE

HCS#2 SCS SB 976, relating to judicial personnel and procedures, was taken up by Representative Stevenson.

Representative Stevenson moved that the House refuse to recede from its position on **HCS#2 SB 976, as amended**, and grant the Senate a conference.

Which motion was adopted.

THIRD READING OF SENATE BILL

HCS#2 SCS SB 781, relating to landlord-tenant actions, was taken up by Representative Stevenson.

Representative Stevenson offered **House Amendment No. 1**.

House Amendment No. 1

AMEND House Committee Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 781, Page 6, Section 441.065, Line 23, by inserting after the word "**reasonable**", the following:

"and good faith"; and

Further amend said bill, Page 6, Section 441.645, Line 6, by inserting after the word "**section**", the following:

"; however, any contract assigning the duty to pay rent after such residence is destroyed shall not be enforceable if the court determines such contract to be unconscionable"; and

Further amend said bill, Page 8, Section 535.030, Lines 7-9, by deleting all of said lines and inserting in lieu thereof the following:

"2. In addition to attempted personal service, the plaintiff, [may request, and thereupon the clerk of the court shall make an order directing that the] officer, or other person empowered to execute the summons, [shall] **may** also serve the same by securely affixing a copy of such summons"; and

Further amend said bill, Page 9, Section 535.030, Line 29, by inserting after the word "plaintiff", the words "**officer, or other persons empowered to execute the summons,**"; and

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

Representative Jones (89) offered **House Amendment No. 1 to House Amendment No. 1**.

House Amendment No. 1

to

House Amendment No. 1

AMEND House Amendment No. 1 to House Committee Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 781, Page 1, Line 18, by inserting after all of said line, the following:

Further amend said bill, Page 10, Section 535.040, Line 21, by inserting before the word "**Neither**", the following:

"Except for willful, wanton, or malicious acts or omissions,"; and ' and

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

On motion of Representative Jones (89), **House Amendment No. 1 to House Amendment No. 1** was adopted by the following vote:

AYES: 074

Baker 123	Bivins	Brandom	Brown 30	Bruns
Chappelle-Nadal	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Denison	Dixon	Donnelly
Dusenberg	Emery	Ervin	Fallert	Fisher
Flook	Franz	Funderburk	Grisamore	Hobbs
Hunter	Icet	Jones 89	Jones 117	Kasten
Kelly	Kingery	Lembke	Low 39	Marsh
May	McClanahan	Munzlinger	Muschany	Nance
Nasheed	Nieves	Onder	Parkinson	Parson
Portwood	Pratt	Quinn 7	Richard	Ruestman
Schaaf	Schad	Scharnhorst	Schlottach	Self
Silvey	Smith 14	Stevenson	St. Onge	Storch
Stream	Swinger	Thomson	Threlkeld	Tilley
Wasson	Wells	Weter	Wilson 130	Witte
Wright 159	Yates	Zimmerman	Mr Speaker	

NOES: 069

Aull	Bland	Bringer	Brown 50	Burnett
Casey	Curls	Daus	Deeken	Dethrow
Dougherty	Faith	Fares	Frame	Grill
Guest	Harris 110	Hodges	Holsman	Hoskins
Hubbard	Hughes	Komo	Kratky	Kraus
Kuessner	Lampe	LeVota	Liese	Lipke
Lochner	Lowe 44	McGhee	Meadows	Meiners
Moore	Norr	Oxford	Page	Pearce
Pollock	Quinn 9	Robb	Roorda	Rucker
Ruzicka	Sander	Sater	Scavuzzo	Schieffer
Schneider	Schoeller	Schoemehl	Shively	Skaggs
Smith 150	Talboy	Todd	Viebrock	Villa
Vogt	Wallace	Walsh	Walton	Whorton
Wilson 119	Wood	Yaeger	Zweifel	

PRESENT: 000

ABSENT WITH LEAVE: 018

Avery	Baker 25	Cooper 120	Corcoran	Darrough
El-Amin	George	Harris 23	Haywood	Johnson
Nolte	Robinson	Salva	Spreng	Sutherland
Wildberger	Wright-Jones	Young		

VACANCIES: 002

HCS#2 SCS SB 781, with House Amendment No. 1, as amended, pending, was laid over.

APPOINTMENT OF CONFERENCE COMMITTEES

The Speaker appointed the following Conference Committees to act with like Committees from the Senate on the following bills:

SS HCS HBs 1549, 1771, 1395 & 2366: Representatives Onder, Nolte, Nieves, Talboy and Wildberger
HCS#2 SB 976: Representatives Stevenson, Jones (89), Cox, Burnett and Bringer

On motion of Representative Tilley, the House recessed until 7:30 p.m.

EVENING SESSION

The hour of recess having expired, the House was called to order by Speaker Pro Tem Pratt.

HOUSE COURTESY RESOLUTIONS OFFERED AND ISSUED

House Resolution No. 3097 through House Resolution No. 3128

COMMITTEE REPORTS

Committee on Rules, Chairman Cooper (120) reporting:

Mr. Speaker: Your Committee on Rules, to which was referred **HCS SS SCS SB 726**, begs leave to report it has examined the same and recommends that it **Do Pass**.

Mr. Speaker: Your Committee on Rules, to which was referred **HCS SCS SB 767**, begs leave to report it has examined the same and recommends that it **Do Pass**.

Mr. Speaker: Your Committee on Rules, to which was referred **SCS SB 865**, begs leave to report it has examined the same and recommends that it **Do Pass**.

Mr. Speaker: Your Committee on Rules, to which was referred **SCS SB 1185**, begs leave to report it has examined the same and recommends that it **Do Pass**.

REFERRAL OF SENATE BILLS

The following Senate Bills were referred to the Committee indicated:

HCS SS SCS SB 726 - Fiscal Review (Fiscal Note)

HCS SS SB 817 - Fiscal Review (Fiscal Note)

(REVISED)

SUPPLEMENTAL CALENDAR

MAY 15, 2008

SENATE BILLS FOR THIRD READING

HCS SS SCS SB 726, (Fiscal Review 5-15-08) - Franz
HCS SS SB 817, (Fiscal Review 5-15-08) - Wilson (130)
SCS SB 865 - Scharnhorst

SENATE CONCURRENT RESOLUTION

SCR 35, (5-6-08, Page 1349) - Quinn (7)

SENATE CONCURRENT RESOLUTION

SCR 29, relating to USDA rice reporting dates, was taken up by Representative Wright.

On motion of Representative Wright, **SCR 29** was adopted by the following vote:

AYES: 136

Aull	Baker 25	Bivins	Brandom	Bringer
Brown 30	Bruns	Burnett	Chappelle-Nadal	Cooper 155
Corcoran	Cox	Cunningham 145	Cunningham 86	Curls
Darrough	Daus	Davis	Day	Deeken
Denison	Dethrow	Dixon	Donnelly	Dusenberg
Ervin	Faith	Fallert	Fares	Fisher
Frame	Franz	Funderburk	George	Grill
Grisamore	Guest	Harris 110	Haywood	Hobbs
Hodges	Hoskins	Hubbard	Icet	Jones 89
Jones 117	Kasten	Kelly	Kingery	Komo
Kratky	Kraus	Kuessner	Lampe	LeVota
Liese	Lipke	Loehner	Low 39	Lowe 44
Marsh	McClanahan	McGhee	Moore	Munzlinger
Muschany	Nance	Nasheed	Nieves	Nolte
Norr	Onder	Oxford	Page	Parkinson
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Quinn 9	Richard	Robb	Roorda
Rucker	Ruestman	Ruzicka	Salva	Sander
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schoeller	Schoemehl	Self
Shively	Silvey	Skaggs	Smith 14	Smith 150
Stevenson	St. Onge	Storch	Stream	Sutherland
Swinger	Thomson	Threlkeld	Tilley	Todd
Viebrock	Villa	Vogt	Wallace	Walsh
Wasson	Wells	Weter	Whorton	Wildberger
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Wright-Jones	Yaeger	Yates	Zimmerman	Zweifel
Mr Speaker				

1817 *Journal of the House*

NOES: 004

Flook Holsman Lembke Talboy

PRESENT: 000

ABSENT WITH LEAVE: 021

Avery	Baker 123	Bland	Brown 50	Casey
Cooper 120	Dougherty	El-Amin	Emery	Harris 23
Hughes	Hunter	Johnson	May	Meadows
Meiners	Robinson	Schneider	Spreng	Walton
Young				

VACANCIES: 002

THIRD READING OF SENATE BILL

HCS#2 SCS SB 781, with House Amendment No. 1, as amended, pending, relating to landlord tenant actions, was again taken up by Representative Stevenson.

Representative Jones (89) assumed the Chair.

Representative Yates offered **House Substitute Amendment No. 1 for House Amendment No. 1, as amended**.

*House Substitute Amendment No. 1
for
House Amendment No. 1*

AMEND House Committee Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 781, Page 6, Section 441.065, Line 23, by inserting after the word "**reasonable**", the following:

"and good faith"; and

Further amend said bill, Page 6, Section 441.645, Line 6, by inserting after the word "**section**", the following:

"; however, any contract assigning the duty to pay rent after such residence is destroyed shall not be enforceable if the court determines such contract to be unconscionable"; and

Further amend said bill, Page 8, Section 535.030, Lines 1-4, by deleting all of said lines and inserting in lieu thereof the following:

"535.030. 1. Such summons shall be served as in other civil cases at least four days before the court date in the summons. The summons shall include a court date which shall not be more than twenty-one business days from the date the summons is issued"; and

Further amend said bill, Page 8, Section 535.030, Lines 7-9, by deleting all of said lines and inserting in lieu thereof the following:

"2. In addition to attempted personal service, the plaintiff, [may request, and thereupon the clerk of the court shall make an order directing that the] officer, or other person empowered to execute the summons, [shall] **may** also serve the same by securely affixing a copy of such summons"; and

Further amend said bill, Page 9, Section 535.030, Line 29, by inserting after the word "plaintiff", the words "**officer, or other persons empowered to execute the summons,**"; and

Further amend said bill, Page 9, Section 535.040, Lines 1-7, by deleting all of said lines and inserting in lieu thereof the following:

"535.040. 1. Upon return of the summons executed, the judge shall set the case on the first available court date and"; and

Further amend said bill, Page 10, Section 535.040, Line 21, by inserting before the word "**Neither**", the following:

"Except for willful, wanton, or malicious acts or omissions,"; and

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

On motion of Representative Yates, **House Substitute Amendment No. 1 for House Amendment No. 1, as amended**, was adopted.

Representative Self moved the previous question.

Which motion was adopted by the following vote:

AYES: 085

Bivins	Brandom	Brown 30	Bruns	Cooper 120
Cooper 155	Cunningham 145	Cunningham 86	Davis	Day
Deeken	Denison	Dethrow	Dixon	Dusenberg
Ervin	Faith	Fares	Fisher	Flook
Franz	Funderburk	Grisamore	Guest	Hobbs
Iceet	Jones 89	Jones 117	Kasten	Kelly
Kingery	Kraus	Lembke	Lipke	Loehner
Marsh	May	McGhee	Moore	Munzlinger
Muschany	Nance	Nieves	Onder	Parkinson
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Richard	Robb	Ruestman	Ruzicka
Sander	Sater	Schaaf	Schad	Scharnhorst
Schlottach	Schneider	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	St. Onge	Stream
Sutherland	Thomson	Threlkeld	Tilley	Viebrock
Wallace	Wasson	Wells	Weter	Wilson 119
Wilson 130	Wood	Wright 159	Yates	Mr Speaker

NOES: 057

Aull	Baker 25	Bringer	Burnett	Casey
Chappelle-Nadal	Corcoran	Curls	Darrough	Daus
Donnelly	Fallert	Frame	George	Grill
Harris 110	Hodges	Holsman	Hoskins	Hubbard
Hughes	Komo	Kratky	Kuessner	Lampe
LeVota	Liese	Low 39	Lowe 44	McClanahan
Meiners	Nasheed	Norr	Oxford	Page
Quinn 9	Roorda	Rucker	Scavuzzo	Schieffer
Schoemehl	Shively	Skaggs	Storch	Swinger
Talboy	Todd	Villa	Vogt	Walsh

1819 *Journal of the House*

Walton	Whorton	Wildberger	Witte	Yaeger
Zimmerman	Zweifel			

PRESENT: 000

ABSENT WITH LEAVE: 019

Avery	Baker 123	Bland	Brown 50	Cox
Dougherty	El-Amin	Emery	Harris 23	Haywood
Hunter	Johnson	Meadows	Nolte	Robinson
Salva	Spreng	Wright-Jones	Young	

VACANCIES: 002

Speaker Pro Tem Pratt resumed the Chair.

On motion of Representative Stevenson, **HCS#2 SCS SB 781, as amended**, was adopted.

On motion of Representative Stevenson, **HCS#2 SCS SB 781, as amended**, was read the third time and passed by the following vote:

AYES: 111

Aull	Baker 25	Bivins	Brandom	Bringer
Brown 30	Bruns	Cooper 120	Cooper 155	Corcoran
Cox	Cunningham 145	Cunningham 86	Darrough	Davis
Day	Deeken	Denison	Dethrow	Dixon
Dougherty	Dusenberg	Ervin	Faith	Fallert
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Guest	Hobbs	Hoskins	Hubbard
Icet	Jones 89	Jones 117	Kasten	Kelly
Kingery	Kratky	Kraus	Kuessner	Lampe
Lembke	Liese	Loehner	Marsh	May
McClanahan	McGhee	Meiners	Moore	Munzlinger
Muschany	Nance	Nieves	Norr	Onder
Parkinson	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 7	Quinn 9	Richard	Robb
Rucker	Ruestman	Ruzicka	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schlottach
Schneider	Schoeller	Schoemehl	Self	Shively
Silvey	Smith 14	Smith 150	Stevenson	St. Onge
Stream	Sutherland	Swinger	Thomson	Threlkeld
Tilley	Viebrock	Wallace	Wasson	Wells
Weter	Wildberger	Wilson 119	Wilson 130	Witte
Wood	Wright 159	Yaeger	Yates	Zimmerman
Mr Speaker				

NOES: 035

Bland	Brown 50	Burnett	Casey	Chappelle-Nadal
Curls	Daus	Donnelly	Frame	George
Grill	Harris 110	Hodges	Holsman	Hughes
Komo	LeVota	Lipke	Low 39	Lowe 44
Nasheed	Oxford	Page	Roorda	Schieffer

Skaggs	Storch	Talboy	Todd	Villa
Vogt	Walsh	Walton	Whorton	Zweifel

PRESENT: 000

ABSENT WITH LEAVE: 015

Avery	Baker 123	El-Amin	Emery	Harris 23
Haywood	Hunter	Johnson	Meadows	Nolte
Robinson	Salva	Spreng	Wright-Jones	Young

VACANCIES: 002

Speaker Pro Tem Pratt declared the bill passed.

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 086

Avery	Bivins	Brandom	Brown 30	Bruns
Cooper 120	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Ervin	Faith	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Guest	Hobbs	Ice	Jones 89	Jones 117
Kasten	Kelly	Kingery	Kraus	Lembke
Lipke	Loehner	Marsh	May	McGhee
Moore	Munzlinger	Muschany	Nance	Nieves
Nolte	Onder	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Robb
Ruestman	Ruzicka	Sander	Sater	Schaaf
Schad	Scharnhorst	Schlottach	Schneider	Schoeller
Self	Silvey	Smith 14	Smith 150	Stevenson
St. Onge	Stream	Sutherland	Thomson	Threlkeld
Tilley	Viebrock	Wallace	Wells	Weter
Wilson 119	Wilson 130	Wood	Wright 159	Yates
Mr Speaker				

NOES: 061

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Curls	Darrough
Daus	Donnelly	Dougherty	Fallert	Frame
George	Grill	Harris 110	Haywood	Hodges
Holsman	Hoskins	Hubbard	Hughes	Komo
Kratky	Kuessner	Lampe	LeVota	Liese
Low 39	Lowe 44	McClanahan	Meiners	Nasheed
Norr	Oxford	Page	Quinn 9	Roorda
Rucker	Salva	Scavuzzo	Schieffer	Schoemehl
Shively	Skaggs	Storch	Swinger	Talboy
Todd	Villa	Vogt	Walsh	Walton
Whorton	Wildberger	Witte	Yaeger	Zimmerman
Zweifel				

1821 *Journal of the House*

PRESENT: 000

ABSENT WITH LEAVE: 014

Baker 123	Corcoran	El-Amin	Emery	Harris 23
Hunter	Johnson	Meadows	Richard	Robinson
Spreng	Wasson	Wright-Jones	Young	

VACANCIES: 002

The emergency clause was adopted by the following vote:

AYES: 131

Aull	Avery	Baker 25	Bivins	Bland
Brandom	Bringer	Brown 30	Brown 50	Bruns
Casey	Chappelle-Nadal	Cooper 120	Cooper 155	Cox
Cunningham 145	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Denison	Dethrow
Dixon	Donnelly	Dusenberg	Ervin	Faith
Fallert	Fisher	Flook	Frame	Franz
Funderburk	Grisamore	Guest	Harris 110	Haywood
Holsman	Hoskins	Hubbard	Ice	Jones 89
Jones 117	Kasten	Kelly	Kingery	Komo
Kratky	Kraus	Kuessner	Lampe	Lembke
Lipke	Loehner	Low 39	Lowe 44	Marsh
May	McClanahan	McGhee	Meiners	Moore
Munzlinger	Muschany	Nance	Nieves	Nolte
Norr	Onder	Oxford	Page	Parkinson
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Quinn 9	Robb	Roorda	Rucker
Ruestman	Ruzicka	Salva	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer
Schlottach	Schneider	Schoeller	Schoemehl	Self
Shively	Silvey	Smith 14	Smith 150	Stevenson
St. Onge	Storch	Stream	Sutherland	Swinger
Thomson	Threlkeld	Tilley	Todd	Viebrock
Wallace	Walsh	Walton	Wells	Weter
Whorton	Wildberger	Wilson 119	Wilson 130	Witte
Wood	Wright 159	Yaeger	Yates	Zimmerman
Zweifel				

NOES: 013

Burnett	Dougherty	George	Grill	Hodges
Hughes	LeVota	Liese	Nasheed	Skaggs
Talboy	Villa	Vogt		

PRESENT: 000

ABSENT WITH LEAVE: 017

Baker 123	Corcoran	El-Amin	Emery	Fares
Harris 23	Hobbs	Hunter	Johnson	Meadows
Richard	Robinson	Spreng	Wasson	Wright-Jones
Young	Mr Speaker			

VACANCIES: 002

MESSAGES FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HCS#2 SS SCS SB 718, as amended**, and requests the House to recede from its position and failing to do so grant the Senate a conference thereon.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HCS#2 SB 976, as amended**, and requests the House to recede from its position and failing to do so grant the Senate a conference thereon.

BILL CARRYING REQUEST MESSAGE

HCS#2 SS SCS SB 718, as amended, relating to incentives for business development, was taken up by Representative Pearce.

Representative Pearce moved that the House refuse to recede from its position on **HCS#2 SS SCS SB 718, as amended**, and grant the Senate a conference.

Which motion was adopted.

THIRD READING OF SENATE BILLS

SB 885, relating to Community Children's Services Fund, was taken up by Representative Cooper (120).

Representative Franz offered **House Amendment No. 1**.

House Amendment No. 1

AMEND Senate Bill No. 885, Section 210.861, Page 3, Line 73, by inserting after all of said line the following:

"Section 1. 1. There is hereby created within the department of social services the "Missouri State Foster Care and Adoption Advisory Board", which shall provide an independent review of policies and procedures related to the provision of foster care and adoption in Missouri and make recommendations to improve the provision of foster care and adoption services to children statewide. The board will be comprised of a minimum of fourteen foster, adoptive, and career foster parents as follows:

(1) Two of the members shall represent each other of the seven children's division areas of the state of Missouri delineated as follows:

- (a) The northwest region;**
- (b) The northeast region;**
- (c) The southeast region;**
- (d) The southwest region;**

- (e) The Kansas City region;
- (f) The St. Louis area region;
- (g) The St. Louis City region;

(2) Area members will be selected by local foster care and adoption advisory boards or similar entities in a manner of their choosing.

2. Foster care and adoption association representatives will be voting members of the board as approved by the board.

3. All members of the board shall serve for a term of at least two years. Members may be re-selected to the board by their entities for consecutive terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

4. Each member of the board may be reimbursed for actual and necessary expenses incurred by the member in performance of his or her official duties. All reimbursements made pursuant to this subsection shall be made from funds within the children's division budget.

5. All business transaction of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030, RSMo.

6. The board shall elect officers from the membership consisting of a chairperson, co-chairperson, and secretary. Officers shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

7. The board shall establish such procedures necessary to review children's division proposed policy and provide written responses to the children's division indicating any comments or concerns within thirty days of receipt of the proposed policy.

8. The board shall establish such communication procedures necessary to provide written suggestions to the children's division for improvements in foster care or adoption practice, and to respond to requests from the children's division for assistance with such problems.

9. The board shall provide upon request of the director of the department of social services, the Governor, or the legislature, a written report of annual activities conducted and recommendations made.

10. The board shall exercise its powers and duties independently of the department of social services children's division except that budgetary, procurement, accounting, and other related management functions shall be performed by the children's division."; and

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

Speaker Jetton resumed the Chair.

Representative Bringer offered **House Amendment No. 1 to House Amendment No. 1.**

Representative Jones (89) raised points of order that **House Amendment No. 1 to House Amendment No. 1** is not properly drafted, in violation of Rule 46(a) and goes beyond the scope of the amendment.

The Chair ruled the third point of order well taken.

On motion of Representative Franz, **House Amendment No. 1** was adopted.

Representative Davis offered **House Amendment No. 2.**

House Amendment No. 2

AMEND Senate Bill No. 885, Section 210.891, Page 3, Line 73, by inserting after all of said line the following:

"210.890. 1. The community children's services fund and any other state family services agency established in Missouri shall operate with the understanding that it is the natural fundamental right of the parents

and legal guardians of unemancipated minors to determine and direct the care, health care, teaching, and education of their children.

2. A parent or legal guardian of an unemancipated minor shall have the right to make all health care decisions for such unemancipated minor; except that, such right shall not be construed to supersede or otherwise infringe upon any applicable restrictions imposed by state law."; and

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

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 085

Baker 123	Bivins	Brandom	Brown 30	Bruns
Cooper 120	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Ervin	Faith	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Guest	Hobbs	Ice	Jones 89	Jones 117
Kasten	Kelly	Kingery	Kraus	Lembke
Lipke	Loehner	May	McGhee	Moore
Munzlinger	Muschany	Nance	Nieves	Nolte
Onder	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Richard	Robb	Ruestman
Ruzicka	Sander	Sater	Schaaf	Schad
Schamhorst	Schlottach	Schneider	Schoeller	Self
Silvey	Smith 14	Smith 150	St. Onge	Stream
Sutherland	Thomson	Threlkeld	Tilley	Viebrock
Wallace	Wasson	Wells	Weter	Wilson 119
Wilson 130	Wood	Wright 159	Yates	Mr Speaker

NOES: 058

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Curls	Darrough
Daus	Donnelly	Dougherty	Fallert	Frame
George	Grill	Harris 110	Haywood	Holsman
Hoskins	Hubbard	Hughes	Komo	Kuessner
Lampe	LeVota	Liese	Low 39	Lowe 44
McClanahan	Meiners	Nasheed	Norr	Oxford
Page	Quinn 9	Roorda	Rucker	Salva
Scavuzzo	Schieffer	Schoemehl	Shively	Skaggs
Storch	Swinger	Talboy	Todd	Villa
Walsh	Walton	Whorton	Wildberger	Witte
Yaeger	Zimmerman	Zweifel		

PRESENT: 000

1825 *Journal of the House*

ABSENT WITH LEAVE: 018

Avery	Corcoran	El-Amin	Emery	Harris 23
Hodges	Hunter	Johnson	Kratky	Marsh
Meadows	Quinn 7	Robinson	Spreng	Stevenson
Vogt	Wright-Jones	Young		

VACANCIES: 002

On motion of Representative Davis, **House Amendment No. 2** was adopted by the following vote:

AYES: 087

Baker 123	Bivins	Brandom	Brown 30	Bruns
Cooper 120	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Deeken	Denison	Dethrow
Dixon	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Franz	Funderburk
Grisamore	Guest	Hobbs	Icet	Jones 89
Jones 117	Kelly	Kingery	Kraus	Lembke
Lipke	Loehner	May	McGhee	Moore
Munzlinger	Muschany	Nance	Nieves	Nolte
Norr	Onder	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Richard	Robb
Ruestman	Ruzicka	Sander	Sater	Schaaf
Schad	Scharnhorst	Schieffer	Schlottach	Schneider
Schoeller	Self	Silvey	Smith 14	Smith 150
St. Onge	Stream	Sutherland	Thomson	Threlkeld
Tilley	Viebrock	Wallace	Wasson	Wells
Weter	Wilson 119	Wilson 130	Wood	Wright 159
Yates	Mr Speaker			

NOES: 059

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Corcoran	Curls
Darrough	Daus	Donnelly	Dougherty	Fallert
Frame	George	Grill	Harris 110	Hodges
Holsman	Hoskins	Hubbard	Hughes	Kasten
Komo	Kratky	Kuessner	Lampe	LeVota
Liese	Low 39	Lowe 44	McClanahan	Meiners
Nasheed	Oxford	Page	Quinn 9	Rucker
Salva	Scavuzzo	Schoemehl	Shively	Skaggs
Storch	Swinger	Talboy	Todd	Villa
Walsh	Walton	Whorton	Wildberger	Witte
Wright-Jones	Yaeger	Zimmerman	Zweifel	

PRESENT: 001

Haywood

ABSENT WITH LEAVE: 014

Avery	El-Amin	Harris 23	Hunter	Johnson
Marsh	Meadows	Quinn 7	Robinson	Roorda
Spreng	Stevenson	Vogt	Young	

VACANCIES: 002

Representative Dixon offered **House Amendment No. 3.**

House Amendment No. 3

AMEND Senate Bill No. 885, Page 1, In the Title, Line 2, by deleting the words "one new section" and inserting in lieu thereof the words "two new sections"; and

Further amend said bill, Page 1, Section A, Line 1, by deleting the words "one new section" and inserting in lieu thereof the words "two new sections"; and

Further amend said bill, Page 1, Section A, Line 2, by deleting the word and the number "section 210.861," and inserting in lieu thereof the following:

"sections 210.861 and 491.725"; and

Further amend said bill, Page 193, Section 490.715, Line 33, by inserting after all of said line the following:

- "491.725. 1. This section shall be known and may be cited as the "Children's Bill of Courtroom Rights".**
- 2. As used in this section, the following terms shall mean:**
- (1) "Child", a person seventeen years of age or under who is a witness in any judicial proceeding under chapters 452 or 453, RSMo, or the alleged victim or witness in any judicial proceeding under chapters 455, 565, 566, or 568, RSMo. "Victim" or "witness" shall not include any child accused of committing a felony; however, these terms may, in the court's discretion, include:
- (a) A child where such child's participation in a felony appears to have been induced, coerced, or unwilling; or
- (b) A child who has participated in the felony, but who has subsequently and voluntarily agreed to testify on behalf of the state.
- (2) "Comfort item", a favorite toy, stuffed animal, blanket, or any other object whose presence helps the child calm himself or herself;
- (3) "Support person", an adult who is known to the child victim or witness and with whom the child feels comfortable, whose purpose will be to provide emotional support to the child and to promote the child's feelings of security and safety.
- 3. In order to facilitate testimony that is fair and accurate, and in order to protect children from confusing practices while testifying in court, the following children's bill of courtroom rights shall apply to all children testifying in court:**
- (1) A child victim or witness testifying at a judicial proceeding has the right to understand the oath which is being administered to such child. Whether at a competency hearing or trial itself, the judge shall ensure that any oath that is required of a child shall be administered in a developmentally appropriate manner;
- (2) A child victim or witness testifying at a judicial proceeding has the right to understand all the questions asked of such child. Accordingly, the court shall take special care to ensure that questions are stated in a form which is appropriate to the age of the child. The court shall explain to the child that if he or she does not understand a question, the child has the right to say that he or she does not understand the question;
- (3) A child victim or witness has a right to testify at a time of day when such child is best able to understand the questions and otherwise handle the stresses of testifying. Accordingly, in the court's discretion, the taking of testimony may be limited in duration or limited to normal school hours. The court may order a recess when the energy, comfort, or attention span of the child warrants;
- (4) A child victim or witness testifying at or attending a judicial proceeding has a right to a comfort item. The court, at its discretion, may place any reasonable limitations on the size or type of comfort item;

(5) A child victim or witness testifying at or attending a judicial proceeding has a right to the presence of a support person designated by the child victim or witness and approved by the court. The court, at its discretion, may allow the support person to remain in close physical proximity to or in contact with the child while the child testifies, provided such person shall not obscure the child from the view of the defendant or the trier of fact. A support person shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child. If the support person attempts to influence or affect in any manner the testimony of the child victim or witness during the giving of testimony or at any other time, the court shall exclude that support person and allow the child victim or witness to designate another attendant;

(6) A child victim or witness testifying at a judicial proceeding has a right to be questioned in a manner that is neither intimidating nor frightening. Accordingly, the attorneys shall ask questions or pose objections in a manner which is not intimidating to the child and shall not engage in conduct that a child may interpret as an angry confrontation. The court shall take every reasonable means necessary to prevent intimidation or harassment of the child by the parties or their attorneys. The judge may rephrase any question so that the child is not intimidated; and

(7) A child victim or witness testifying at a judicial proceeding has a right to be comfortable when testifying. Accordingly, upon its own motion or the motion of a party, the court may order such accommodations as are appropriate under the circumstances to ensure the comfort of the child victim or witness, including the following measures:

- (a) Adjusting the layout of the courtroom;
- (b) Conducting the proceedings outside the normal courtroom; or
- (c) Relaxing the formalities of the proceedings."; and

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

On motion of Representative Dixon, **House Amendment No. 3** was adopted.

Representative Bringer offered **House Amendment No. 4**.

House Amendment No. 4

AMEND Senate Bill No. 885, Page 1, In the Title, Line 2, by deleting the phrase "one new section" and inserting in lieu thereof the phrase "two new sections"; and

Further amend said bill, Page 1, Section A, Line 1, by deleting the phrase "one new section" and inserting in lieu thereof the phrase "two new sections"; and

Further amend said bill, Page 1, Section A, Line 2, by deleting the word and number "section 210.861" and inserting in lieu thereof the following:

"sections 210.861 and 210.862"; and

Further amend said bill, Page 3, Section 210.861, Line 71, by inserting after the number "6." the following:

"In addition to the authorized expenditures under subsection 5 of this section, the board may authorize that moneys in the fund be used to fund the tuition and fee waivers awarded under section 210.862.

7."; and

Further amend said bill, Page 3, Section 210.861, Line 73, by inserting after all of said line the following:

"210.862. 1. The coordinating board for higher education shall make provisions for institutions under the board's jurisdiction to award a tuition and fee waiver for undergraduate courses at state institutions of higher education for any student, beginning with incoming freshmen in the 2009 fall semester or term, who:

- (1) Is a resident of this state;**
- (2) Has graduated within the previous three years from high school or passed the GED examination; and**
- (3) Has been in foster care or other residential care under the department of social services on or after:**

- (a) The day preceding the student's eighteenth birthday;
 - (b) The day of the student's fourteenth birthday, if the student was also eligible for adoption on or after that day; or
 - (c) The day the student graduated from high school or received a GED.
2. To be eligible for a waiver award, a student shall:
- (1) Apply to and be accepted at the institution not later than:
 - (a) The third anniversary of the date the student was discharged from foster or other residential care, the date the student graduated from high school, or the date the student received a GED, whichever is earliest; or
 - (b) The student's twenty-first birthday;
 - (2) Apply for other student financial assistance, other than student loans, in compliance with federal financial aid rules, including the federal Pell grant;
 - (3) Apply to the coordinating board for higher education for a determination of eligibility. Application shall be on forms and in a manner prescribed by rule of the coordinating board; and
 - (4) Complete a minimum of one hundred hours of community service or public internship within a twelve-month period beginning September first for each year in which the student is receiving a tuition and fee waiver award under this section. The department of higher education, in collaboration with participating state institutions of higher education, shall by rule determine the community service and public internships that students may participate in to meet the requirements of this subdivision. A student may fulfill this requirement by completing the necessary community service or public internship hours during the summer.
3. The tuition and fee waiver provided by this section shall be awarded on an annual basis, subject to appropriation and the availability of funds under subsection 6 of section 210.861, and shall continue to be available, if the student is otherwise eligible under this section, as long as the student remains in good academic standing at the state institution of higher education. The institution shall monitor compliance with subdivision (4) of subsection 2 of this section and report it to the department of higher education.
4. The waiver provided by this section for each eligible student may be used for no more than four years of undergraduate study and may only be used after other sources of financial aid that are dedicated solely to tuition and fees are exhausted.
5. No student who is enrolled in an institution of higher education as of the effective date of this section shall be eligible for a waiver award under this section.
6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void."; and

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

On motion of Representative Bringer, **House Amendment No. 4** was adopted.

Representative Aull offered **House Amendment No. 5**.

Representative Jones (89) raised a point of order that **House Amendment No. 5** goes beyond the scope of the bill.

The Chair ruled the point of order well taken.

Representative Tilley moved the previous question.

1829 *Journal of the House*

Which motion was adopted by the following vote:

AYES: 084

Baker 123	Bivins	Brandom	Brown 30	Bruns
Cooper 120	Cooper 155	Cox	Cunningham 145	Cunningham 86
Davis	Day	Denison	Dethrow	Dixon
Dusenberg	Emery	Ervin	Faith	Fares
Fisher	Flook	Franz	Funderburk	Grisamore
Guest	Hobbs	Icet	Jones 89	Jones 117
Kasten	Kelly	Kingery	Kraus	Lembke
Lipke	Loehner	May	McGhee	Moore
Munzlinger	Muschany	Nance	Nieves	Nolte
Onder	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Richard	Robb	Ruestman
Ruzicka	Sander	Schaaf	Schad	Scharnhorst
Schlottach	Schneider	Schoeller	Self	Silvey
Smith 14	Smith 150	Stevenson	St. Onge	Stream
Thomson	Threlkeld	Tilley	Viebrock	Wallace
Wasson	Wells	Weter	Wilson 119	Wilson 130
Wood	Wright 159	Yates	Mr Speaker	

NOES: 057

Aull	Baker 25	Bringer	Brown 50	Burnett
Casey	Chappelle-Nadal	Curls	Darrough	Daus
Donnelly	Dougherty	Fallert	Frame	Harris 110
Haywood	Hodges	Holsman	Hoskins	Hubbard
Hughes	Komo	Kratky	Kuessner	Lampe
LeVota	Liese	Low 39	Lowe 44	McClanahan
Meiners	Nasheed	Norr	Oxford	Page
Quinn 9	Rucker	Salva	Scavuzzo	Schieffer
Schoemehl	Shively	Skaggs	Storch	Swinger
Talboy	Todd	Villa	Walsh	Walton
Whorton	Wildberger	Witte	Wright-Jones	Yaeger
Zimmerman	Zweifel			

PRESENT: 000

ABSENT WITH LEAVE: 020

Avery	Bland	Corcoran	Deeken	El-Amin
George	Grill	Harris 23	Hunter	Johnson
Marsh	Meadows	Quinn 7	Robinson	Roorda
Sater	Spreng	Sutherland	Vogt	Young

VACANCIES: 002

On motion of Representative Cooper (120), **SB 885, as amended**, was read the third time and passed by the following vote:

AYES: 124

Aull	Baker 25	Baker 123	Bivins	Brandom
Bringer	Brown 30	Brown 50	Casey	Chappelle-Nadal
Cooper 120	Cooper 155	Cox	Cunningham 145	Cunningham 86
Curls	Darrough	Daus	Davis	Day
Deeken	Denison	Dethrow	Dixon	Donnelly
Dougherty	Dusenberg	Emery	Ervin	Faith
Fallert	Fisher	Flook	Franz	Funderburk
Grill	Grisamore	Guest	Harris 110	Haywood
Hobbs	Hoskins	Hubbard	Ice	Jones 89
Jones 117	Kasten	Kelly	Kingery	Kratky
Kraus	Kuessner	Lampe	Lembke	Liese
Lipke	Loehner	May	McClanahan	McGhee
Meiners	Moore	Munzlinger	Muschany	Nance
Nasheed	Nieves	Nolte	Norr	Oxford
Page	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 7	Quinn 9	Richard
Robb	Rucker	Ruestman	Ruzicka	Salva
Sander	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Self
Shively	Silvey	Smith 14	Smith 150	Stevenson
St. Onge	Stream	Sutherland	Swinger	Thomson
Tilley	Todd	Viebrock	Villa	Wallace
Walsh	Walton	Wasson	Wells	Weter
Whorton	Wilson 119	Wilson 130	Wood	Wright 159
Wright-Jones	Yates	Zweifel	Mr Speaker	

NOES: 016

Burnett	Frame	George	Holsman	Hughes
Komo	LeVota	Low 39	Lowe 44	Schoemehl
Skaggs	Storch	Talboy	Wildberger	Witte
Zimmerman				

PRESENT: 000

ABSENT WITH LEAVE: 021

Avery	Bland	Bruns	Corcoran	El-Amin
Fares	Harris 23	Hodges	Hunter	Johnson
Marsh	Meadows	Onder	Robinson	Roorda
Sater	Spreng	Threlkeld	Vogt	Yaeger
Young				

VACANCIES: 002

Speaker Jetton declared the bill passed.

HCS SCS SB 1081, relating to mental health providers and services, was taken up by Representative Cooper (155).

1831 *Journal of the House*

On motion of Representative Cooper (155), **HCS SCS SB 1081** was adopted.

On motion of Representative Cooper (155), **HCS SCS SB 1081** was read the third time and passed by the following vote:

AYES: 136

Aull	Baker 25	Bivins	Bland	Brandom
Bringer	Brown 30	Brown 50	Bruns	Burnett
Casey	Chappelle-Nadal	Cooper 155	Cox	Cunningham 145
Cunningham 86	Curls	Darrough	Daus	Davis
Day	Deeken	Denison	Dethrow	Dixon
Donnelly	Dougherty	Dusenberg	Ervin	Faith
Fallert	Fares	Fisher	Flook	Frame
Franz	Funderburk	George	Grill	Grisamore
Guest	Harris 110	Haywood	Hobbs	Hodges
Holsman	Hoskins	Hughes	Icet	Jones 89
Jones 117	Kelly	Kingery	Komo	Kratky
Kraus	Kuessner	Lampe	Lembke	LeVota
Liese	Lipke	Loehner	May	McClanahan
McGhee	Moore	Munzlinger	Nance	Nasheed
Nieves	Nolte	Norr	Onder	Oxford
Page	Parkinson	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 7	Quinn 9	Richard
Robb	Roorda	Rucker	Ruestman	Ruzicka
Salva	Sander	Sater	Scavuzzo	Schaaf
Schad	Scharnhorst	Schieffer	Schlottach	Schoeller
Schoemehl	Self	Shively	Silvey	Skaggs
Smith 14	Smith 150	Stevenson	St. Onge	Storch
Swinger	Talboy	Thomson	Threlkeld	Tilley
Todd	Viebrock	Villa	Walsh	Walton
Wasson	Wells	Weter	Whorton	Wildberger
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Wright-Jones	Yaeger	Yates	Zimmerman	Zweifel
Mr Speaker				

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 025

Avery	Baker 123	Cooper 120	Corcoran	El-Amin
Emery	Harris 23	Hubbard	Hunter	Johnson
Kasten	Low 39	Lowe 44	Marsh	Meadows
Meiners	Muschany	Robinson	Schneider	Spreng
Stream	Sutherland	Vogt	Wallace	Young

VACANCIES: 002

Speaker Jetton declared the bill passed.

The emergency clause was adopted by the following vote:

AYES: 129

Aull	Baker 25	Bivins	Brandom	Brown 30
Brown 50	Bruns	Burnett	Casey	Chappelle-Nadal
Cooper 155	Cox	Cunningham 145	Curls	Darrough
Daus	Davis	Day	Deeken	Denison
Dethrow	Dixon	Dougherty	Dusenberg	Ervin
Faith	Fallert	Fares	Fisher	Flook
Frame	Franz	Funderburk	Grill	Grisamore
Guest	Harris 110	Haywood	Hobbs	Hodges
Holsman	Hubbard	Hughes	Ice	Jones 89
Jones 117	Kasten	Kelly	Kingery	Komo
Kratky	Kraus	Kuessner	Lampe	Lembke
LeVota	Liese	Lipke	Loehner	Lowe 44
May	McClanahan	McGhee	Moore	Munzlinger
Muschany	Nance	Nasheed	Nieves	Nolte
Norr	Onder	Oxford	Page	Parkinson
Pearce	Pollock	Portwood	Pratt	Quinn 9
Richard	Robb	Roorda	Rucker	Ruestman
Ruzicka	Salva	Sander	Sater	Scavuzzo
Schaaf	Schad	Schieffer	Schlottach	Schoemehl
Self	Shively	Silvey	Skaggs	Smith 14
Smith 150	St. Onge	Storch	Stream	Swinger
Talboy	Thomson	Threlkeld	Tilley	Todd
Viebrock	Villa	Vogt	Walsh	Walton
Wasson	Wells	Weter	Wilson 119	Wilson 130
Witte	Wood	Wright 159	Wright-Jones	Yaeger
Yates	Zimmerman	Zweifel	Mr Speaker	

NOES: 002

Whorton Wildberger

PRESENT: 001

Schoeller

ABSENT WITH LEAVE: 029

Avery	Baker 123	Bland	Bringer	Cooper 120
Corcoran	Cunningham 86	Donnelly	El-Amin	Emery
George	Harris 23	Hoskins	Hunter	Johnson
Low 39	Marsh	Meadows	Meiners	Parson
Quinn 7	Robinson	Scharnhorst	Schneider	Spreng
Stevenson	Sutherland	Wallace	Young	

VACANCIES: 002

SCS SB 1040, relating to storm water control grants and loans, was taken up by Representative Hobbs.

1833 *Journal of the House*

On motion of Representative Hobbs, **SCS SB 1040** was truly agreed to and finally passed by the following vote:

AYES: 129

Aull	Baker 25	Bivins	Bland	Brandom
Brown 30	Brown 50	Bruns	Burnett	Casey
Chappelle-Nadal	Cooper 155	Cox	Cunningham 145	Curls
Darrough	Daus	Davis	Day	Deeken
Denison	Dethrow	Dixon	Donnelly	Dusenberg
Ervin	Faith	Fallert	Fares	Fisher
Frame	Franz	Funderburk	George	Grill
Grisamore	Guest	Harris 110	Haywood	Hobbs
Hodges	Holsman	Hoskins	Hubbard	Hughes
Icet	Jones 89	Jones 117	Kasten	Kelly
Kingery	Komo	Kratky	Kraus	Kuessner
Lampe	LeVota	Liese	Lipke	Loehner
May	McClanahan	McGhee	Meadows	Munzlinger
Muschany	Nance	Nieves	Nolte	Norr
Onder	Oxford	Page	Parkinson	Parson
Pearce	Pollock	Pratt	Quinn 7	Richard
Robb	Roorda	Rucker	Ruestman	Ruzicka
Salva	Sander	Scavuzzo	Schaaf	Schad
Scharmhorst	Schieffer	Schlottach	Schoeller	Schoemehl
Self	Shively	Silvey	Skaggs	Smith 14
St. Onge	Storch	Stream	Swinger	Talboy
Thomson	Threlkeld	Tilley	Todd	Viebrock
Villa	Vogt	Walsh	Walton	Wasson
Wells	Whorton	Wildberger	Wilson 119	Wilson 130
Witte	Wood	Wright 159	Wright-Jones	Yaeger
Yates	Zimmerman	Zweifel	Mr Speaker	

NOES: 001

Bringer

PRESENT: 000

ABSENT WITH LEAVE: 031

Avery	Baker 123	Cooper 120	Corcoran	Cunningham 86
Dougherty	El-Amin	Emery	Flook	Harris 23
Hunter	Johnson	Lembke	Low 39	Lowe 44
Marsh	Meiners	Moore	Nasheed	Portwood
Quinn 9	Robinson	Sater	Schneider	Smith 150
Spreng	Stevenson	Sutherland	Wallace	Weter
Young				

VACANCIES: 002

Speaker Jetton declared the bill passed.

THIRD READING OF SENATE JOINT RESOLUTION

SJR 45, relating to storm water control grants and loans, was taken up by Representative Hobbs.

On motion of Representative Hobbs, **SJR 45** was truly agreed to and finally passed by the following vote:

AYES: 136

Aull	Baker 25	Bivins	Bland	Brandom
Bringer	Brown 30	Brown 50	Bruns	Burnett
Casey	Chappelle-Nadal	Cooper 120	Cooper 155	Corcoran
Cox	Cunningham 145	Cunningham 86	Curls	Darrough
Daus	Davis	Day	Deeken	Denison
Dethrow	Dixon	Donnelly	Dougherty	Dusenberg
Ervin	Faith	Fallert	Fares	Fisher
Flook	Franz	Funderburk	George	Grill
Grisamore	Guest	Harris 110	Haywood	Hobbs
Hodges	Holsman	Hoskins	Hubbard	Hughes
Ice	Jones 117	Kasten	Kelly	Kingery
Komo	Kratky	Kraus	Lampe	Lembke
LeVota	Liese	Lipke	Loehner	May
McClanahan	McGhee	Meiners	Moore	Munzlinger
Muschany	Nance	Nasheed	Nieves	Nolte
Norr	Onder	Oxford	Parkinson	Parson
Pearce	Pollock	Pratt	Quinn 7	Quinn 9
Richard	Robb	Roorda	Rucker	Ruestman
Ruzicka	Salva	Sater	Scavuzzo	Schaaf
Schad	Scharnhorst	Schieffer	Schlottach	Schoeller
Schoemehl	Self	Shively	Silvey	Skaggs
Smith 14	Smith 150	St. Onge	Storch	Stream
Swinger	Talboy	Thomson	Threlkeld	Tilley
Todd	Viebrock	Villa	Vogt	Walsh
Walton	Wasson	Wells	Weter	Whorton
Wildberger	Wilson 130	Witte	Wood	Wright 159
Wright-Jones	Yaeger	Yates	Zimmerman	Zweifel
Mr Speaker				

NOES: 001

Kuessner

PRESENT: 000

ABSENT WITH LEAVE: 024

Avery	Baker 123	El-Amin	Emery	Frame
Harris 23	Hunter	Johnson	Jones 89	Low 39
Lowe 44	Marsh	Meadows	Page	Portwood
Robinson	Sander	Schneider	Spreng	Stevenson
Sutherland	Wallace	Wilson 119	Young	

VACANCIES: 002

Speaker Jetton declared the bill passed.

APPOINTMENT OF CONFERENCE COMMITTEE

The Speaker appointed the following Conference Committee to act with a like Committee from the Senate on the following bill:

HCS#2 SS SCS SB 718: Representatives Pearce, Richard, Flook, Storch and Brown (50)

THIRD READING OF SENATE BILL

SCS SB 788, relating to the Department of Insurance, was taken up by Representative Wasson.

Speaker Pro Tem Pratt resumed the Chair.

Representative Wasson offered **House Amendment No. 1**.

House Amendment No. 1

AMEND Senate Committee Substitute for Senate Bill No. 788, Page 2, Section A, Line 27, by inserting after said line the following:

"21.840. 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Preneed Funeral Contracts" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a comprehensive study and analysis of the consumer and economic impact on the preneed funeral contract industry in the state of Missouri;

(2) Determine from its study and analysis the need for changes in statutory law; and

(4) Make any other recommendation to the general assembly relating to its findings.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives.

4. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

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

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

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than January 31, 2009, and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on January 31, 2009."; and

Further amend said bill, Page 13, Section 148.330, Line 68, by inserting after said line the following:

"194.119. 1. As used in this section, the term "right of sepulcher" means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

2. For purposes of this chapter and chapters 193, 333, and 436, RSMo, and in all cases relating to the custody, control, and disposition of deceased human remains, including the common law right of sepulcher, where not otherwise defined, the term "next-of-kin" means the following persons in the priority listed if such person is eighteen years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(1) **An attorney in fact designated in a durable power of attorney wherein the deceased specifically granted the right of sepulcher over his or her body to such attorney in fact;**

(2) The surviving spouse;

[(2)] (3) Any surviving child of the deceased. If a surviving child is less than eighteen years of age and has a legal or natural guardian, such child shall not be disqualified on the basis of the child's age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin shall serve in the order provided in subdivisions [(3)] (4) to (8) of this subsection;

[(3)] (4) (a) Any surviving parent of the deceased; or

(b) If the deceased is a minor, a surviving parent who has custody of the minor; or

(c) If the deceased is a minor and the deceased's parents have joint custody, the parent whose residence is the minor child's residence for purposes of mailing and education;

[(4)] (5) Any surviving sibling of the deceased;

[(5) Any person designated by the deceased to act as next-of-kin pursuant to a valid designation of right of sepulcher as provided in subsection 8 of this section;]

(6) The next nearest surviving relative of the deceased by consanguinity or affinity;

(7) Any person or friend who assumes financial responsibility for the disposition of the deceased's remains if no next-of-kin assumes such responsibility;

(8) The county coroner or medical examiner; provided however that such assumption of responsibility shall not make the coroner, medical examiner, the county, or the state financially responsible for the cost of disposition.

3. The next-of-kin of the deceased shall be entitled to control the final disposition of the remains of any dead human being consistent with all applicable laws, including all applicable health codes.

4. A funeral director or establishment is entitled to rely on and act according to the lawful instructions of any person claiming to be the next-of-kin of the deceased; provided however, in any civil cause of action against a funeral director or establishment licensed pursuant to this chapter for actions taken regarding the funeral arrangements for a deceased person in the director's or establishment's care, the relative fault, if any, of such funeral director or establishment may be reduced if such actions are taken in reliance upon a person's claim to be the deceased person's next-of-kin.

5. Any person who desires to exercise the right of sepulcher and who has knowledge of an individual or individuals with a superior right to control disposition shall notify such individual or individuals prior to making final arrangements.

6. If an individual with a superior claim is personally served with written notice from a person with an inferior claim that such person desires to exercise the right of sepulcher and the individual so served does not object within forty-eight hours of receipt, such individual shall be deemed to have waived such right. An individual with a superior right may also waive such right at any time if such waiver is in writing and dated.

7. If there is more than one person in a class who are equal in priority and the funeral director has no knowledge of any objection by other members of such class, the funeral director or establishment shall be entitled to rely on and act according to the instructions of the first such person in the class to make arrangements; provided that such person assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her objection.

[8. Any person may designate an individual to be his or her closest next-of-kin, regardless of blood or marital relationship, by means of a written instrument that is signed, dated, and verified. Such designation of right of sepulcher shall be witnessed by two persons, and shall contain the names and last known address of each person entitled to be next-of-kin but for the execution of the designation of right of sepulcher and who are higher in priority than the person so designated.]

333.011. As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

- (1) "Board", the state board of embalmers and funeral directors created by this chapter;
- (2) "Embalmer", any individual licensed to engage in the practice of embalming;
- (3) "Funeral director", any individual licensed to engage in the practice of funeral directing;
- (4) "Funeral establishment", a building, place, crematory, or premises devoted to or used in the care and preparation for burial or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose;
- (5) "Person" includes a corporation, partnership or other type of business organization;
- (6) "Practice of embalming", the work of preserving, disinfecting and preparing by arterial embalming, [or otherwise,] **including the chemical preparation of a dead human body for disposition. Practice of embalming includes all activities leading up to and including arterial and cavity embalming, including but not limited to raising of vessels and suturing of incisions** of dead human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;
- (7) "Practice of funeral directing", engaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment.

334.500. As used in sections 334.500 to 334.685, the following terms mean:

- (1) "Board", the state board of registration for the healing arts in the state of Missouri;
- (2) "Physical therapist assistant", a person who is licensed as a physical therapist assistant by the board or a person who was actively engaged in practice as a physical therapist assistant on August 28, 1993;
- (3) "Physical therapist", a person who is licensed to practice physical therapy;
- (4) "**Practice of physical therapy**", the examination, treatment and instruction of human beings to assess, prevent, correct, alleviate and limit physical disability, movement dysfunction, bodily malfunction and pain from injury, disease and any other bodily condition, such term includes, but is not limited to, the administration, interpretation and evaluation of physical therapy tests and measurements of bodily functions and structures; the planning, administration, evaluation and modification of treatment and instruction, including the use of physical measures, activities and devices, for preventive and therapeutic purposes; and the provision of consultative, educational, research and other advisory services for the purpose of reducing the incidence and severity of physical disability, movement dysfunction, bodily malfunction and pain does not include the use of surgery or obstetrics or the administration of x-radiation, radioactive substance, diagnostic x-ray, diagnostic laboratory electrocautery, electrosurgery or invasive tests or the prescribing of any drug or medicine or the administration or dispensing of any drug or medicine other than a topical agent administered or dispensed upon the direction of a physician. Physical therapists may perform electromyography and nerve conduction tests but may not interpret the results of the electromyography or nerve conduction test. Physical therapists shall practice physical therapy within the scope of their education and training as provided in sections 334.500 to 334.620."; and

Further amend said bill, Page 59, Section 334.400, Line 35, by inserting after said line the following:

"334.506. 1. [Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from providing educational resources and training, developing fitness or wellness programs for asymptomatic persons, or providing screening or consultative services within the scope of physical therapy practice without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, except that no physical therapist shall initiate treatment for a new injury or illness without the prescription or direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing.

2. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from examining and treating, without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any person with a recurring, self-limited injury within one year

of diagnosis by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, or any person with a chronic illness that has been previously diagnosed by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, except that a physical therapist shall contact the patient's current physician, chiropractor, dentist, or podiatrist, within seven days of initiating physical therapy services, pursuant to this subsection, shall not change an existing physical therapy referral available to the physical therapist without approval of the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any patient whose medical condition should, at the time of examination or treatment, be determined to be beyond the scope of practice of physical therapy. A physical therapist shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any person whose condition, for which physical therapy services are rendered pursuant to this subsection, has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever shall come first. If the person's condition for which physical therapy services are rendered under this subsection shall be documented to be progressing toward documented treatment goals, a physical therapist may continue treatment without referral from a physician, chiropractor, dentist or podiatrist, whose license is in good standing. If treatment rendered under this subsection is to continue beyond thirty days, a physical therapist shall notify the patient's current physician, chiropractor, dentist, or podiatrist before continuing treatment beyond the thirty-day limitation. A physical therapist shall also perform such notification before continuing treatment rendered under this subsection for each successive period of thirty days.]

As used in this section, "approved health care provider" means a person holding a current and active license as a physician and surgeon under this chapter, a chiropractor under chapter 331, RSMo, a dentist under chapter 332, RSMo, a podiatrist under chapter 330, RSMo, a physician assistant under this chapter, or any licensed and registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction whose license is in good standing.

2. A physical therapist shall not initiate treatment for a new injury or illness without a prescription from an approved health care provider.

3. A physical therapist may provide educational resources and training, develop fitness or wellness programs for asymptomatic persons, or provide screening or consultative services within the scope of physical therapy practice without the prescription and direction of an approved health care provider.

4. A physical therapist may examine and treat without the prescription and direction of an approved health care provider any person with a recurring self-limited injury within one year of diagnosis by an approved health care provider or a chronic illness that has been previously diagnosed by an approved health care provider. The physical therapist shall:

(1) Contact the patient's current approved health care provider within seven days of initiating physical therapy services under this subsection;

(2) Not change an existing physical therapy referral available to the physical therapist without approval of the patient's current approved health care provider;

(3) Refer to an approved health care provider any patient whose medical condition at the time of examination or treatment is determined to be beyond the scope of practice of physical therapy;

(4) Refer to an approved health care provider any patient whose condition for which physical therapy services are rendered under this subsection has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever first occurs;

(5) Notify the patient's current approved health care provider prior to the continuation of treatment if treatment rendered under this subsection is to continue beyond thirty days. The physical therapist shall provide such notification for each successive period of thirty days.

[3.] **5.** The provision of physical therapy services of evaluation and screening pursuant to this section shall be limited to a physical therapist, and any authority for evaluation and screening granted within this section may not be delegated. Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the

provisions of subsection [2] 4 of this section, may be delegated by physical therapists to physical therapist assistants only if the patient's current [physician, chiropractor, dentist, or podiatrist] **approved health care provider** has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection [2] 4 of this section. Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of [a physician and surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing] **an approved health care provider**. Nothing in this subsection shall prohibit [a person licensed or registered as a physician or surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing,] **an approved health care provider** from acting within the scope of their practice as defined by the applicable chapters of RSMo.

[4.] 6. No person licensed to practice, or applicant for licensure, as a physical therapist or physical therapist assistant shall make a medical diagnosis.

7. **A physical therapist shall only delegate physical therapy treatment to a physical therapist assistant or to a person in an entry level of a professional education program approved by the Commission for Accreditation of Physical Therapists and Physical Therapist Assistant Education (CAPTE) who satisfy supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education. The entry level person shall be under onsite supervision of a physical therapist.**

334.525. 1. **Notwithstanding any other provision of law to the contrary, any person licensed as a physical therapist or physical therapist assistant under this chapter may apply to the state board of registration for the healing arts for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by the board by rule, the board shall declare the licensee inactive and shall place the licensee on an inactive status list. A person whose license is inactive or who has discontinued his or her practice because of retirement shall not practice his or her profession within this state. Such person may continue to use the title of his or her profession or the initials of his or her profession after such person's name.**

2. **If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of his or her intention, paying the appropriate fees, and meeting all established requirements of the board as a condition of reinstatement.**

334.530. 1. A candidate for license to practice as a physical therapist shall be at least twenty-one years of age. A candidate shall furnish evidence of such person's good moral character and the person's educational qualifications by submitting satisfactory evidence of completion of a program of physical therapy education approved as reputable by the board. A candidate who presents satisfactory evidence of the person's graduation from a school of physical therapy approved as reputable by the American Medical Association or, if graduated before 1936, by the American Physical Therapy Association, or if graduated after 1988, the Commission on Accreditation for Physical Therapy Education or its successor, is deemed to have complied with the educational qualifications of this subsection.

2. Persons desiring to practice as physical therapists in this state shall appear before the board at such time and place as the board may direct and be examined as to their fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications set forth in subsection 1 of this section. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the [person signing the statement] **applicant**, subject to the penalties of making a false affidavit or declaration.

3. [The board shall not issue a permanent license to practice as a physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.

5.] The examination of qualified candidates for licenses to practice physical therapy shall [include a written examination and shall embrace the subjects taught in reputable programs of physical therapy education, sufficiently strict to test the qualifications of the candidates as practitioners] **test entry-level competence as related to physical therapy theory, examination and evaluation, physical therapy diagnosis, prognosis, treatment, intervention, prevention, and consultation.**

[6.] 4. The examination shall embrace, in relation to the human being, the subjects of anatomy, chemistry, kinesiology, pathology, physics, physiology, psychology, physical therapy theory and procedures as related to medicine, surgery and psychiatry, and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice physical therapy.

5. The applicant shall pass a test administered by the board on the laws and rules related to the practice of physical therapy in Missouri.

334.540. 1. The board shall issue a license to any physical therapist who [is licensed] **possesses an active license** in another jurisdiction and who has had no violations, suspensions or revocations of a license to practice physical therapy in any jurisdiction, provided that, such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of physical therapists in Missouri at the time the applicant applies for licensure.

2. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in subsection 1 of this section, shall be required to pay the same fee as the fee required to be paid by applicants who apply to take the examination before the board. Within the limits provided in this section, the board may negotiate reciprocal compacts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

3. [Notwithstanding the provisions of subsections 1 and 2 of this section, the board shall not issue a license to any applicant who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times] **The applicant shall pass a test administered by the board on the laws and rules related to practice of physical therapy in Missouri.**

334.550. 1. An applicant who has not been previously examined in **this state or** another jurisdiction and meets the qualifications of subsection 1 of section 334.530, **or an applicant applying for reinstatement of an inactive license under a supervised active practice**, may pay a temporary license fee and submit an agreement-to-supervise form, which is signed by the applicant's supervising physical therapist, to the board and obtain without examination a nonrenewable temporary license. Such temporary licensee may only engage in the practice of physical therapy under the supervision of a licensed physical therapist. **The supervising physical therapist shall hold an unencumbered license to practice physical therapy in this state and shall provide the board proof of active clinical practice in this state for a minimum of one year prior to supervising a temporary licensee. The supervising physical therapist shall not be an immediate family member of the applicant.** The board shall define **immediate family member** and the scope of such supervision by rules and regulations. **The supervising physical therapist for the first-time examinee applicant shall submit to the board a signed notarized form prescribed by the board attesting that the applicant for temporary license shall begin employment at a location in this state within seven days of issuance of the temporary license. The supervising physical therapist shall notify the board within three days if the temporary licensee's employment ceases. A licensed physical therapist shall not supervise more than one temporary licensee.**

2. The temporary license **for the first-time examinee applicant** shall expire on [either] the date the applicant receives the results of the applicant's initial examination, **the date the applicant withdraws from sitting for the**

examination, the date the board is notified by the supervising physical therapist that the temporary licensee's employment has ceased, or within ninety days of its issuance, whichever occurs first.

3. The temporary license for the reinstatement applicant under the supervised active practice shall expire effective one year from the date of issuance.

334.560. The board shall charge each person who applies for examination for a license to practice as a physical therapist an examination fee. Should the examination prove unsatisfactory and the board refuse to issue a license thereon, the applicant failing to pass the examination may reapply [and return to any meeting] and be examined upon payment of a reexamination fee[; but no temporary license may be issued to such persons].

334.570. 1. Every person licensed under sections 334.500 to 334.620 shall, on or before the registration renewal date, apply to the board for a certificate of registration for the ensuing licensing period. The application shall be made **under oath** on a form furnished to the applicant [and shall state] **by the board. The application shall include, but not be limited to, disclosure of the following:**

(1) The applicant's full name [and the address at which the person practices and the address at which the person resides and the date and number of such person's license];

(2) **The applicant's office address or addresses and telephone number or numbers;**

(3) **The applicant's home address and telephone number;**

(4) **The date and number of the applicant's license;**

(5) **All final disciplinary actions taken against the applicant by any professional association or society, licensed hospital or medical staff of a hospital, physical therapy facility, state, territory, federal agency or county; and**

(6) **Information concerning the applicant's current physical and mental fitness to practice his or her profession.**

The applicant may be required to successfully complete a test administered by the board on the laws and rules related to the practice of physical therapy. The test process, dates, and passing scores shall be established by the board by rule.

2. A [blank form] **notice** for application for registration shall be [mailed] **made available** to each person licensed in this state [at the person's last known address of practice or residence]. The failure to [mail the form of application or the failure to receive it] **receive the notice** does not, however, relieve any person of the duty to register and pay the fee required by sections 334.500 to 334.620 nor exempt such person from the penalties provided by sections 334.500 to 334.620 for failure to register.

3. If a physical therapist does not renew such license for two consecutive renewal periods, such license shall be deemed void.

4. Each applicant for registration shall accompany the application for registration with a registration fee to be paid to the director of revenue for the licensing period for which registration is sought.

5. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; except that, whenever in the opinion of the board the applicant's failure to register is caused by extenuating circumstances including illness of the applicant, as defined by rule, the delinquent fee may be waived by the board.

6. Upon application and submission by such person of evidence satisfactory to the board that such person is licensed to practice in this state and upon the payment of fees required to be paid by this chapter, the board shall issue to such person a certificate of registration. The certificate of registration shall contain the name of the person to whom it is issued and his or her office address, the expiration date, and the number of the license to practice.

7. Upon receiving such certificate, every person shall cause the certificate to be readily available or conspicuously displayed at all times in every practice location maintained by such person in the state. If the licensee maintains more than one practice location in this state, the board shall, without additional fee, issue to such licensee duplicate certificates of registration for each practice location so maintained. If any licensee changes practice locations during the period for which any certificate of registration has been issued, the licensee shall, within fifteen days thereafter, notify the board of such change and the board shall issue to the licensee, without additional fee, a new registration certificate showing the new location.

8. Whenever any new license is granted to any physical therapist or physical therapist assistant under the provisions of this chapter, the board shall, upon application therefore, issue to such physical therapist or

physical therapist assistant a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

334.601. The board shall set the amount of the fees which this chapter authorizes and requires by rule. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

334.602. 1. Physical therapists and physical therapist assistants shall provide documentation in order that an adequate and complete patient record can be maintained. All patient records shall be legible and available for review and shall include at a minimum documentation of the following information:

- (1) Identification of the patient, including name, birthdate, address, and telephone number;
- (2) The date or dates the patient was seen;
- (3) The current status of the patient, including the reason for the visit;
- (4) Observation of pertinent physical findings;
- (5) Assessment and clinical impression of physical therapy diagnosis;
- (6) Plan of care and treatment;
- (7) Documentation of progress toward goals;
- (8) Informed consent;
- (9) Discharge summary.

2. Patient records remaining under the care, custody, and control of the licensee shall be maintained by the licensee of the board, or the licensee's designee, for a minimum of seven years from the date of when the last professional service was provided.

3. Any correction, addition, or change in any patient record shall be clearly marked and identified as such, and the date, time, and name of the person making the correction, addition, or change shall be included, as well as the reason for the correction, addition, or change.

4. The board shall not obtain a patient medical record without written authorization from the patient to obtain the medical record or the issuance of a subpoena for the patient medical record.

334.610. Any person who holds himself or herself out to be a physical therapist or a licensed physical therapist within this state or any person who advertises as a physical therapist or claims that the person can render physical therapy services and who, in fact, does not hold a valid physical therapist license is guilty of a class B misdemeanor and, upon conviction, shall be punished as provided by law. Any person who, in any manner, represents himself or herself as a physical therapist, or who uses in connection with such person's name the words or letters "physical therapist", "physiotherapist", "registered physical therapist", "**doctor of physical therapy**", "P.T.", "Ph.T.", "P.T.T.", "R.P.T.", "**D.P.T.**", "**M.P.T.**", or any other letters, words, abbreviations or insignia, indicating or implying that the person is a physical therapist without a valid existing license as a physical therapist issued to such person pursuant to the provisions of sections 334.500 to 334.620, is guilty of a class B misdemeanor. Nothing in sections 334.500 to 334.620 shall prohibit any person licensed in this state under chapter 331, RSMo, from carrying out the practice for which the person is duly licensed, or from advertising the use of physiologic and rehabilitative modalities; nor shall it prohibit any person licensed or registered in this state under section 334.735 or any other law from carrying out the practice for which the person is duly licensed or registered; nor shall it prevent professional and semiprofessional teams, schools, YMCA clubs, athletic clubs and similar organizations from furnishing treatment to their players and members. This section, also, shall not be construed so as to prohibit masseurs and masseuses from engaging in their practice not otherwise prohibited by law and provided they do not represent themselves as physical therapists. This section shall not apply to physicians and surgeons licensed under this chapter or to a person in an entry level of a professional education program approved by the commission for accreditation of physical therapists and physical therapist assistant education (CAPTE) who is satisfying supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education while under on-site supervision of a physical therapist; or to a physical therapist who is practicing in the United States Armed Services, United States Public Health Service, or Veterans Administration under federal regulations for state licensure for health care providers.

334.611. Notwithstanding any other provision of law to the contrary, any qualified physical therapist who is legally authorized to practice under the laws of another state may practice as a physical therapist in this state without examination by the board or payment of any fee if such practice consists solely of the provision of gratuitous services provided for a summer camp or teaching or participating in a continuing educational seminar for a period not to exceed fourteen days in any one calendar year. Nothing in sections 334.500 to 334.625 shall

be construed to prohibit isolated or occasional gratuitous service to and treatment of the afflicted or to prohibit physical therapists from other nations, states, or territories from performing their duties for their respective teams or organizations during the course of their teams' or organizations' stay in this state.

334.612. 1. If the board finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections and takes further investigative action, no documentation shall appear on file or disciplinary action shall be taken in regards to the licensee's license unless the provisions of subsection 2 of section 334.613 have been violated. Any case file documentation that does not result in the board filing an action under subsection 2 of section 334.613 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 334.613 have been violated.

2. Upon written request of the physical therapist or physical therapist assistant subject to a complaint prior to August 28, 1999, by an individual incarcerated or under the care and control of the department of corrections that did not result in the board filing an action described in subsection 2 of section 334.613, the board and the division of professional registration shall in a timely fashion:

- (1)** Destroy all documentation regarding the complaint;
- (2)** If previously notified of the complaint, notify any other licensing board in another state or any national registry regarding the board's actions; and
- (3)** Send a letter to the licensee that clearly states that the board found the complaint to be unsubstantiated, that the board has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their practice.

334.613. 1. The board may refuse to issue or renew a license to practice as a physical therapist or physical therapist assistant for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew a license to practice as a physical therapist or physical therapist assistant, the board may, at its discretion, issue a license which is subject to probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of a license to practice as a physical therapist or physical therapist assistant who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

- (1)** Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of a physical therapist or physical therapist assistant;
- (2)** The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant, for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;
- (3)** Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

(4) **Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional conduct in the performance of the functions or duties of a physical therapist or physical therapist assistant, including but not limited to the following:**

(a) **Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for sessions of physical therapy which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;**

(b) **Attempting, directly or indirectly, by way of intimidation, coercion, or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;**

(c) **Willfully and continually performing inappropriate or unnecessary treatment or services;**

(d) **Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience, or licensure to perform such responsibilities;**

(e) **Misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine, or device;**

(f) **Performing services which have been declared by board rule to be of no physical therapy value;**

(g) **Final disciplinary action by any professional association, professional society, licensed hospital or medical staff of the hospital, or physical therapy facility in this or any other state or territory, whether agreed to voluntarily or not, and including but not limited to any removal, suspension, limitation, or restriction of the person's professional employment, malpractice, or any other violation of any provision of this chapter;**

(h) **Administering treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional physical therapy practice;**

(i) **Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a physical therapist or physical therapist assistant/patient relationship exists; making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with patients or clients;**

(j) **Terminating the care of a patient without adequate notice or without making other arrangements for the continued care of the patient;**

(k) **Failing to furnish details of a patient's physical therapy records to treating physicians, other physical therapists, or hospitals upon proper request; or failing to comply with any other law relating to physical therapy records;**

(l) **Failure of any applicant or licensee, other than the licensee subject to the investigation, to cooperate with the board during any investigation;**

(m) **Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;**

(n) **Failure to timely pay license renewal fees specified in this chapter;**

(o) **Violating a probation agreement with this board or any other licensing agency;**

(p) **Failing to inform the board of the physical therapist's or physical therapist assistant's current telephone number, residence, and business address;**

(q) **Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physical therapist or physical therapist assistant. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation, or association which issues or conducts such advertising;**

(5) **Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence, or repeated negligence in the performance of the functions or duties of a physical therapist or physical therapist assistant. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;**

(6) **Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule adopted under this chapter;**

(7) **Impersonation of any person licensed as a physical therapist or physical therapist assistant or allowing any person to use his or her license or diploma from any school;**

(8) **Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation, or other final disciplinary action against a physical therapist or physical therapist assistant for a license or other right to practice as a physical therapist or physical therapist assistant by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including but not limited to the**

denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of physical therapy while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice who is not licensed and currently eligible to practice under this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice physical therapy who is not licensed and currently eligible to practice under this chapter;

(11) Issuance of a license to practice as a physical therapist or physical therapist assistant based upon a material mistake of fact;

(12) Failure to display a valid license pursuant to practice as a physical therapist or physical therapist assistant;

(13) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any document executed in connection with the practice of physical therapy;

(14) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of physical therapy services for all patients, or the qualifications of an individual person or persons to render, or perform physical therapy services;

(15) Using, or permitting the use of, the person's name under the designation of "physical therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.", "M.P.T." or "R.P.T.", "physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

(16) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment under chapter 208, RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

(17) Failure or refusal to properly guard against contagious, infectious, or communicable diseases or the spread thereof; maintaining an unsanitary facility or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in any physical therapy facility to the board, in writing, within thirty days after the discovery thereof;

(18) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant, paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon under this chapter, as a physician assistant under this chapter, as a chiropractor under chapter 331, RSMo, as a dentist under chapter 332, RSMo, as a podiatrist under chapter 330, RSMo, or any licensed and registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing;

(19) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.685;

(20) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a physician who is authorized by law to do so;

(21) Failing to maintain adequate patient records under 334.602;

(22) Attempting to engage in conduct that subverts or undermines the integrity of the licensing examination or the licensing examination process, including but not limited to utilizing in any manner recalled or memorized licensing examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with any other examinees during the test, or copying or sharing licensing examination questions or portions of questions;

(23) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant who requests, receives, participates or engages directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or profits by means of a credit or other valuable consideration such as wages, an unearned commission, discount or gratuity with any person who referred a patient, or with any relative or business associate of the referring person;

(24) Being unable to practice as a physical therapist or physical therapist assistant with reasonable skill and safety to patients by reasons of incompetency, or because of illness, drunkenness, excessive use of drugs,

narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physical therapist or physical therapist assistant to submit to a reexamination for the purpose of establishing his or her competency to practice as a physical therapist or physical therapist assistant conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physical therapist's or physical therapist assistant's professional conduct, or to submit to a mental or physical examination or combination thereof by a facility or professional approved by the board;

(b) For the purpose of this subdivision, every physical therapist and physical therapist assistant licensed under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physical therapist, physical therapist assistant or applicant without the physical therapist's, physical therapist assistant's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physical therapist or physical therapist assistant, by registered mail, addressed to the physical therapist or physical therapist assistant at the physical therapist's or physical therapist assistant's last known address. Failure of a physical therapist or physical therapist assistant to submit to the examination when directed shall constitute an admission of the allegations against the physical therapist or physical therapist assistant, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physical therapist's or physical therapist assistant's control. A physical therapist or physical therapist assistant whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physical therapist or physical therapist assistant can resume the competent practice as a physical therapist or physical therapist assistant with reasonable skill and safety to patients;

(e) In any proceeding under this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physical therapist or physical therapist assistant in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 3 of this section.

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:

(1) Warn, censure or place the physical therapist or physical therapist assistant named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years;

(2) Suspend the physical therapist's or physical therapist assistant's license for a period not to exceed three years;

(3) Restrict or limit the physical therapist's or physical therapist assistant's license for an indefinite period of time;

(4) Revoke the physical therapist's or physical therapist assistant's license;

(5) Administer a public or private reprimand;

(6) Deny the physical therapist's or physical therapist assistant's application for a license;

(7) Permanently withhold issuance of a license;

(8) Require the physical therapist or physical therapist assistant to submit to the care, counseling or treatment of physicians designated by the board at the expense of the physical therapist or physical therapist assistant to be examined;

(9) Require the physical therapist or physical therapist assistant to attend such continuing educational courses and pass such examinations as the board may direct.

4. In any order of revocation, the board may provide that the physical therapist or physical therapist assistant shall not apply for reinstatement of the physical therapist's or physical therapist assistant's license for

a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

5. Before restoring to good standing a license issued under this chapter which has been in a revoked, suspended, or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

6. In any investigation, hearing or other proceeding to determine a physical therapist's, physical therapist assistant's or applicant's fitness to practice, any record relating to any patient of the physical therapist, physical therapist assistant, or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such physical therapist, physical therapist assistant, applicant, record custodian, or patient might otherwise invoke. In addition, no such physical therapist, physical therapist assistant, applicant, or record custodian may withhold records or testimony bearing upon a physical therapist's, physical therapist assistant's, or applicant's fitness to practice on the ground of privilege between such physical therapist, physical therapist assistant, applicant, or record custodian and a patient.

334.614. 1. Notwithstanding any other provisions of section 620.010, RSMo, to the contrary, the board shall at least quarterly publish a list of the names and addresses of all physical therapists and physical therapist assistants who hold licenses under the provisions of this chapter, and shall publish a list of all physical therapists and physical therapist assistants whose licenses have been suspended, revoked, surrendered, restricted, denied, or withheld.

2. Notwithstanding any other provisions of section 620.010, RSMo, to the contrary, in addition, the board shall prepare and make available to the public a report upon the disciplinary matters submitted to them where the board recommends disciplinary action, except in those instances when physical therapists and physical therapist assistants possessing licenses voluntarily enter treatment and monitoring programs for purposes of rehabilitation and, in such instances, only such specific action shall not be reported with any other actions taken prior to, as part of, or following voluntary entrance into such treatment programs. The report shall set forth findings of fact and any final disciplinary actions of the board. If the board does not recommend disciplinary action, a report stating that no action is recommended shall be prepared and forwarded to the complaining party.

334.615. 1. Upon receipt of information that the holder of any license as a physical therapist or physical therapist assistant issued under this chapter may present a clear and present danger to the public health and safety, the executive director shall direct that the information be brought to the board in the form of sworn testimony or affidavits during a meeting of the board.

2. The board may issue an order suspending or restricting the holder of a license as a physical therapist or physical therapist assistant if it believes:

- (1) The licensee's acts, conduct, or condition may have violated subsection 2 of section 334.613; and
- (2) A licensee is practicing, attempting, or intending to practice in Missouri; and
- (3) (a) A licensee is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that the licensee's condition or actions significantly affect the licensee's ability to practice; or
(b) Another state, territory, federal agency, or country has issued an order suspending or restricting the physical therapist's or physical therapist assistant's right to practice his or her profession; or
(c) The licensee has engaged in repeated acts of life-threatening negligence as defined in subsection 2 of section 334.613; and
- (4) The acts, conduct, or condition of the licensee constitute a clear and present danger to the public health and safety.

3. (1) The order of suspension or restriction:
(a) Shall be based on the sworn testimony or affidavits presented to the board;
(b) May be issued without notice and hearing to the licensee;
(c) Shall include the facts which lead the board to conclude that the acts, conduct, or condition of the licensee constitute a clear and present danger to the public health and safety.

(2) The board or the administrative hearing commission shall serve the licensee, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the board, a copy of the complaint and the request for expedited hearing, and a notice of the place of and the date upon which the preliminary hearing will be held.

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection.

(4) The order of suspension shall become effective upon the entry of the preliminary order of the administrative hearing commission.

(5) The licensee may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

4. The board shall file a complaint in the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the board. Immediately upon receipt of a complaint filed under this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee. The administrative hearing commission shall grant a licensee's request for a continuance of the preliminary hearing; however, the board's order shall remain in full force and effect until the preliminary hearing, which shall be held not later than forty-five days after service of the documents required in subdivision (2) of subsection 3 of this section.

5. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the board and shall only hear evidence on the issue of whether the board's order of suspension or restriction should be terminated or modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without findings of fact and conclusions of law, that adopts, terminates, or modifies the board's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

6. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing on the merits of the complaint filed by the board within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

7. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying, or dismissing its preliminary order or until the board issues an order of discipline following its consideration of the decision of the administrative hearing commission under section 621.110, RSMo, and subsection 3 of section 334.100.

8. In cases where the board initiates summary suspension or restriction proceedings against a physical therapist or physical therapist assistant licensed under this chapter, and such petition is subsequently denied by the administrative hearing commission, in addition to any award made under sections 536.085 and 536.087, RSMo, the board, but not individual members of the board, shall pay actual damages incurred during any period of suspension or restriction.

9. Notwithstanding the provisions of this chapter or chapter 610, RSMo, or chapter 621, RSMo, to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

10. The burden of proving the elements listed in subsection 2 of this section shall be upon the state board of registration for the healing arts.

334.616. 1. A license issued under this chapter by the Missouri state board of registration for the healing arts shall be automatically revoked at such time as the final trial proceedings are concluded whereby a licensee has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of their profession, or for any felony offense, an essential element of which is fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional revocation of the license to practice their profession in another state or territory upon grounds for which revocation is authorized in this state following a review of the record of the proceedings and upon a formal motion of the state board of registration for the healing arts. The license of any such licensee shall be automatically reinstated if the conviction or the revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

2. Anyone who has been denied a license, permit, or certificate to practice in another state shall automatically be denied a license to practice in this state. However, the board of healing arts may set up other qualifications by which such person may ultimately be qualified and licensed to practice in Missouri.

334.617. 1. Upon application by the board and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a license is required by chapters 334.500 to 334.687 upon a showing that such acts or practices were performed or offered to be performed without a license; or

(2) Engaging in any practice or business authorized by a license issued under chapters 334.500 to 334.687 upon a showing that the holder presents a substantial probability of serious danger to the health, safety, or welfare of any resident of the state or client or patient of the licensee.

2. Any such action shall be commenced in the county in which such conduct occurred or in the county in which the defendant resides or Cole County.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by chapters 334.500 to 334.687 and may be brought concurrently with other actions to enforce chapters 334.500 to 334.687.

334.618. Upon receiving information that any provision of sections 334.500 to 334.687 has been or is being violated, the executive director of the board or other person designated by the board shall investigate, and upon probable cause appearing, the executive director shall, under the direction of the board, file a complaint with the administrative hearing commission or appropriate official or court. All such complaints shall be handled as provided by rule promulgated under subdivision (6) of subsection 16 of section 620.010, RSMo.

334.650. 1. After January 1, 1997, no person shall hold himself or herself out as being a physical therapist assistant in this state unless the person is licensed as provided in sections 334.650 to 334.685.

2. A licensed physical therapist shall direct and supervise a physical therapist assistant [at all times. The licensed physical therapist shall have the responsibility of supervising the physical therapy treatment program]. **The physical therapist shall retain ultimate authority and responsibility for the physical therapy treatment. The licensed physical therapist shall have the responsibility of supervising the physical therapy treatment program.** No physical therapist may establish a treating office in which the physical therapist assistant is the primary care provider. No licensed physical therapist shall have under their direct supervision more than four **full-time equivalent** physical therapist assistants.

334.655. 1. A candidate for licensure to practice as a physical therapist assistant shall be at least nineteen years of age. A candidate shall furnish evidence of the person's good moral character and of the person's educational qualifications. The educational requirements for licensure as a physical therapist assistant are:

(1) A certificate of graduation from an accredited high school or its equivalent; and

(2) Satisfactory evidence of completion of an associate degree program of physical therapy education accredited by the commission on accreditation of physical therapy education. 2. Persons desiring to practice as a physical therapist assistant in this state shall appear before the board at such time and place as the board may direct and be examined as to the person's fitness to engage in such practice. Applications for examination shall be [in writing.] on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications provided in subsection 1 of this section. Each application shall contain a statement that the statement is made under oath of affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration.

3. The examination of qualified candidates for licensure to practice as physical therapist assistants shall embrace [a written] **an** examination [and] which shall cover the curriculum taught in accredited associate degree programs of physical therapy assistant education. Such examination shall be sufficient to test the qualification of the candidates as practitioners.

4. [The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

5. The board may waive the provisions of subsection 4 if the applicant has met one of the following provisions: the applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to

the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

6.] The examination shall include, as related to the human body, the subjects of anatomy, kinesiology, pathology, physiology, psychology, physical therapy theory and procedures as related to medicine and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice as a physical therapist assistant.

5. The applicant shall pass a test administered by the board on the laws and rules related to the practice as a physical therapist assistant in this state.

[7.] 6. The board shall license without examination any legally qualified person who is a resident of this state and who was actively engaged in practice as a physical therapist assistant on August 28, 1993. The board may license such person pursuant to this subsection until ninety days after the effective date of this section.

[8.] 7. A candidate to practice as a physical therapist assistant who does not meet the educational qualifications may submit to the board an application for examination if such person can furnish written evidence to the board that the person has been employed in this state for at least three of the last five years under the supervision of a licensed physical therapist and such person possesses the knowledge and training equivalent to that obtained in an accredited school. The board may license such persons pursuant to this subsection until ninety days after rules developed by the state board of healing arts regarding physical therapist assistant licensing become effective.

334.660. 1. The board shall license without examination legally qualified persons who [hold] **possess active** certificates of licensure, registration or certification in any state or territory of the United States or the District of Columbia, who have had no violations, suspensions or revocations of such license, registration or certification, if such persons have passed [a written] **an** examination to practice as a physical therapist assistant that was substantially equal to the examination requirements of this state and in all other aspects, including education, the requirements for such certificates of licensure, registration or certification were, at the date of issuance, substantially equal to the requirements for licensure in this state.

2. [The board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia.

3. The board may waive the provisions of subsection 1 if the applicant has met one of the following provisions: the applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

4.] Every applicant for a license pursuant to this section, upon making application and providing documentation of the necessary qualifications as provided in this section, shall pay the same fee required of applicants to take the examination before the board. Within the limits of this section, the board may negotiate reciprocal contracts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

3. The applicant shall successfully pass a test administered by the board on the laws and rules related to practice as a physical therapist assistant in this state.

334.665. 1. An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.655 **or an applicant applying for reinstatement of an inactive license under a supervised active practice** may pay a temporary license fee and submit an agreement-to-supervise form which is signed by the applicant's supervising physical therapist to the board and obtain without examination a nonrenewable temporary license. Such temporary licensee may only practice under the supervision of a licensed physical therapist. **The supervising physical therapist shall hold an unencumbered license to practice physical therapy in the state of Missouri and shall provide the board proof of active clinical practice in the state of Missouri for a minimum of one year prior to supervising the temporary licensee. The supervising physical therapist shall not be an immediate family member of the applicant. The board shall define immediate family member and the scope of such supervision by rule. The supervising physical therapist for the first-time examinee applicant shall submit to the board a signed notarized form prescribed by the board attesting that the applicant for temporary license shall begin employment at a location in this state within seven days of issuance of the temporary license. The supervising physical therapist shall notify the board within three days if the temporary licensee's employment ceases.** A licensed physical therapist shall supervise no more than one temporary licensee. [The board shall define the scope of such supervision by rules and regulations.]

2. The temporary license **for the first-time examinee applicant** shall expire on [either] the date the applicant receives the results of the applicant's initial examination, **the date the applicant withdraws from sitting for the examination, the date the board is notified by the supervising physical therapist that the temporary licensee's employment has ceased,** or within ninety days of its issuance, whichever occurs first.

3. **The temporary license for the reinstatement applicant under the supervised active practice shall expire effective one year from the date of issuance.**

334.670. The board shall charge a person, who applies for examination for a license to practice as a physical therapist assistant, an examination fee. If the person does not score a passing grade on the examination, the board may refuse to issue a license. Any applicant who fails to pass the examination may reapply and be reexamined upon payment of a reexamination fee. [No temporary license may be issued to any person who has previously failed the examination in Missouri or any other state or jurisdiction.]

334.675. 1. Every person licensed pursuant to sections 334.650 to 334.685 shall, on or before the licensing renewal date, apply to the board for a certificate of licensure for the next licensing period. The application for renewal shall be made **under oath** on a form furnished to the applicant [and shall state] **by the board. The application shall include, but not be limited to, disclosure of the following:**

(1) The applicant's full name [and the address at which the applicant practices and the address at which the applicant resides and];

(2) **The applicant's office address or addresses and telephone number or numbers;**

(3) **The applicant's home address and telephone number;**

(4) The date and number of the applicant's license;

(5) **All final disciplinary actions taken against the applicant by any professional association or society, licensed hospital or medical staff of the hospital, physical therapy facility, state, territory, federal agency or country; and**

(6) **Information concerning the applicant's current physical and mental fitness to practice the applicant's profession.**

The applicant may be required to successfully complete a test administered by the board on the laws and rules related to the practice of physical therapy in this state. The test process, dates, and passing scores shall be established by the board by rule.

2. A [blank application form] **notice** shall be [mailed] **made available** to each person licensed in this state [pursuant to sections 334.650 to 334.685 at the person's last known address of practice or residence. The failure to mail the application for or the failure to receive the application form]. **The failure to receive the notice** does not relieve any person of the duty to renew the person's license and pay the renewal fee as required by sections 334.650 to 334.685 nor shall it exempt the person from the penalties provided by sections 334.650 to 334.685 for failure to renew a license.

3. **If a physical therapist assistant does not renew such license for two consecutive renewal periods, such license shall be deemed voided.**

4. **Each applicant for registration shall accompany the application for registration with a registration fee to be paid to the director of revenue for the licensing period for which registration is sought.**

5. **If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; except that, if in the opinion of the board the applicant's failure to register is caused by extenuating circumstances, including illness of the applicant as defined by rule, the delinquent fee may be waived by the board.**

6. **Upon due application therefore and upon submission by such person of evidence satisfactory to the board that he or she is licensed to practice in this state and upon the payment of fees required to be paid by this chapter, the board shall issue to such person a certificate of registration. The certificate of registration shall contain the name of the person to whom it is issued and his or her office address, the expiration date, and the number of the license to practice.**

7. **Upon receiving such certificate, every person shall cause it to be readily available or conspicuously displayed at all times in every practice location maintained by such licensee in the state. If the licensee maintains more than one practice location in this state, the board shall without additional fee issue to them duplicate certificates of registration for each practice location so maintained. If any licensee changes practice locations during the period for which any certificate of registration has been issued, such licensee shall, within fifteen days thereafter, notify the board of such change and the board shall issue to the licensee, without additional fee, a new registration certificate showing the new location.**

8. Whenever any new license is granted to any physical therapist or physical therapist assistant under the provisions of this chapter, the board shall, upon application therefore, issue to such physical therapist or physical therapist assistant a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

334.686. Any person who holds himself or herself out to be a physical therapist assistant or a licensed physical therapist assistant within this state or any person who advertises as a physical therapist assistant and who, in fact, does not hold a valid physical therapist assistant license is guilty of a class B misdemeanor and, upon conviction, shall be punished as provided by law. Any person who, in any manner, represents himself or herself as a physical therapist assistant, or who uses in connection with such person's name the words or letters, "physical therapist assistant", the letters "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any other letters, words, abbreviations or insignia, indicating or implying that the person is a physical therapist assistant without a valid existing license as a physical therapist assistant issued to such person under the provisions of sections 334.500 to 334.620, is guilty of a class B misdemeanor. This section shall not apply to physicians and surgeons licensed under this chapter or to a person in an entry level of a professional education program approved by the Commission for Accreditation of Physical Therapists and Physical Therapist Assistant Education (CAPTE) who is satisfying supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education while under onsite supervision of a physical therapist; or to a physical therapist who is practicing in the United States Armed Forces, United States Public Health Service, or Veterans Administration under federal regulations for state licensure for health care providers.

334.687. 1. For purposes of this section, the licensing of physical therapists and physical therapist assistants shall take place within processes established by the state board of registration for the healing arts through rules. The board of healing arts is authorized to adopt rules establishing licensing and renewal procedures, supervision of physical therapist assistants, and former licensees who wish to return to the practice of physical therapy, fees, and addressing such other matters as are necessary to protect the public and discipline the profession." and

Further amend said bill, Page 61, Section 334.735, Line 36, by inserting immediately after the word "section" the following:

"For the purposes of this section, the percentage of time a physician assistant provides patient care with the supervising physician on-site shall be measured each calendar quarter." and

Further amend said section, Page 62, Line 64, by inserting after the word "area" the following:

";

(5) Nothing in this section shall be construed to require a physician-physician assistant team to increase their on-site requirement allowed in their initial waiver in order to qualify for renewal of such waiver.;" and

Further amend said bill, Page 76, Section 338.130, Line 10, by inserting after said line the following:

"339.010. 1. A "real estate broker" is any person, partnership, association, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
- (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
- (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

(9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;

(10) Performs any of the foregoing acts [as an employee of, or] on behalf of[,] the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860 means the Missouri real estate commission.

4. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this state.

5. "Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public; it, **and** shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, Internet advertising, web sites, display or group ads in telephone directories, and billboards.

6. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not apply to:

(1) Any person, partnership, association, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof[, provided such owner, lessor, or lessee is not engaged in the real estate business];

(2) Any licensed attorney-at-law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of the agent or the owner of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

(a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;

(d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;

(e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper, magazine, periodical, Internet site, Internet communications, or any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission whereby the advertising of real estate is incidental to its operation;

(10) Any developer selling Missouri land owned by the developer;

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

- (a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;
- (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or
- (c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, Internet site, or other medium."; and

Further amend said bill, Page 77, Section 339.120, Line 61, by inserting after said line the following:

"339.150. 1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate salesperson is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860, unless such a person is:

- (1) A licensed real estate salesperson or a licensed real estate broker as required by section 339.020[.]; or
- (2) **For a transaction involving commercial real estate as defined in section 339.710, a person regularly engaged in the real estate brokerage business outside the state of Missouri who has, in such forms as the commission may adopt by rule:**

- (a) Executed a brokerage agreement with the Missouri real estate broker;
- (b) Consented to the jurisdiction of Missouri and the commission;
- (c) Consented to disciplinary procedures under section 339.100; and
- (d) Appointed the commission as his or her agent for service of process regarding any administrative or legal actions relating to the conduct in Missouri; or

- (3) **For any other transaction,** a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160."; and

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

On motion of Representative Wasson, **House Amendment No. 1** was adopted.

Representative Wasson offered **House Amendment No. 2**.

House Amendment No. 2

AMEND Senate Committee Substitute for Senate Bill No. 788, Page 50, Section 325.010, Line 17, by inserting after all of said line the following:

"326.256. 1. As used in this chapter, the following terms mean:

- (1) "AICPA", the American Institute of Certified Public Accountants;
- (2) "Attest" **or "attest services"**, providing the following financial statement services:
 - (a) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);
 - (b) Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); **or**
 - (c) **Any engagement to be performed in accordance with the auditing standards and rules of the Public Company Accounting Oversight Board (PCAOB);**
- (3) "Board", the Missouri state board of accountancy established [pursuant to] **under** section 326.259 or its predecessor pursuant to prior law;
- (4) "Certificate", a certificate issued [pursuant to] **under** section 326.060 prior to August 28, 2001;
- (5) "Certified public accountant" or "CPA", the holder of a certificate or license as defined in this section;
- (6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a corporation, a partnership or any other form of organization issued a permit [pursuant to] **under** section 326.289;
- (7) "Client", a person or entity that agrees with a licensee or licensee's employer to receive any professional service;
- (8) "Compilation", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presented in the form of financial statements information that is the representation of management (owners) without undertaking to express any assurance on the statements;
- (9) **"Home office", the location specified by the client as the address to which attest, compilation, or review services are directed;**
- (10) "License", a license issued [pursuant to] **under** section 326.280, or [a provisional license issued pursuant to] **privilege to practice under** section 326.283; or, in each case, an individual license or permit issued pursuant to corresponding provisions of prior law;
 - [(10)] (11) "Licensee", the holder of a license as defined in this section;
 - [(11)] (12) "Manager", a manager of a limited liability company;
 - [(12)] (13) "Member", a member of a limited liability company;
 - [(13)] (14) "NASBA", the National Association of State Boards of Accountancy;
 - [(14)] (15) "Peer review", a study, appraisal or review of one or more aspects of the professional work of a licensee or certified public accountant firm that performs attest, review or compilation services, by licensees who are not affiliated either personally or through their certified public accountant firm being reviewed pursuant to the Standards for Performing and Reporting on Peer Reviews promulgated by the AICPA or such other standard adopted by regulation of the board which meets or exceeds the AICPA standards;
 - [(15)] (16) "Permit", a permit to practice as a certified public accountant firm issued [pursuant to] **under** section 326.289 or corresponding provisions of prior law or pursuant to corresponding provisions of the laws of other states;
 - [(16)] (17) "Professional", arising out of or related to the specialized knowledge or skills associated with certified public accountants;
 - [(17)] (18) "Public accounting":
 - (a) Performing or offering to perform for an enterprise, client or potential client one or more services involving the use of accounting or auditing skills, or one or more management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters by a person, firm, limited liability company or professional corporation using the title "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other public representations;
 - (b) Signing or affixing a name, with any wording indicating the person or entity has expert knowledge in accounting or auditing to any opinion or certificate attesting to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, rules, grants, loans and appropriations; or

(c) Offering to the public or to prospective clients to perform, or actually performing on behalf of clients, professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records;

[(18)] **(19)** "Report", when used with reference to financial statements, means an opinion, report or other form of language that states or implies assurance as to the reliability of any financial statements, and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, or both, and includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence, or both;

[(19)] **(20)** "Review", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;

[(20)] **(21)** "State", any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

[(21)] **(22)** "Substantial equivalency" or "**substantially equivalent**", a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements contained in this chapter or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this chapter;

[(22)] **(23)** "Transmittal", any transmission of information in any form, including but not limited to any and all documents, records, minutes, computer files, disks or information.

2. The statements on standards specified in this section shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by the AICPA or other recognized national accountancy organization as prescribed by board rule."; and

Further amend said bill, Page 51, Section 326.265, Line 13, by inserting after all of said line the following:

"326.283. 1. (1) An individual whose principal place of business, **domicile, or residency** is not in this state and [has] **who holds** a valid [designation] **and unrestricted license** to practice public accounting from any state which the board **or its designee** has determined by rule to be in substantial equivalence with the licensure requirements of [sections 326.250 to 326.331] **this chapter**, or if the individual's qualifications are substantially equivalent to the licensure requirements of [sections 326.250 to 326.331] **this chapter**, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state[, provided the individual shall notify the board of his or her intent to engage in the practice of accounting with a client within this state whether in person, by electronic or technological means, or any other manner. The board by rule may require individuals to obtain a license] **without the need to obtain a license or to otherwise notify or register with the board or pay any fee. Provided, however, the board may by rule require individuals with a valid but restricted license to obtain a license.**

(2) [Any] **An individual who qualifies for the privilege to practice under this section, may offer or render professional services in this state, whether in person, by mail, telephone, or electronic means, and no notice or other submission shall be required of any such individual.**

(3) **An individual licensee** of another state exercising the privilege afforded [pursuant to] **under** this section [consents] **and the firm which employs such licensee hereby simultaneously consent**, as a condition of the grant of this privilege [to]:

(a) **To** the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) **To** comply with this chapter and the board's rules; [and]

(c) **That in the event the license from any state is no longer valid or unrestricted, the individual shall cease offering or rendering professional services in this state individually and on behalf of a firm; and**

(d) To the appointment of the state board [which] **that** issued the individual's license as his or her agent upon whom process may be served in any action or proceeding by this board against the individual.

(4) An individual who has been granted the privilege to practice under this section who performs attest services for an entity with a home office in this state, shall only do so through a firm which has obtained a permit issued under section 326.289.

[(3)] (5) Nothing in this [section] **chapter** shall prohibit temporary practice in this state for professional business incidental to a CPA's regular practice outside this state. "Temporary practice" means that practice [which is a continuation or extension] **related to the direct purpose** of an engagement for a client located outside this state, which engagement began outside this state and extends into this state through common ownership, existence of a subsidiary, assets or other operations located within this state.

2. A licensee of this state offering or rendering services or using his or her certified public accountant title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary, the board may investigate any complaint made by the board of accountancy of another state.

326.289. 1. The board may grant or renew permits to practice as a certified public accounting firm to [entities] **applicants** that [make application and] demonstrate their qualifications in accordance with this [section or to certified public accounting firms originally licensed in another state that establish an office in this state. A firm shall hold a permit issued pursuant to this section to provide attest, review or compilation services or to use the title certified public accountant or certified public accounting firm] **chapter**.

(1) The following shall hold a permit issued under this chapter:

(a) Any firm with an office in this state, as defined by the board by rule, performing attest services;

(b) Any firm with an office in this state that uses the title "CPA" or "CPA firm"; and

(c) Any firm that does not have an office in this state performing attest services for a client having a home office in this state.

(2) A firm which does not have an office in this state may perform compilation and review services for a client having a home office in this state and may use the title "CPA" or "CPA firm" without a permit issued under this section only if it:

(a) Has the qualifications described in subsections 4 and 9 of this section; and

(b) Performs such services through an individual with the privilege to practice under subsection 1 of section 326.283.

(3) A firm which is not subject to the requirements of subdivisions (1) or (2) of this subsection may perform other professional services while using the title "CPA" or "CPA firm" in this state without a permit issued under this section only if it:

(a) Has qualifications described in subsection 4 of this section;

(b) Performs such services through an individual with the privilege to practice under section 326.283;

and

(c) Can lawfully do so in the state where said individual with privilege to practice has his or her principal place of business.

2. Permits shall be initially issued and renewed for periods of not more than three years or for a specific period as prescribed by board rule following issuance or renewal.

3. The board shall determine by rule the form for application and renewal of permits and shall annually determine the fees for permits and their renewals.

4. An applicant for initial issuance or renewal of a permit to practice [pursuant to] **under** this section shall be required to show that:

(1) [Notwithstanding any other provision of law to the contrary,] A simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, principals, shareholders, members or managers, belongs to licensees who are licensed in some state, and the partners, officers, principals, shareholders, members or managers, whose principal place of business is in this state and who perform professional services in this state are licensees [pursuant to] **under** section 326.280 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by the board;

(2) Any certified public accounting firm may include owners who are not licensees[,] provided that:

(a) The firm designates a licensee of this state, **or in the case of a firm which must have a permit under this section designates a licensee of another state who meets the requirements of section 326.283**, who is responsible for the proper registration of the firm and identifies that individual to the board;

(b) All nonlicensee owners are active individual participants in the certified public accounting firm or affiliated entities;

(c) **All owners are of good moral character; and**

(d) The firm complies with other requirements as the board may impose by rule;

(3) Any licensee, initially licensed on or after August 28, 2001, who is responsible for supervising attest services, or signs or authorizes someone to sign the licensee's report on the financial statements on behalf of the firm, shall meet competency requirements as determined by the board by rule which shall include one year of experience in addition to the experience required [pursuant to] **under** subdivision (6) of subsection 1 of section 326.280 and shall be verified by a licensee. The additional experience required by this subsection shall include experience in attest work supervised by a licensee;

(4) Any licensee who is responsible for supervising review services or signs or authorizes someone to sign review reports shall meet the competency requirements as determined by board by rule which shall include experience in review services.

5. An applicant for initial issuance or renewal of a permit to practice shall register each office of the firm within this state with the board and show that all attest, review and compilation services rendered in this state are under the charge of a licensee.

6. No licensee or firm holding a permit [pursuant to] **under** this chapter shall use a professional or firm name or designation that is misleading as to:

(1) The legal form of the firm;

(2) The persons who are partners, officers, members, managers or shareholders of the firm; or

(3) Any other matter.

The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. A firm may use a fictitious name if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm shall not include the name or initials of an individual who is not a present or a past partner, member or shareholder of the firm or its predecessor. The name of the firm shall not include the name of an individual who is not a licensee.

7. Applicants for initial issuance or renewal of permits shall list in their application all states in which they have applied for or hold permits as certified public accounting firms and list any past denial, revocation, suspension or any discipline of a permit by any other state. Each holder of or applicant for a permit [pursuant to] **under** this section shall notify the board in writing within thirty days after its occurrence of any change in the identities of partners, principals, officers, shareholders, members or managers whose principal place of business is in this state; any change in the number or location of offices within this state; any change in the identity of the persons in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of a permit by any other state.

8. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel after receiving or renewing a permit shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in the suspension or revocation of the firm permit.

9. The board shall require by rule, as a condition to the renewal of permits, that firms undergo, no more frequently than once every three years, peer reviews conducted in a manner as the board shall specify. The review shall include a verification that individuals in the firm who are responsible for supervising attest, review and compilation services or sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such rule:

(1) Shall include reasonable provision for compliance by a firm showing that it has within the preceding three years undergone a peer review that is a satisfactory equivalent to peer review generally required [pursuant to] **under** this subsection;

(2) May require, with respect to peer reviews, that peer reviews be subject to oversight by an oversight body established or sanctioned by board rule, which shall periodically report to the board on the effectiveness of the review program under its charge and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and

(3) Shall require, with respect to peer reviews, that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that the board or any third party other than the oversight body shall not have access to documents furnished or generated in the course of the peer review of the firm except as provided in subdivision (2) of this subsection.

10. Prior to January 1, 2008, licensees who perform fewer than three attest services during each calendar year shall be exempt from the requirements of subsection 9 of this section.

11. The board may, by rule, charge a fee for oversight of peer reviews, provided that the fee charged shall be substantially equivalent to the cost of oversight.

12. In connection with proceedings before the board or upon receipt of a complaint involving the licensee performing peer reviews, the board shall not have access to any documents furnished or generated in the course of the performance of the peer reviews except for peer review reports, letters of comment and summary review memoranda. The documents shall be furnished to the board only in a redacted manner that does not specifically identify any firm or licensee being peer reviewed or any of their clients.

13. The peer review processes shall be operated and the documents generated thereby be maintained in a manner designed to preserve their confidentiality. No third party, other than the oversight body, the board, subject to the provisions of subsection 12 of this section, or the organization performing peer review shall have access to documents furnished or generated in the course of the review. All documents shall be privileged and closed records for all purposes and all meetings at which the documents are discussed shall be considered closed meetings [pursuant to] **under** subdivision (1) of section 610.021, RSMo. The proceedings, records and workpapers of the board and any peer review subjected to the board process shall be privileged and shall not be subject to discovery, subpoena or other means of legal process or introduction into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No member of the board or person who is involved in the peer review process shall be permitted or required to testify in any civil action, arbitration, administrative proceeding or board proceeding as to any matters produced, presented, disclosed or discussed during or in connection with the peer review process or as to any findings, recommendations, evaluations, opinions or other actions of such committees or any of its members; provided, however, that information, documents or records that are publicly available shall not be subject to discovery or use in any civil action, arbitration, administrative proceeding or board proceeding merely because they were presented or considered in connection with the peer review process.

326.292. 1. Only licensees may issue a report on financial statements of any person, firm, organization or governmental unit or offer to render or render any attest service. Such restriction shall not prohibit any act of a public official or public employee in the performance of the person's duties as such; nor prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services and the preparation of nonattest financial statements. Nonlicensees may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

2. Only certified public accountants shall use or assume the title certified public accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant. Nothing in this section shall prohibit:

(1) A certified public accountant whose certificate was in full force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title certified public accountant or abbreviation CPA;

(2) A person who holds a certificate, then in force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who is regularly employed by or is a director or officer of a corporation, partnership, association or business trust, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association or business trust provided the capacity is so designated, and provided in the signature line the title CPA or certified public accountant is not designated.

3. No firm shall provide attest services or assume or use the title certified public accountants or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such firm is a certified public accounting firm unless:

(1) The firm holds a valid permit issued [pursuant to] **under** section 326.289 or is a **firm exempt from the permit requirement under subdivisions (2) and (3) of subsection 1 of section 326.289 and complies with all other applicable provisions of that section;** and

(2) Ownership of the firm is in accord with section 326.289 and rules promulgated by the board.

4. Only persons holding a valid license or permit issued [pursuant to] **under** section 326.280 or 326.289, or **persons qualifying for the privilege to practice under section 326.283, and firms exempt from the permit requirement under subsection 1 of section 326.289,** shall assume or use the title certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, accredited accountant or any other title or designation likely to be confused with the titles certified public accountant or public accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title

enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services provided that the organization and the title issued by the organization existed prior to August 28, 2001.

5. (1) Nonlicensees shall not use language in any statement relating to the financial affairs of a person or entity that is conventionally used by certified public accountants in reports on financial statements. Nonlicensees may use the following safe harbor language:

(a) For compilations:

"I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of a financial statement information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.";

(b) For reviews:

"I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.".

(2) Only persons or firms holding a valid license or permit issued [pursuant to] **under** section 326.280 or 326.289 shall assume or use any title or designation that includes the words accountant or accounting in connection with any other language, including the language of a report, that implies that the person or firm holds a license or permit or has special competence as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer, partner, principal, member, manager or employee of any firm or organization from affixing such person's own signature to any statement in reference to the financial affairs of the firm or organization with any wording designating the position, title or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or "accounting" for nonattest purposes.

6. Licensees signing or authorizing someone to sign reports on financial statements when performing attest, review or compilation services shall provide those services in accordance with professional standards as determined by the board by rule.

7. No licensee [or holder of a provisional license] or firm holding a permit [pursuant to] **under** sections 326.280 to 326.289 shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, principals, officers, members, managers or shareholders of the firm, or about any other matter.

8. None of the foregoing provisions of this section shall apply to a person or firm holding a certification, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public accounting or its equivalent in the country whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement, who performs no attest, review or compilation services and who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

9. No licensee whose license is issued [pursuant to] **under** section 326.280 or issued pursuant to prior law shall perform attest services through any certified public accounting firm that does not hold a valid permit issued [pursuant to] **under** section 326.289.

10. Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

11. Nothing herein shall prohibit any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his or her duties in that capacity.

12. Nothing herein shall prohibit any director or officer of a corporation, partner or a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to the corporation, partnership, business enterprise, joint venture or committee, provided the capacity is designated on the statement or report.

13. (1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:

- (a) An audit or review of a financial statement; or
- (b) A compilation of a financial statement when the licensee expects, or reasonably may expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
- (c) An examination of prospective financial information.

Such prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose in writing that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in writing the acceptance or payment to the client.

14. (1) A licensee shall not:

(a) Perform for a contingent fee any professional services for, or receive a fee from, a client for whom the licensee or the licensee's firm performs:

- a. An audit or review of a financial statement; or
 - b. A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
 - c. An examination of prospective financial information;
- (b) Prepare an original tax return or claim for a tax refund for a contingent fee for any client; or
- (c) Prepare an amended tax return or claim for a tax refund for a contingent fee for any client, unless permitted by board rule.

(2) The prohibition in subdivision (1) of this subsection applies during the period in which the licensee is engaged to perform any of those services and the period covered by any historical financial statements involved in any services.

(3) A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

15. Any person who violates any provision of subsections 1 to 5 of this section shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has violated this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings."; and

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

On motion of Representative Wasson, **House Amendment No. 2** was adopted.

Representative Sutherland offered **House Amendment No. 3**.

House Amendment No. 3

AMEND Senate Committee Substitute for Senate Bill No. 788, Page 11, Section 135.520, Line 47, by inserting immediately after said line the following:

"144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600 to 144.748, and the taxes imposed thereby, the definition of "retail sale" or "sale at retail" shall not be construed to include any of the following:

- (1) The transfer by one corporation of substantially all of its tangible personal property to another corporation pursuant to a merger or consolidation effected under the laws of the state of Missouri or any other jurisdiction;

(2) The transfer of tangible personal property incident to the liquidation or cessation of a taxpayer's trade or business, conducted in proprietorship, partnership or corporate form, except to the extent any transfer is made in the ordinary course of the taxpayer's trade or business;

(3) The transfer of tangible personal property to a corporation solely in exchange for its stock or securities;

(4) The transfer of tangible personal property to a corporation by a shareholder as a contribution to the capital of the transferee corporation;

(5) The transfer of tangible personal property to a partnership solely in exchange for a partnership interest therein;

(6) The transfer of tangible personal property by a partner as a contribution to the capital of the transferee partnership;

(7) The transfer of tangible personal property by a corporation to one or more of its shareholders as a dividend, return of capital, distribution in the partial or complete liquidation of the corporation or distribution in redemption of the shareholder's interest therein;

(8) The transfer of tangible personal property by a partnership to one or more of its partners as a current distribution, return of capital or distribution in the partial or complete liquidation of the partnership or of the partner's interest therein;

(9) The transfer of reusable containers used in connection with the sale of tangible personal property contained therein for which a deposit is required and refunded on return;

(10) The purchase by persons operating eating or food service establishments, of items of a nonreusable nature which are furnished to the customers of such establishments with or in conjunction with the retail sales of their food or beverage. Such items shall include, but not be limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks and toothpicks;

(11) The purchase by persons operating hotels, motels or other transient accommodation establishments, of items of a nonreusable nature which are furnished to the guests in the guests' rooms of such establishments and such items are included in the charge made for such accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and other toiletries and food or confectionery items offered to the guests without charge;

(12) The transfer of a manufactured home other than:

(a) A transfer which involves the delivery of the document known as the "Manufacturer's Statement of Origin" to a person other than a manufactured home dealer, as defined in section [700.450] **700.010**, RSMo, for purposes of allowing such person to obtain a title to the manufactured home from the department of revenue of this state or the appropriate agency or officer of any other state;

(b) A transfer which involves the delivery of a "Repossessed Title" to a resident of this state if the tax imposed by sections 144.010 to 144.525 was not paid on the transfer of the manufactured home described in paragraph (a) of this subdivision;

(c) The first transfer which occurs after December 31, 1985, if the tax imposed by sections 144.010 to 144.525 was not paid on any transfer of the same manufactured home which occurred before December 31, 1985; or

(13) Charges for initiation fees or dues to:

(a) Fraternal beneficiaries societies, or domestic fraternal societies, orders or associations operating under the lodge system a substantial part of the activities of which are devoted to religious, charitable, scientific, literary, educational or fraternal purposes; or

(b) Posts or organizations of past or present members of the armed forces of the United States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization substantially all of the members of which are past or present members of the armed forces of the United States or who are cadets, spouses, widows, or widowers of past or present members of the armed forces of the United States, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

2. The assumption of liabilities of the transferor by the transferee incident to any of the transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall not disqualify the transfer from the exclusion described in this section, where such liability assumption is related to the property transferred and where the assumption does not have as its principal purpose the avoidance of Missouri sales or use tax."; and

Further amend said substitute, Page 126, Section 620.1063, Line 14, by inserting immediately after said line the following:

"700.010. As used in sections 700.010 to 700.500, for the purpose of sections 700.010 to 700.500, the following terms mean:

(1) "Authorized representative", any person, firm or corporation, or employee thereof, approved or hired by the commission to perform inspection services;

(2) "Code", the standards relating to manufactured homes, or modular units as adopted by the commission. The commission, in its discretion, may incorporate, in whole or in part, the standards codes promulgated by the American National Standards Institute, the United States Department of Housing and Urban Development or other recognized agencies or organizations;

(3) "Commission", the public service commission;

(4) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more **used homes or one or more new** manufactured homes, or **one or more new** modular units in any consecutive twelve-month period;

(5) **"Installer", an individual who is licensed by the commission to install manufactured homes under sections 700.650 to 700.692;**

(6) "Manufactured home", a factory-built structure or structures which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, contains three hundred twenty or more square feet, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon may be moved from time to time at the convenience of the owner;

[(6)] (7) "Manufacturer", any person who manufactures manufactured homes, or modular units, including persons who engage in importing manufactured homes, or modular units for resale;

[(7)] (8) "Modular unit", a transportable building unit designed to be used by itself or to be incorporated with similar units at a point-of-use into a modular structure to be used for residential, commercial, educational or industrial purposes. This definition shall not apply to structures under six hundred fifty square feet used temporarily and exclusively for construction site office purposes;

[(8)] (9) "New", being sold or offered for sale to the first purchaser for purposes other than resale;

[(9)] (10) "Person", an individual, partnership, corporation or other legal entity;

[(10)] (11) "Premises", a lot, plot, or parcel of land including the buildings, structures, and manufactured homes thereon;

[(11)] (12) "Recreational park trailer", a recreational park trailer as defined in the American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers. A recreational park trailer is not a recreational vehicle;

[(12)] (13) "Recreational vehicle", a recreational vehicle as defined in the American National Standards Institute (ANSI) A119.2 Standard on Recreational Vehicles;

[(13)] (14) "Seal", a device, label or insignia issued by the public service commission, U.S. Department of Housing and Urban Development, or its agent, to be displayed on the exterior of the manufactured home, or modular unit to evidence compliance with the code;

[(14)] (15) "Setup", the operations performed at the occupancy site which renders a manufactured home or modular unit fit for habitation, which operations include, but are not limited to, moving, blocking, leveling, supporting, and assembling multiple or expandable units.

700.041. 1. There is hereby established a fund in the state treasury to be known as the "Manufactured Housing Consumer Recovery Fund" for the purpose of paying consumer claims under procedures the commission may promulgate by rule. The public service commission shall administer the manufactured housing consumer recovery fund and all moneys in the fund shall be used solely as prescribed in this section. Any interest earned from the investment of moneys in the fund shall be credited to the fund.

2. Claims approved by the commission under law may be paid from the fund subject to appropriation. No claims shall be considered by the commission until all other legal remedies have been exhausted. The commission shall establish an advisory committee to assist with the evaluation of all claims filed by consumers. The committee members shall be volunteers and serve without compensation.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the manufactured housing consumer recovery fund shall not be transferred to the credit of the general revenue fund at the end of the biennium; however, the total amount in the manufactured housing consumer recovery fund shall not exceed thirty-two percent of the amount of the annual appropriation of the manufactured housing fund from the preceding fiscal year. Moneys in the manufactured housing consumer recovery fund may be transferred back to the manufactured housing fund by appropriation.

700.045. It shall be a misdemeanor:

- (1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any manufactured home or modular unit after January 1, 1977, unless there is in effect a registration with the commission;
- (2) To rent, lease, sell or offer to sell any new manufactured home or new modular unit or used modular unit used for educational purposes manufactured after January 1, 1974, which does not bear a seal as required by sections 700.010 to 700.115;
- (3) To affix a seal or cause a seal to be affixed to any manufactured home or modular unit which does not comply with the code;
- (4) To alter a manufactured home or modular unit in a manner prohibited by the provisions of sections 700.010 to 700.115;
- (5) To fail to correct within a reasonable time not to exceed ninety days after being ordered to do so in writing by an authorized representative of the commission a code violation in a new manufactured home or new modular unit or used modular unit used for educational purposes owned, manufactured or sold if the same is manufactured after January 1, 1974. **Reasonable and necessary extensions may be granted by the commission;** or
- (6) To interfere with, obstruct, or hinder any authorized representative of the commission in the performance of his or her duties.

700.056. Every dealer of a **new** manufactured home offered for sale in this state shall at the time of sale provide the purchaser with a bill of sale **or the purchase agreement** containing at least the following: The total price of the unit, **serial number if available, if not, the manufacturer name and model number of the unit**, and its contents, **any waivers**, a list of all furniture and appliances in the manufactured home, any other costs which will be assessed to the purchaser **by the dealer** such as transportation, handling, or such other costs, and the sales tax payable for such manufactured home.

700.065. All **new** manufactured homes located in this state shall be anchored and tied down in accordance with the standards promulgated by the commission pursuant to the provisions of sections 700.010 to 700.115 **and 700.650 to 700.692.**

700.090. 1. Every manufacturer or dealer [of manufactured homes] who sells or offers for sale, on consignment or otherwise, a manufactured home or modular unit from or in the state of Missouri shall register [each location] with the commission **each place of business at which the manufacturer or dealer sells or offers for sale a manufactured home or modular unit.**

2. The commission shall issue a certificate of registration to a manufacturer who:

(1) Completes and files with the commission an application for registration which contains the following information:

- (a) The name of the manufacturer;
- (b) The address of the manufacturer and addresses of each factory owned or operated by the manufacturer, if different from the address of the manufacturer;
- (c) If a corporation, the state of original incorporation, a list of the names and addresses of all officers and directors of the corporation, and proof of the filing of all franchise and sales tax forms required by Missouri law;
- (d) If not a corporation, the name and address of the managing person or persons responsible for overall operation of the manufacturer;

(2) Files with the commission an initial registration fee of seven hundred fifty dollars in the form of a cashier's check or money order made payable to the state of Missouri.

3. The commission shall issue a certificate of registration to a dealer who:

(1) Completes and files with the commission an application for registration which contains the following information:

- (a) The name of the dealer;
- (b) The business address of the dealer and addresses of each separate facility owned and operated by the dealer from which manufactured homes or modular units are offered for sale if different from the business address of the dealer;
- (c) If a corporation, the state of original incorporation, a list of the names and addresses of all officers and directors of the corporation, proof of the filing of all franchise and sales tax forms required by Missouri law;
- (d) If not a corporation, the name and address of the managing person or persons responsible for the overall operations of the manufacturer;

(2) Files with the commission an initial registration fee of two hundred dollars in the form of a cashier's check or money order made payable to the state of Missouri;

(3) Files with the commission proof of compliance with the provisions of section 301.280, RSMo.

4. The registration of any manufacturer or dealer shall be effective for a period of one year and shall be renewed by the commission upon receipt by it from the registered dealer of a renewal fee of seven hundred fifty dollars for manufacturers and two hundred dollars for dealers and a form provided by the commission upon which shall be placed any changes from the information requested on the initial registration form.

5. The commission may stagger the renewal of certificates of registration to provide for more equal distribution over the twelve months of the number of registration renewals.

700.095. 1. Every dealer shall, on or before January fifteenth of each year, make application for registration or renewal and shall be required to maintain a bona fide established place of business and maintain a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading, or exchanging of manufactured homes or modular units where the public may contact the owner or operator at any reasonable time and where the books, records, files, and other matter required and necessary to conduct the business shall be kept and maintained.

2. The application shall contain the business address, not a post-office box address, and telephone number of the place where the books, records, files, and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours.

3. Each application shall contain such additional information as may be required by the commission to enable it to determine whether the applicant is a bona fide dealer in fact and is of good moral character.

4. Upon the payment of a registration or renewal fee of two hundred dollars, there shall be assigned to each dealer a certificate of registration in such form as the commission shall prescribe.

700.096. 1. Each person registered as a dealer under the provisions of sections 700.010 to 700.115 shall file monthly reports with the commission, and such reports shall be in the form and manner and contain the information required by the commission by rules promulgated under chapter 536, RSMo, and shall permit an employee of the commission or any law enforcement official to inspect during normal business hours any of the following documents which are in his or her possession or under his or her control:

(1) Any manufacturer's invoice, certificate of origin, statement of origin, or title to any manufactured home or modular unit;

(2) Any application for title to any manufactured home;

(3) Any affidavit provided under chapter 301, RSMo, or chapter 407, RSMo;

(4) Any assignment of title to any manufactured home;

(5) Any disclosure statement or other document required by the laws of the United States or any other state.

2. For purposes of this section, the term "law enforcement official" means any of the following:

(1) The attorney general, or any person designated by him or her to make such an inspection;

(2) Any prosecuting attorney or any person designated by a prosecuting attorney to make such an inspection;

(3) Any member of the highway patrol;

(4) Any sheriff or deputy sheriff;

(5) Any peace officer certified under chapter 590, RSMO, acting in his or her official capacity.

700.097. No insurance company, finance company, bank, or trust company shall be required to register with the commission in order to sell any manufactured home or modular unit repossessed or purchased by the company on the basis of total destruction or theft thereof when the sale of the manufactured home or modular unit is in conformance with applicable title and registration laws of this state.

700.098. 1. The commission may refuse to register an applicant as a dealer, or may suspend the registration of an existing dealer from one day to thirty days, or revoke the registration of a dealer after a written notice and a hearing when the commission is satisfied that the applicant or dealer has failed to comply with the provisions set out in sections 700.010 to 700.115. Notification of unfavorable action by the commission on any application for registration or renewal of registration shall be accompanied by a notice informing the recipient that the decision of the director may be appealed as provided in chapter 386, RSMo.

2. It shall be unlawful for any person to hold forth or act as a dealer who is not currently registered as a dealer by the commission as required by sections 700.010 to 700.115.

700.100. 1. The commission may refuse to register or refuse to renew the registration of any person who fails to comply with the provisions of [section 700.090 or this section] **sections 700.010 to 700.115**. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven, shall constitute grounds for revocation or suspension of his registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration:

- (1) If required, failure to comply with the provisions of section 301.280, RSMo;
- (2) Failing to be in compliance with the provisions of section 700.090;
- (3) If a corporation, failing to file all franchise or sales tax forms required by Missouri law;
- (4) Engaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo;
- (5) Failing to comply with the provisions of Sections 2301-2312 of Title 15 of the United States Code (Magnuson-Moss Warranty Act);
- (6) As a dealer, failing to arrange for the proper initial setup of any new manufactured home or modular unit sold from or in the state of Missouri, [unless] **except as allowed under subsection 5 of section 700.656**; the dealer [receives] **shall receive** a written waiver of that service from the purchaser or his or her authorized agent;
- (7) Requiring any person to purchase any type of insurance from that manufacturer or dealer as a condition to his being sold any manufactured home or modular unit;
- (8) Requiring any person to arrange financing or utilize the services of any particular financing service as a condition to his being sold any manufactured home or modular unit; provided, however, the registered manufacturer or dealer may reserve the right to establish reasonable conditions for the approval of any financing source;
- (9) Engaging in conduct in violation of section 700.045;
- (10) Failing to comply with the provisions of section 301.210, RSMo;
- (11) Failing to pay all necessary fees and assessments authorized pursuant to sections 700.010 to 700.115.

4. The commission may order that any suspension, revocation, or probation ordered under subsection 3 of this section shall apply to all manufacturer's or dealer's registrations that are held by the same manufacturer or dealer or that are owned or controlled by the same person or persons if a continued and consistent pattern of the violations have been identified by the commission to be present with each licensee under the same control or ownership.

700.115. 1. Except as otherwise provided in subsections 2 and 3 of this section, a violation of the provisions of sections 700.010 to 700.115 shall constitute a violation of the provisions of section 407.020, RSMo. In addition to the authority vested in the attorney general to enforce the provisions of that section, he may petition the court and the court may enter an order revoking the registration certificate of the defendant or defendants issued pursuant to the provisions of section 700.090.

2. Notwithstanding any provisions of subsection 1 of this section to the contrary, whoever violates any provision of this chapter shall be liable to the state of Missouri for a civil penalty in an amount which shall not exceed one thousand dollars for each such violation. **If, after a hearing, the commission finds that the person has violated any provision of this chapter, it may direct its general counsel to enforce the provisions of this section by filing a petition in circuit court for such civil penalties.** Each violation of this chapter shall constitute a separate violation with respect to each manufactured home or **modular unit** or with respect to each failure or refusal to allow or perform an act required by this chapter; except that, the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

3. Any individual or director, officer, or agent of a corporation who knowingly and willfully violates any provision of sections 700.010 to 700.115, in a manner which threatens the health or safety of any purchaser, shall, upon conviction therefor, be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

700.525. As used in sections 700.525 to 700.541, the following terms mean:

- (1) "Abandoned", a physical absence from the property, and either:
 - (a) Failure by a renter of real property to pay any required rent for fifteen consecutive days, along with the discontinuation of utility service to the rented property for such period; or
 - (b) Indication of or notice of abandonment of real property rented from a landlord;

(2) "Manufactured home", a factory-built structure as defined in subdivision [(5)] (6) or [(7)] (8) of section 700.010.

700.650. 1. Sections 700.650 to 700.692 shall be known and may be cited as the "Manufactured Home Installation Act".

2. For the purposes of sections 700.650 to 700.692, the following terms shall mean:

(1) "Applicant", a person who applies to the commission for a license or limited-use license to install manufactured homes;

(2) "Commission", the Missouri public service commission;

(3) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more **used homes or one or more new** manufactured homes, **or one or more new modular units** in any consecutive twelve-month period;

(4) "Installation", work undertaken at the place of occupancy to ensure the proper initial setup of a manufactured home which shall include the joining of all sections of the home, installation of stabilization, support, and leveling systems, assembly of multiple or expanded units, and installation of applicable utility hookups and anchoring systems that render the home fit for habitation;

(5) "Installation standards", reasonable specifications for the installation of a manufactured home;

(6) "Installer", an individual who is licensed by the commission to install manufactured homes, pursuant to sections 700.650 to [700.680] **700.692**;

(7) "Manufactured home", a manufactured home as that term is defined in subdivision [(5)] (6) of section 700.010;

(8) "Manufacturer", any person who manufactures manufactured homes, including persons who engage in importing manufactured homes for resale; and

(9) "Person", an individual, partnership, corporation, or other legal entity."; and

Further amend said substitute, Page 135, Line 52, by inserting immediately after said line the following:

"[700.070. Effective November 27, 1973, all purchasers of manufactured homes shall, within thirty days from the date of occupancy, anchor and secure the manufactured home in accordance with the standards promulgated by the commission pursuant to the provisions of sections 700.010 to 700.115.]

[700.450. As used in sections 700.450 to 700.470, the following terms shall mean:

(1) "Commission", the public service commission;

(2) "Dealer", any person, including, but not limited to, real estate brokers and salespersons, other than a manufacturer, who sells or offers for sale four or more manufactured homes in any consecutive twelve-month period;

(3) "Manufactured home", a factory-built structure or structures which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, contains three hundred twenty or more square feet, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon may be moved from time to time at the convenience of the owner;

(4) "Manufacturer", any person who manufactures manufactured homes, including persons who engage in importing manufactured homes for resale;

(5) "Person", any individual, partnership, corporation or other legal entity.]

[700.455. 1. Every dealer shall, on or before January fifteenth of each year, instead of registering each manufactured home dealt in, make a verified application, upon a blank for such purpose to be furnished by the commission, for a distinctive number for all the manufactured homes dealt in or controlled by such dealer. The application shall contain, but need not be limited to:

(1) When the applicant is a partnership, the name and address of each partner, or, when the applicant is a corporation, the names of the principal officers of the corporation and the state in which it is incorporated. The application shall be verified by the oath or affirmation of the applicant, if an individual, or in the event an applicant is a partnership or corporation, then by a partner or officer;

(2) A bona fide established place of business shall be required for every dealer. A bona fide established place of business for any dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of manufactured homes, where the public may contact the owner or operator at any reasonable time and where the books, records, files and other matters required and necessary to conduct the business shall be kept and maintained.

2. The application shall contain the business address, not a post-office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours.

3. Each application shall contain such additional information as may be required by the commission to enable it to determine whether the applicant is a bona fide dealer in fact and is of good moral character.

4. On the payment of a registration fee of fifty dollars there shall be assigned to each dealer a certificate of registration in such form as the commission shall prescribe.]

[700.460. 1. Each person registered as a dealer pursuant to the provisions of sections 700.450 to 700.470 shall file monthly reports with the commission, which reports shall be in the form and manner and contain the information required by the commission by rules promulgated pursuant to chapter 536, RSMo, and shall permit an employee of the commission or any law enforcement official to inspect, during normal business hours, any of the following documents which are in his possession or under his custody or control:

- (1) Any title to any manufactured home;
- (2) Any application for title to any manufactured home;
- (3) Any affidavit provided pursuant to chapter 301 or 407, RSMo;
- (4) Any assignment of title to any manufactured home;
- (5) Any disclosure statement or other document required by the laws of the United States or any other state.

2. For purposes of this section, the term "law enforcement official" shall mean any of the following:

- (1) Attorney general, or any person designated by him to make such an inspection;
- (2) Any prosecuting attorney or any person designated by a prosecuting attorney to make such an inspection;
- (3) Any member of the highway patrol;
- (4) Any sheriff or deputy sheriff;
- (5) Any peace officer certified pursuant to chapter 590, RSMo, acting in his official capacity.]

[700.465. No insurance company, finance company, bank or trust company shall be required to register with the commission in order to sell any manufactured home repossessed or purchased by the company on the basis of total destruction or theft thereof when the sale of the manufactured home is in conformance with applicable title and registration laws of this state.]

[700.470. 1. The commission may refuse to register an applicant as a dealer, or may suspend the registration of an existing dealer from one day to thirty days, or revoke the registration of a dealer, after a written notice and a hearing when he is satisfied that the applicant or dealer has failed to comply with the provisions set out in sections 700.450 to 700.470. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the director may be appealed as provided in chapter 536, RSMo.

2. It shall be unlawful for any person to hold forth or act as a dealer who is not currently registered as a dealer by the commission as required by sections 700.450 to 700.470.]; and

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

Representative Cunningham (86) offered **House Substitute Amendment No. 1 for House Amendment No. 3.**

House Substitute Amendment No. 1 for House Amendment No. 3 was withdrawn.

On motion of Representative Sutherland, **House Amendment No. 3** was adopted.

Representative Cooper (155) offered **House Amendment No. 4.**

House Amendment No. 4 was withdrawn.

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 083

Bivins	Brandom	Brown 30	Bruns	Cooper 155
Cox	Cunningham 145	Cunningham 86	Davis	Day
Deeken	Denison	Dethrow	Dixon	Dusenberg
Ervin	Faith	Fares	Fisher	Flook
Franz	Guest	Hobbs	Ice	Jones 89
Jones 117	Kasten	Kelly	Kingery	Kraus
Lembke	Lipke	Loehner	May	McGhee
Moore	Munzlinger	Muschany	Nance	Nieves
Nolte	Onder	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Richard
Robb	Ruestman	Ruzicka	Sander	Sater
Schaaf	Schad	Scharnhorst	Schlottach	Schneider
Schoeller	Self	Silvey	Smith 14	Smith 150
Stevenson	St. Onge	Stream	Sutherland	Thomson
Threlkeld	Tilley	Viebrock	Wallace	Wasson
Wells	Weter	Wilson 119	Wilson 130	Wood
Wright 159	Yates	Mr Speaker		

NOES: 060

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Chappelle-Nadal	Curls	Darrough
Daus	Donnelly	Dougherty	Fallert	Frame
George	Grill	Harris 110	Haywood	Hodges
Holsman	Hoskins	Hubbard	Hughes	Komo
Kratky	Kuessner	Lampe	LeVota	Liese
Low 39	McClanahan	Nasheed	Norr	Oxford
Page	Quinn 9	Roorda	Rucker	Salva
Scavuzzo	Schieffer	Schoemehl	Shively	Skaggs
Storch	Swinger	Talboy	Todd	Villa
Vogt	Walsh	Walton	Whorton	Wildberger
Witte	Wright-Jones	Yaeger	Zimmerman	Zweifel

PRESENT: 000

ABSENT WITH LEAVE: 018

Avery	Baker 123	Cooper 120	Corcoran	El-Amin
Emery	Funderburk	Grisamore	Harris 23	Hunter
Johnson	Lowe 44	Marsh	Meadows	Meiners
Robinson	Spreng	Young		

VACANCIES: 002

On motion of Representative Wasson, **SCS SB 788, as amended**, was read the third time and passed by the following vote:

AYES: 132

Aull	Baker 25	Baker 123	Bivins	Bland
Brandom	Brown 30	Brown 50	Bruns	Casey
Chappelle-Nadal	Cooper 155	Cox	Cunningham 145	Cunningham 86
Curls	Darrough	Daus	Davis	Day
Deeken	Denison	Dethrow	Dixon	Dougherty
Dusenberg	Ervin	Faith	Fallert	Fares
Fisher	Flook	Franz	George	Grill
Grisamore	Guest	Harris 110	Haywood	Hobbs
Hodges	Holsman	Hoskins	Hubbard	Icet
Jones 89	Jones 117	Kasten	Kelly	Kingery
Komo	Kratky	Kraus	Kuessner	Lampe
Lembke	LeVota	Liese	Lipke	Loehner
Low 39	May	McClanahan	McGhee	Moore
Munzlinger	Muschany	Nance	Nasheed	Nieves
Nolte	Norr	Onder	Page	Parkinson
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Quinn 9	Richard	Robb	Roorda
Ruestman	Ruzicka	Salva	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer
Schlottach	Schneider	Schoeller	Schoemehl	Self
Shively	Silvey	Skaggs	Smith 14	Smith 150
St. Onge	Storch	Stream	Sutherland	Swinger
Thomson	Threlkeld	Tilley	Todd	Viebrock
Villa	Wallace	Walsh	Walton	Wasson
Wells	Weter	Wildberger	Wilson 119	Wilson 130
Witte	Wood	Wright 159	Yaeger	Yates
Zweifel	Mr Speaker			

NOES: 011

Bringer	Burnett	Donnelly	Frame	Hughes
Rucker	Talboy	Vogt	Whorton	Wright-Jones
Zimmerman				

PRESENT: 001

Oxford

1871 *Journal of the House*

ABSENT WITH LEAVE: 017

Avery	Cooper 120	Corcoran	El-Amin	Emery
Funderburk	Harris 23	Hunter	Johnson	Lowe 44
Marsh	Meadows	Meiners	Robinson	Spreng
Stevenson	Young			

VACANCIES: 002

Speaker Pro Tem Pratt declared the bill passed.

HOUSE BILLS WITH SENATE AMENDMENTS

SS HB 1678, as amended, relating to education for military children, was taken up by Representative Day.

On motion of Representative Day, **SS HB 1678, as amended**, was adopted by the following vote:

AYES: 139

Aull	Baker 25	Baker 123	Bivins	Bland
Brandom	Bringer	Brown 30	Brown 50	Bruns
Burnett	Casey	Chappelle-Nadal	Cooper 155	Cox
Cunningham 145	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Denison	Dethrow
Dixon	Donnelly	Dougherty	Dusenberg	Ervin
Faith	Fallert	Fares	Fisher	Flook
Frame	Franz	George	Grill	Grisamore
Guest	Harris 110	Haywood	Hobbs	Hodges
Holsman	Hoskins	Hubbard	Icet	Jones 89
Jones 117	Kasten	Kelly	Kingery	Komo
Kratky	Kraus	Kuessner	Lampe	Lembke
Liese	Lipke	Loehner	Low 39	May
McClanahan	McGhee	Moore	Munzlinger	Muschany
Nance	Nasheed	Nieves	Nolte	Norr
Onder	Oxford	Page	Parkinson	Parson
Pearce	Pollock	Portwood	Pratt	Quinn 7
Quinn 9	Richard	Robb	Roorda	Rucker
Ruestman	Ruzicka	Salva	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer
Schlottach	Schneider	Schoeller	Schoemehl	Self
Shively	Silvey	Skaggs	Smith 14	Smith 150
St. Onge	Storch	Stream	Sutherland	Swinger
Talboy	Thomson	Threlkeld	Tilley	Todd
Viebrock	Villa	Walsh	Walton	Wasson
Wells	Weter	Whorton	Wildberger	Wilson 119
Wilson 130	Witte	Wood	Wright 159	Wright-Jones
Yaeger	Yates	Zimmerman	Zweifel	

NOES: 001

Wallace

PRESENT: 000

ABSENT WITH LEAVE: 021

Avery	Cooper 120	Corcoran	El-Amin	Emery
Funderburk	Harris 23	Hughes	Hunter	Johnson
LeVota	Lowe 44	Marsh	Meadows	Meiners
Robinson	Spreng	Stevenson	Vogt	Young
Mr Speaker				

VACANCIES: 002

On motion of Representative Day, **SS HB 1678, as amended**, was truly agreed to and finally passed by the following vote:

AYES: 140

Aull	Baker 25	Baker 123	Bivins	Bland
Brandom	Bringer	Brown 30	Brown 50	Bruns
Burnett	Casey	Chappelle-Nadal	Cooper 155	Cox
Cunningham 145	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Denison	Dethrow
Dixon	Donnelly	Dougherty	Dusenberg	Ervin
Faith	Fallert	Fares	Fisher	Flook
Frame	Franz	Funderburk	George	Grill
Grisamore	Guest	Harris 110	Haywood	Hobbs
Hodges	Holsman	Hoskins	Hughes	Icet
Jones 89	Jones 117	Kasten	Kelly	Kingery
Komo	Kratky	Kraus	Kuessner	Lampe
Lembke	LeVota	Liese	Lipke	Loehner
Low 39	Lowe 44	May	McClanahan	McGhee
Moore	Munzlinger	Muschany	Nance	Nasheed
Nieves	Norr	Onder	Oxford	Page
Parkinson	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 9	Richard	Robb	Roorda
Rucker	Ruestman	Ruzicka	Salva	Sander
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Schoemehl
Self	Shively	Silvey	Skaggs	Smith 14
Smith 150	St. Onge	Storch	Stream	Sutherland
Swinger	Talboy	Thomson	Threlkeld	Tilley
Todd	Viebrock	Villa	Walsh	Walton
Wasson	Wells	Weter	Whorton	Wildberger
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Wright-Jones	Yaeger	Yates	Zimmerman	Zweifel

NOES: 001

Wallace

PRESENT: 000

1873 *Journal of the House*

ABSENT WITH LEAVE: 020

Avery	Cooper 120	Corcoran	El-Amin	Emery
Harris 23	Hubbard	Hunter	Johnson	Marsh
Meadows	Meiners	Nolte	Quinn 7	Robinson
Spreng	Stevenson	Vogt	Young	Mr Speaker

VACANCIES: 002

Speaker Pro Tem Pratt declared the bill passed.

SCS HCS HB 2034, as amended, relating to firearm ranges and hunting preserves, was taken up by Representative Munzlinger.

On motion of Representative Munzlinger, **SCS HCS HB 2034, as amended**, was adopted by the following vote:

AYES: 143

Aull	Baker 25	Baker 123	Bivins	Brandom
Bringer	Brown 30	Brown 50	Bruns	Burnett
Casey	Chappelle-Nadal	Cooper 120	Cooper 155	Corcoran
Cox	Cunningham 145	Cunningham 86	Curls	Darrough
Daus	Davis	Day	Deeken	Denison
Dethrow	Dixon	Donnelly	Dougherty	Dusenberg
Emery	Ervin	Faith	Fallert	Fares
Fisher	Flook	Frame	Franz	Funderburk
George	Grill	Grisamore	Guest	Harris 110
Hobbs	Hodges	Holsman	Hoskins	Hubbard
Hughes	Icet	Jones 89	Jones 117	Kasten
Kelly	Kingery	Komo	Kratky	Kraus
Kuessner	Lampe	Lembke	LeVota	Liese
Lipke	Loehner	May	McClanahan	McGhee
Meadows	Meiners	Moore	Munzlinger	Muschany
Nance	Nasheed	Nieves	Nolte	Norr
Onder	Page	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Quinn 9
Richard	Robb	Roorda	Rucker	Ruestman
Ruzicka	Sander	Sater	Scavuzzo	Schaaf
Schad	Scharnhorst	Schieffer	Schlottach	Schneider
Schoeller	Schoemehl	Self	Shively	Silvey
Skaggs	Smith 14	Smith 150	St. Onge	Storch
Stream	Sutherland	Swinger	Talboy	Thomson
Threlkeld	Tilley	Todd	Viebrock	Villa
Wallace	Walsh	Walton	Wasson	Wells
Weter	Whorton	Wildberger	Wilson 119	Wilson 130
Witte	Wood	Wright 159	Yaeger	Yates
Zimmerman	Zweifel	Mr Speaker		

NOES: 001

Oxford

PRESENT: 000

ABSENT WITH LEAVE: 017

Avery	Bland	El-Amin	Harris 23	Haywood
Hunter	Johnson	Low 39	Lowe 44	Marsh
Robinson	Salva	Sprenge	Stevenson	Vogt
Wright-Jones	Young			

VACANCIES: 002

On motion of Representative Munzlinger, **SCS HCS HB 2034, as amended**, was truly agreed to and finally passed by the following vote:

AYES: 142

Aull	Baker 25	Baker 123	Bivins	Brandom
Bringer	Brown 30	Brown 50	Bruns	Burnett
Casey	Chappelle-Nadal	Cooper 120	Corcoran	Cox
Cunningham 145	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Denison	Dethrow
Dixon	Donnelly	Dougherty	Dusenberg	Emery
Ervin	Faith	Fallert	Fares	Fisher
Flook	Frame	Franz	Funderburk	George
Grill	Grisamore	Guest	Harris 110	Hobbs
Hodges	Holsman	Hoskins	Hubbard	Hughes
Ice	Jones 89	Jones 117	Kasten	Kelly
Kingery	Komo	Kratky	Kraus	Kuessner
Lampe	Lembke	LeVota	Liese	Loehner
May	McClanahan	McGhee	Meadows	Meiners
Moore	Munzlinger	Muschany	Nance	Nasheed
Nieves	Nolte	Norr	Onder	Page
Parkinson	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 7	Quinn 9	Richard	Robb
Roorda	Rucker	Ruestman	Ruzicka	Sander
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Schoemehl
Self	Shively	Silvey	Skaggs	Smith 14
Smith 150	St. Onge	Storch	Stream	Sutherland
Swinger	Talboy	Thomson	Threlkeld	Tilley
Todd	Viebrock	Villa	Wallace	Walsh
Walton	Wasson	Wells	Weter	Whorton
Wildberger	Wilson 119	Wilson 130	Witte	Wood
Wright 159	Wright-Jones	Yaeger	Yates	Zimmerman
Zweifel	Mr Speaker			

NOES: 001

Oxford

PRESENT: 000

1875 *Journal of the House*

ABSENT WITH LEAVE: 018

Avery	Bland	Cooper 155	El-Amin	Harris 23
Haywood	Hunter	Johnson	Lipke	Low 39
Lowe 44	Marsh	Robinson	Salva	Spreng
Stevenson	Vogt	Young		

VACANCIES: 002

Speaker Pro Tem Pratt declared the bill passed.

Speaker Jetton resumed the Chair.

BILLS IN CONFERENCE

CCR HCS SS SCS SB 931, as amended, relating to agriculture incentives and programs, was taken up by Representative Munzlinger.

Representative Tilley moved the previous question.

Which motion was adopted by the following vote:

AYES: 089

Baker 123	Bivins	Brandom	Brown 30	Bruns
Chappelle-Nadal	Cooper 120	Cooper 155	Cox	Cunningham 145
Cunningham 86	Daus	Davis	Day	Deeken
Denison	Dethrow	Dixon	Dusenberg	Emery
Ervin	Faith	Fares	Fisher	Flook
Franz	Funderburk	Grisamore	Guest	Hobbs
Hunter	Ice	Jones 117	Kasten	Kelly
Kingery	Kraus	Lembke	Lipke	Loehner
May	McGhee	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Onder	Parkinson
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Richard	Robb	Ruestman	Ruzicka
Sander	Sater	Schaaf	Schad	Scharnhorst
Schlottach	Schoeller	Self	Silvey	Smith 14
Smith 150	St. Onge	Stream	Sutherland	Thomson
Threlkeld	Tilley	Viebrock	Wallace	Wasson
Wells	Weter	Whorton	Wilson 119	Wilson 130
Wood	Wright 159	Yates	Mr Speaker	

NOES: 055

Aull	Baker 25	Bland	Bringer	Brown 50
Burnett	Casey	Corcoran	Curls	Darrough
Donnelly	Dougherty	Fallert	Frame	George
Grill	Harris 23	Harris 110	Holsman	Hoskins
Hubbard	Hughes	Komo	Kratky	Kuessner
Lampe	LeVota	Liese	Low 39	McClanahan
Meadows	Nasheed	Norr	Oxford	Page
Quinn 9	Roorda	Rucker	Scavuzzo	Schieffer
Schoemehl	Shively	Skaggs	Storch	Swinger

Talboy	Todd	Villa	Vogt	Walsh
Walton	Wildberger	Witte	Yaeger	Zweifel

PRESENT: 000

ABSENT WITH LEAVE: 017

Avery	El-Amin	Haywood	Hodges	Johnson
Jones 89	Lowe 44	Marsh	Meiners	Robinson
Salva	Schneider	Spreng	Stevenson	Wright-Jones
Young	Zimmerman			

VACANCIES: 002

On motion of Representative Munzlinger, **CCR HCS SS SCS SB 931, as amended**, was adopted by the following vote:

AYES: 139

Aull	Baker 25	Baker 123	Bivins	Bland
Brandom	Bringer	Brown 30	Brown 50	Bruns
Casey	Cooper 155	Corcoran	Cox	Cunningham 145
Cunningham 86	Curls	Darrough	Daus	Davis
Day	Deeken	Denison	Dethrow	Dixon
Donnelly	Dougherty	Dusenberg	Emery	Ervin
Faith	Fares	Fisher	Frame	Franz
Funderburk	George	Grill	Grisamore	Guest
Harris 23	Harris 110	Hobbs	Hodges	Holsman
Hoskins	Hubbard	Hughes	Hunter	Icet
Jones 89	Jones 117	Kasten	Kelly	Kingery
Komo	Kratky	Kraus	Kuessner	Lembke
LeVota	Liese	Lipke	Loehner	Low 39
May	McClanahan	McGhee	Meadows	Moore
Munzlinger	Muschany	Nance	Nasheed	Nieves
Nolte	Onder	Oxford	Page	Parkinson
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Quinn 9	Richard	Robb	Roorda
Rucker	Ruestman	Ruzicka	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer
Schlottach	Schneider	Schoeller	Schoemehl	Self
Shively	Silvey	Smith 14	Smith 150	St. Onge
Storch	Stream	Sutherland	Swinger	Talboy
Thomson	Threlkeld	Tilley	Todd	Viebrock
Villa	Vogt	Wallace	Walsh	Walton
Wasson	Wells	Weter	Whorton	Wildberger
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Yaeger	Yates	Zweifel	Mr Speaker	

NOES: 005

Burnett	Flook	Lampe	Norr	Skaggs
---------	-------	-------	------	--------

PRESENT: 000

1877 *Journal of the House*

ABSENT WITH LEAVE: 017

Avery	Chappelle-Nadal	Cooper 120	El-Amin	Fallert
Haywood	Johnson	Lowe 44	Marsh	Meiners
Robinson	Salva	Spreng	Stevenson	Wright-Jones
Young	Zimmerman			

VACANCIES: 002

On motion of Representative Munzlinger, **CCS HCS SS SCS SB 931** was truly agreed to and finally passed by the following vote:

AYES: 136

Aull	Baker 25	Baker 123	Bivins	Bland
Brandom	Bringer	Brown 30	Bruns	Casey
Chappelle-Nadal	Cooper 155	Corcoran	Cox	Cunningham 145
Cunningham 86	Curls	Darrough	Davis	Day
Deeken	Denison	Dethrow	Dixon	Donnelly
Dougherty	Dusenberg	Emery	Ervin	Faith
Fallert	Fares	Fisher	Frame	Franz
Funderburk	George	Grill	Grisamore	Guest
Harris 23	Harris 110	Hobbs	Hodges	Holsman
Hoskins	Hubbard	Hunter	Ice	Jones 89
Jones 117	Kasten	Kelly	Kingery	Komo
Kratky	Kraus	Kuessner	Lembke	LeVota
Liese	Lipke	Loehner	May	McClanahan
McGhee	Meadows	Moore	Munzlinger	Nance
Nasheed	Nieves	Nolte	Onder	Page
Parkinson	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 7	Quinn 9	Richard	Robb
Roorda	Rucker	Ruestman	Ruzicka	Salva
Sander	Sater	Scavuzzo	Schaaf	Schad
Scharnhorst	Schieffer	Schlottach	Schneider	Schoeller
Schoemehl	Shively	Silvey	Smith 14	Smith 150
St. Onge	Storch	Stream	Sutherland	Swinger
Talboy	Thomson	Threlkeld	Tilley	Todd
Viebrock	Villa	Vogt	Wallace	Walsh
Walton	Wasson	Wells	Weter	Whorton
Wildberger	Wilson 119	Wilson 130	Witte	Wood
Wright 159	Yaeger	Yates	Zimmerman	Zweifel
Mr Speaker				

NOES: 009

Burnett	Daus	Flook	Hughes	Lampe
Low 39	Norr	Oxford	Skaggs	

PRESENT: 000

ABSENT WITH LEAVE: 016

Avery	Brown 50	Cooper 120	El-Amin	Haywood
Johnson	Lowe 44	Marsh	Meiners	Muschany
Robinson	Self	Spreng	Stevenson	Wright-Jones
Young				

VACANCIES: 002

MESSAGES FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **SS HCS HBs 1549, 1771, 1395 & 2366, as amended**: Senators Rupp, Crowell, Engler, Green and McKenna.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS#2 SS SCS SB 718, as amended**: Senators Kennedy, Griesheimer, Goodman, Engler and Barnitz.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate conferees on **HCS#2 SS SCS SB 718, as amended**, are allowed to exceed the differences.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate requests the House grant the Senate further conference on **HCS SCS SB 720, as amended**.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HA 1, 2, 3, 4 to SB 885**, and requests the House to recede from its position and failing to do so grant the Senate a conference thereon.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and adopted the Conference Committee Report on **HCS SCS SBs 930 & 947, as amended**, and has taken up and passed **CCS HCS SCS SBs 930 & 947**.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS#2 SB 976, as amended**: Senators Ridgeway, Bartle, Crowell, Coleman and Justus.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HCS SCS SBs 1181, 1100, 1262 & 1263, as amended**, and requests the House to recede from its position and failing to do so grant the Senate a conference thereon.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HCS SCS SB 1209, as amended**, and requests the House to recede from its position and failing to do so grant the Senate a conference thereon.

BILLS CARRYING REQUEST MESSAGES

HCS SCS SBs 1181, 1100, 1262 & 1263, as amended, relating to energy regulation, was taken up by Representative Schoeller.

Representative Schoeller moved that the House refuse to recede from its position on **HCS SCS SBs 1181, 1100, 1262 & 1263, as amended**, and grant the Senate a conference and the House conferees be allowed to exceed the differences.

Which motion was adopted.

SB 885, with House Amendment No. 1, House Amendment No. 2, House Amendment No. 3 and House Amendment No. 4, relating to Community Children's Services Fund, was taken up by Representative Cooper (120).

Speaker Pro Tem Pratt resumed the Chair.

Representative Cooper (120) moved that the House refuse to recede from its position on **House Amendment No. 1, House Amendment No. 2, House Amendment No. 3 and House Amendment No. 4 to SB 885** and grant the Senate a conference.

Which motion was adopted.

BILLS IN CONFERENCE

HCS#2 SS SCS SB 718, as amended, relating to incentives for business development, was taken up by Representative Pearce.

Representative Pearce moved that the House conferees be allowed to exceed the differences on **HCS#2 SS SCS SB 718**.

Which motion was adopted.

HCS SCS SB 720, as amended, relating to utility regulation and scrap metal, was taken up by Representative Smith (150).

Representative Smith (150) moved that the House grant the Senate a further conference on **HCS SCS SB 720, as amended**.

Which motion was adopted by the following vote:

AYES: 116

Aull	Baker 25	Bivins	Brandom	Brown 30
Brown 50	Bruns	Casey	Cooper 120	Cooper 155
Cox	Cunningham 145	Cunningham 86	Darrough	Davis
Deeken	Denison	Dethrow	Dixon	Donnelly
Dougherty	Dusenberg	Emery	Ervin	Faith

Fallert	Fares	Fisher	Flook	Franz
Funderburk	Grill	Grisamore	Guest	Harris 23
Harris 110	Hobbs	Hoskins	Hubbard	Hughes
Ice	Jones 89	Jones 117	Kasten	Kelly
Kingery	Kratky	Kraus	Lampe	Lembke
Liese	Lipke	Loehner	Low 39	May
McGhee	Meadows	Meiners	Moore	Munzlinger
Muschany	Nance	Nasheed	Nieves	Nolte
Onder	Page	Parkinson	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Richard
Robb	Rucker	Ruestman	Ruzicka	Sander
Sater	Schaaf	Schad	Scharnhorst	Schlottach
Schoeller	Schoemehl	Self	Shively	Silvey
Skaggs	Smith 14	Smith 150	St. Onge	Storch
Stream	Sutherland	Thomson	Threlkeld	Tilley
Viebrock	Villa	Wallace	Walsh	Wasson
Wells	Weter	Wildberger	Wilson 119	Wilson 130
Wood	Wright 159	Yaeger	Yates	Zweifel
Mr Speaker				

NOES: 025

Bland	Bringer	Burnett	Chappelle-Nadal	Curls
Daus	Frame	George	Hodges	Holsman
Komo	Kuessner	LeVota	McClanahan	Norr
Oxford	Quinn 9	Roorda	Scavuzzo	Swinger
Talboy	Todd	Whorton	Witte	Zimmerman

PRESENT: 000

ABSENT WITH LEAVE: 020

Avery	Baker 123	Corcoran	Day	El-Amin
Haywood	Hunter	Johnson	Lowe 44	Marsh
Robinson	Salva	Schieffer	Schneider	Spreng
Stevenson	Vogt	Walton	Wright-Jones	Young

VACANCIES: 002

Speaker Jetton resumed the Chair.

APPOINTMENT OF CONFERENCE COMMITTEES

The Speaker appointed the following Conference Committees to act with like Committees from the Senate on the following bills:

SB 885: Representatives Cooper (120), Franz, Davis, Yaeger and Baker (25)

HCS SCS SBs 1181, 1100, 1262 & 1263: Representatives Wright, Schoeller, Emery, Walsh and Skaggs

RE-APPOINTMENT OF CONFERENCE COMMITTEE

The Speaker appointed the following Conference Committee to act with a like Committee from the Senate on the following bill:

HCS SCS SB 720: Representatives Smith (150), Schoeller, Emery, Skaggs and Walsh

MESSAGES FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS SCS SB 720, as amended:** Senators Engler, Dempsey, Lager, Coleman and Barnitz.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS SCS SBs 1181, 1100, 1262 & 1263:** Senators Engler, Clemens, Goodman, Bray and Coleman.

CONFERENCE COMMITTEE REPORT ON SENATE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NOS. 1549, 1771, 1395 & 2366

The Conference Committee appointed on Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, with Senate Amendment Nos. 4, 5, 6, 7, 8, 9, Senate Substitute Amendment No. 1 for Senate Amendment No. 10, Senate Amendment Nos. 11, 17, 19, and 20, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, as amended;
2. That the House recede from its position on House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366;
3. That the attached Conference Committee Substitute for Senate Substitute for House Committee Substitute for House Bill Nos. 1549, 1771, 1395 & 2366, be Third Read and Finally Passed.

FOR THE HOUSE:

/s/ Bob Onder
/s/ Jerry Nolte
/s/ Brian Nieves

FOR THE SENATE:

/s/ Scott Rupp
/s/ Jason Crowell
/s/ Kevin Engler
/s/ Timothy Green
/s/ Ryan McKenna

**CONFERENCE COMMITTEE REPORT
ON
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 720**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, with House Amendment No. 2 and Parts I, II, III, and IV of House Amendment No. 5, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, as amended;
2. The Senate recede from its position on Senate Committee Substitute for Senate Bill No. 720;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Maida Coleman
/s/ Kevin Engler
/s/ Tom Dempsey
/s/ Brad Lager
/s/ Frank Barnitz

FOR THE HOUSE:

/s/ Jason Smith
/s/ Ed Emery
/s/ Shane Schoeller
/s/ Trent Skaggs
/s/ Regina Walsh

**CONFERENCE COMMITTEE REPORT
ON
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 765**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765, with Part I and Part III adopted, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765, with Part I and Part III;
2. The Senate recede from its position on Senate Committee Substitute for Senate Bill No. 765;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Jack Goodman
/s/ John Griesheimer
/s/ Chuck Purgason
/s/ Rita Days
/s/ Timothy Green

FOR THE HOUSE:

/s/ Vicki Schneider
/s/ Jay Wasson
/s/ Brian Nieves
/s/ Trent Skaggs
/s/ Michael Frame

**CONFERENCE COMMITTEE REPORT
ON
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILLS NOS. 930 & 947**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 930 & 947, with House Amendments Nos, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, House Amendment No. 1 to House Amendment No. 11, House Amendment No. 11 as amended, House Amendment No. 12, House Amendment No. 1 to House Amendment No. 13, House Amendment No. 13 as amended, House Amendment No. 14, House Amendment No. 1 to House Amendment No. 15, House Amendment No. 15 as amended, House Amendment Nos. 16, 17, 18, 19, 20, 21, 23, House Amendment No. 2 to House Amendment No 24, House Amendment No. 24, and House Amendment No. 25 as amended, begs leave to report that we, after free and fair

discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 930 & 947, as amended;
2. The Senate recede from its position on Senate Committee Substitute for Senate Bills Nos. 930 & 947,;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 930 & 947, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Bill Stouffer
/s/ Scott Rupp
/s/ Delbert Scott
/s/ Harry Kennedy
/s/ Wes Shoemyer

FOR THE HOUSE:

/s/ Neal St. Onge
/s/ Steve Hobbs
/s/ Joe Fallert
/s/ Paul Quinn

**CONFERENCE COMMITTEE REPORT
ON
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1288**

The Conference Committee appointed on House Committee Substitute for Senate Bill No. 1288, with House Amendment No. 1, House Amendment No. 2 to House Amendment No. 2, House Amendment No. 3 to House Amendment No. 2, House Amendment No. 2, as amended, and House Amendment No. 3, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Bill No. 1288, as amended;
2. The Senate recede from its position on Senate Bill No. 1288;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Bill No. 1288, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Charles Shields
/s/ Michael Gibbons
/s/ Jack Goodman
/s/ Harry Kennedy

FOR THE HOUSE:

/s/ Shannon Cooper
/s/ Bob May
/s/ Stanley Cox
/s/ Michael Frame

RECESS

Representative Tilley moved that the House stand in recess until such time as the Conference Committee Reports on **HCS SCS SB 720, as amended, HCS#2 SS SCS SB 718, as amended, HCS#2 SB 976, as amended, HCS SCS SBs 1181, 1100, 1262 & 1263, as amended, and SB 885, with HA 1, HA 2, HA 3 and HA 4** are distributed, or until 3:30 a.m., Friday, May 16, 2008, whichever comes first and then stand adjourned until 9:00 a.m., Friday, May 16, 2008.

**CONFERENCE COMMITTEE REPORT
ON
HOUSE COMMITTEE SUBSTITUTE NO. 2
FOR
SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 718**

The Conference Committee appointed on House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, with House Amendment Nos. 1, 2, and 3, House Amendment No. 1 to House Amendment No. 4, House Amendment No. 4, as amended, House Amendment Nos. 5, 6, and 7, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, as amended;
2. The Senate recede from its position on Senate Substitute for Senate Committee Substitute for Senate Bill No. 718;
3. That the attached Conference Committee Substitute for House Committee Substitute No. 2 for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Harry Kennedy
/s/ John Griesheimer
/s/ Jack Goodman
/s/ Kevin Engler
/s/ Frank Barnitz

FOR THE HOUSE:

/s/ David Pearce
/s/ Ron Richard
/s/ Tim Flook
/s/ Michael Brown

**CONFERENCE COMMITTEE REPORT NO. 2
ON
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 720**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, with House Amendment No. 2 and Parts I, II, III, and IV of House Amendment No. 5, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, as amended;
2. The Senate recede from its position on Senate Committee Substitute for Senate Bill No. 720;
3. That the attached Conference Committee Substitute No. 2 for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 720, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Maida Coleman
/s/ Kevin Engler
/s/ Tom Dempsey
/s/ Brad Lager
/s/ Frank Barnitz

FOR THE HOUSE:

/s/ Jason Smith
/s/ Ed Emery
/s/ Shane Schoeller
/s/ Trent Skaggs
/s/ Regina Walsh

**CONFERENCE COMMITTEE REPORT
ON
HOUSE COMMITTEE SUBSTITUTE NO. 2
FOR
SENATE BILL NO. 976**

The Conference Committee appointed on House Committee Substitute No. 2 for Senate Bill No. 976, with House Amendment No. 1 to House Amendment No. 1, House Amendment No. 1, as amended, House Amendment No. 1 to House Amendment No. 2, House Amendment No. 2, as amended, House Amendment Nos. 3, 4, 5, and 6, House Amendment No. 1 to House Substitute Amendment No. 1 for House Amendment No. 7, House Substitute Amendment No. 1 for House Amendment No. 7, as amended, and House Amendment Nos. 8 and 9, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute No. 2 for Senate Bill No. 976, as amended;
2. The Senate recede from its position on Senate Bill No. 976;
3. That the attached Conference Committee Substitute for House Committee Substitute No. 2 for Senate Bill No. 976, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Luann Ridgeway
/s/ Matt Bartle
/s/ Jason Crowell
/s/ Maida Coleman
/s/ Jolie Justus

FOR THE HOUSE:

/s/ Bryan Stevenson
/s/ Tim Jones
/s/ Stanley Cox
/s/ John Burnett
/s/ Rachel Bringer

**CONFERENCE COMMITTEE REPORT
ON
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILLS NOS. 1181, 1100, 1262 & 1263**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 1181, 1100, 1262 & 1263, with House Amendment Nos. 1, 2, 3, 4, 5, and 6, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 1181, 1100, 1262 & 1263, as amended;
2. The Senate recede from its position on for Senate Bills Nos. 1181, 1100, 1262 & 1263;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bills Nos. 1181, 1100, 1262 & 1263, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ Kevin Engler
/s/ Dan Clemens
/s/ Jack Goodman
/s/ Joan Bray
/s/ Maida Coleman

FOR THE HOUSE:

/s/ Billy Pat Wright
/s/ Shane Schoeller
/s/ Ed Emery
/s/ Regina Walsh
/s/ Trent Skaggs

Pursuant to the motion of Representative Tilley, the House stood adjourned until 9:00 a.m., Friday, May 16, 2008.

CORRECTIONS TO THE HOUSE JOURNAL

AFFIDAVITS

I, State Representative Brian Yates, District 56, hereby state and affirm that my vote as recorded on Page 1638 to adopt Part I and Part III of House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765, as amended, in the House Journal for May 13, 2008 was incorrectly recorded as no. Pursuant to House Rule 89, I ask that the Journal be corrected to show that I voted aye. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 15th day of May 2008.

/s/ Brian Yates
State Representative

State of Missouri)
) ss.
Signed in County of Cole)
Notary Commissioned in County of Miller)

Subscribed and sworn to before me this 15th day of May in the year 2008.

/s/ Megan Limbach
Notary Public

I, State Representative Jason Brown, District 30, hereby state and affirm that my vote as recorded on Page 1682 to move the Previous Question in the House Journal for May 14, 2008 was incorrectly recorded as aye. Pursuant to House Rule 89, I ask that the Journal be corrected to show that I voted no. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 15th day of May 2008.

/s/ Jason Brown
State Representative

State of Missouri)
) ss.
Signed in County of Cole)
Notary Commissioned in County of Miller)

Subscribed and sworn to before me this 15th day of May in the year 2008.

/s/ Megan Limbach
Notary Public

I, State Representative Brian Nieves, District 98, hereby state and affirm that my vote as recorded on Page 1639 to Third Read and Pass Part I and Part III of House Committee Substitute for Senate Committee Substitute for Senate Bill No. 765 in the House Journal for May 14, 2008 was incorrectly recorded as absent. Pursuant to House Rule 89, I ask that the Journal be corrected to show that I voted aye. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote or absence was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 15th day of May 2008.

/s/ Brian Nieves
State Representative

State of Missouri)
) ss.
Signed in County of Cole)
Notary Commissioned in County of Miller)

Subscribed and sworn to before me this 15th day of May in the year 2008.

/s/ Megan Limbach
Notary Public

COMMITTEE MEETING

FISCAL REVIEW

Friday, May 16, 2008, 8:30 a.m. Hearing Room 1.
Any bills presented to this committee.

HOUSE CALENDAR

SEVENTY-FOURTH DAY, FRIDAY, MAY 16, 2008

HOUSE JOINT RESOLUTION FOR PERFECTION

HCS HJR 64 - Chappelle-Nadal

HOUSE BILLS FOR PERFECTION

- 1 HCS HB 1836 - Flook
- 2 HCS#2 HB 1886 - Scharnhorst
- 3 HCS HB 1802 - Wilson (130)
- 4 HB 2144 - Whorton
- 5 HB 1535 - Deeken
- 6 HB 1517 - Cox
- 7 HCS HB 2112 - Emery
- 8 HB 1372 - McGhee
- 9 HCS HB 1590 - Munzlinger
- 10 HCS HB 1504 - Walton
- 11 HCS HB 2156 - Grill
- 12 HCS HB 2159 - Grill
- 13 HB 1562 - LeVota
- 14 HCS HB 2239 - Stevenson
- 15 HCS HB 1438 - Kelly
- 16 HCS HB 1990, as amended, HA 2, pending - Wilson (130)
- 17 HCS HB 2110 - Dixon
- 18 HCS HB 1723 - Franz
- 19 HCS HB 1745 - Robb

- 20 HB 1764 - Parson
- 21 HB 1871 - Deeken
- 22 HB 1934 - May
- 23 HCS HB 1974 - Schlottach
- 24 HB 2207 - Hoskins
- 25 HB 2514 - Weter
- 26 HB 1425 - Munzlinger
- 27 HCS HB 1599 - Sater
- 28 HB 1673 - Parson
- 29 HCS HB 1839 - Franz
- 30 HCS HB 1857 - Schaaf
- 31 HB 1954 - Dixon
- 32 HB 2129 - Baker (123)
- 33 HCS HBs 2189, 2208, 2178 & 2333 - Smith (14)
- 34 HCS HB 2282 - Ervin
- 35 HCS HB 2330 - Brandom
- 36 HB 2343 - Wilson (130)
- 37 HB 2365 - Pratt
- 38 HB 2429 - Hunter
- 39 HB 2458 - Jones (89)
- 40 HCS HB 2508 - Ruestman
- 41 HCS HB 1794 - Deeken
- 42 HCS HB 2354 - Portwood
- 43 HB 2404 - Hubbard
- 44 HCS HB 2494 - Pollock
- 45 HCS HB 1468 - Pratt
- 46 HCS HBs 1809 & 2173 - Ruzicka
- 47 HCS HB 2420 - Baker (123)
- 48 HCS HB 2421 - Meiners
- 49 HB 2555 - Pearce
- 50 HB 1484 - Muschany
- 51 HCS HB 1880 - Schaaf
- 52 HCS HB 1884 - Quinn (7)
- 53 HCS HBs 2281, 2489 & 2537 - Cunningham (86)
- 54 HCS HB 2460 - Emery
- 55 HCS HB 2210 - Jones (89)
- 56 HB 2556 - Hubbard
- 57 HB 1539 - Jones (89)
- 58 HCS HBs 1582 & 1963 - Pearce

HOUSE BILLS FOR THIRD READING

- 1 HCS HB 1929 - Cooper (120)
- 2 HB 1957 - Hughes
- 3 HCS HB 1644, (Fiscal Review 5-01-08), E.C. - Muschany
- 4 HCS HBs 1736 & 2320, (Fiscal Review 5-09-08) - Nolte

HOUSE BILLS FOR THIRD READING - CONSENT

- 1 HB 1490 - Deeken
- 2 HB 1572 - Franz

HOUSE CONCURRENT RESOLUTIONS

- 1 HCR 11, (3-05-08, Pages 421-422) - Nolte
- 2 HCR 20, (4-23-08, Page 1123) - Ervin
- 3 HCS HCR 27, (3-13-08, Pages 498-499) - Curls

SENATE JOINT RESOLUTION FOR THIRD READING

SS SCS SJRs 34 & 30 - Bruns

SENATE BILLS FOR THIRD READING - CONSENT

- 1 HCS SCS SB 760 - St. Onge
- 2 SCS SB 850 - Meiners
- 3 SB 928 - Schad

SENATE BILLS FOR THIRD READING

- 1 HCS SCS SB 942 - Quinn (7)
- 2 HCS SB 1010 - Stevenson
- 3 SB 955 - Wildberger
- 4 SB 970 - May
- 5 HCS SB 1175 - Cox
- 6 SB 1038 - Cox
- 7 SS SCS SB 1059 - Pearce
- 8 SCS SB 1157, E.C. - Walsh
- 9 SS SCS SBs 714, 933, 899 & 758, E.C. - Bruns
- 10 HCS SS SCS SBs 818 & 795 - Smith (14)
- 11 HCS SCS SBs 754 & 794 - Lipke
- 12 HCS SS SCS SB 778 - Cooper (155)
- 13 SCS SB 873 - Pratt
- 14 SS SB 1159 - Pratt
- 15 HCS SB 925 - Aull
- 16 HCS SCS SB 994, E.C. - Wallace
- 17 HCS SCS SB 732, (Fiscal Review 5-09-08) - Jones (117)

- 18 HCS SB 953 - Pearce
- 19 SCS SB 1107, E.C. - Pollock
- 20 HCS SCS SB 1172 - Bruns
- 21 SB 805 - Kingery
- 22 HCS SS SCS SB 726, (Fiscal Review 5-15-08) - Franz
- 23 HCS SS SB 817, (Fiscal Review 5-15-08) - Wilson (130)
- 24 SCS SB 865 - Scharnhorst

HOUSE BILLS WITH SENATE AMENDMENTS

- 1 SS#2 SCS HCS HB 1619, as amended - Jones (117)
- 2 SS SCS HB 1384 & HB 2157 - Cox
- 3 SS SCS HCR 30, (5-06-08, Pages 1347-1348) - Emery
- 4 SCS HCS HB 1715, as amended, E.C. - Schad
- 5 SCS HB 1311 - Hoskins
- 6 SCS HB 1422 - St. Onge
- 7 SCS HB 1450 - Roorda
- 8 SCS HB 1570 - Franz
- 9 SCS HB 1640 - Schoeller
- 10 SCS HB 1689 - Wilson (130)
- 11 SCS HCS HB 1690 - Wilson (130)
- 12 SCS HCS HB 1804, as amended, E.C. - Corcoran
- 13 SCS HCS HB 1807 - Cox
- 14 SCS HB 1946 - Franz
- 15 SCS HB 2047 - Curls
- 16 SCS HCS HB 2048, as amended - Zimmerman
- 17 SCS HB 2065 - Wasson
- 18 SS SCS HCS HB 2058, as amended - Pearce
- 19 SS HCS HB 1550, as amended - Stevenson
- 20 SS HCS HB 1790, as amended - Cooper (155)
- 21 SCS HCS HB 1883, E.C. - Nance
- 22 SS SCS HB 2191 - Nasheed

BILLS CARRYING REQUEST MESSAGES

- 1 SCS SB 901, (request House recede on HSA 1 for HA1/take up and pass bill) - Hunter
- 2 HCS SCS SB 1209, as amended (request House recede/grant conference), E.C. - Sutherland

BILLS IN CONFERENCE

- 1 CCR HCS SB 841, as amended - St. Onge
- 2 CCR SB 1068, HA 1, HA 3 - Sater
- 3 HCS SB 1074, as amended - Smith (14)
- 4 CCR SS SCS HB 2224 - Jones (117)
- 5 CCR SCS HCS HB 2279, as amended - Wright
- 6 CCR HCS SS SCS SB 711, as amended - Sutherland
- 7 CCR HCS SCS SBs 930 & 947, as amended - St. Onge

1893 *Journal of the House*

- 8 CCR#2 HCS SCS SB 720, as amended - Smith (150)
- 9 CCR HCS SB 1288, as amended - Cooper (120)
- 10 CCR HCS SCS SB 765, E.C. - Schneider
- 11 CCR SS HCS HBs 1549, 1771, 1395 & 2366, E.C. - Onder
- 12 CCR HCS#2 SB 976, as amended - Stevenson
- 13 CCR HCS#2 SS SCS SB 718, as amended - Pearce
- 14 CCR HCS SCS SBs 1181, 1100, 1262 & 1263, as amended - Schoeller
- 15 SB 885, HA 1, HA 2, HA 3, HA 4 - Cooper (120)

SENATE CONCURRENT RESOLUTIONS

- 1 SCR 40, (4-14-08, Pages 914-915) - Pratt
- 2 SCS SCR 39, (4-24-08, Pages 1165-1166) - Talboy
- 3 SCR 35, (5-6-08, Page 1349) - Quinn (7)